By Mr. BURKE of Massachusetts (for himself, Mr. ADDABBO, Mr. BOGGS, Mr. BOLAND, Mr. BROWN of Michigan, Mr. BROYHILL of Virginia, Mr. BYRNE of Pennsylvania, Mr. CLEVELAND, Mr. COLLINS, Mr. COUGHLIN, Mr. DADDARIO, Mr. DONOHUE, Mr. FRIEDEL, Mr. FULTON of Tennessee, Mr. GRIFFIN, Mr. HAGAN, Mr. HECHLER of West Virginia, Mrs. HECKLER of Massachusetts, Mr. KLUCZYNSKI, Mr. KUYKENDALL, Mr. MIKVA, Mr. MORGAN, Mr. MURPHY of New York, Mr. OLSEN, and Mr. PODELL):

H.R. 12891. A bill to amend the Internal Revenue Code of 1954 to encourage higher education, and particularly the private funding thereof, by authorizing a deduction from gross income of reasonable amounts contributed to a qualified higher education fund established by the taxpayer for the purpose of funding the higher education of his dependents; to the Committee on Ways and Means.

By Mr. BURKE of Massachusetts (for himself, Mr. POLLOCK, Mr. POWELL, Mr. RHODES, Mr. ROBISON, Mr. RODINO, Mr. ST GERMAIN, Mr. ST. ONGE, Mr. SANDMAN, Mr. TIERNAN, Mr. WALDIE, Mr. WATTS, Mr. WEICKER, and Mr. HAMMERSCHMIDT):

H.R. 12892. A bill to amend the Internal Revenue Code of 1954 to encourage higher education, and particularly the private funding thereof, by authorizing a deduction from gross income of reasonable amounts contributed to a qualified higher education fund established by the taxpayer for the purpose of funding the higher education of his dependents; to the Committee on Ways and Means.

By Mr. DINGELL: (for himself and Mr. Moss):

H.R. 12893. A bill to restore the independence of Federal regulatory agencies; to the Committee on Interstate and Foreign Commerce.

By Mr. FARBSTEIN:

H.R. 12894. A bill to provide for the comprehensive control of narcotic addiction and drug abuse, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HAGAN:

H.R. 12895. A bill to change the definition of ammunition for purposes of chapter 44 of title 18 of the United States Code; to the Committee on the Judiciary.

By Mr. KASTENMEIER:

H.R. 12896. A bill to amend the Tariff Schedules of the United States with respect to the rate of duty on whole skins of mink, whether or not dressed; to the Committee on Ways and Means.

By Mr. KOCH (for himself, Mr. CLARK, Mr. FOLEY, Mr. GARMATZ, Mr. HUNGATE, Mr. MURPHY of New York, Mr. ST GERMAIN, Mrs. SULLIVAN, and Mr. MADDEN):

H.R. 12897. A bill to establish an urban mass transportation trust fund, and for other purposes; to the Committee on Banking and Currency.

By Mr. KOCH (for himself, Mr. ADDABBO, Mr. BIAGGI, Mr. BINGHAM, Mr. BRASCO, Mr. CAREY, Mrs. CHISHOLM, Mr. FARBSTEIN, Mr. GILBERT, Mr. LOWENSTEIN, Mr. MURPHY of New York, Mr. PODELL, Mr. POWELL, Mr. ROSENTHAL, Mr. RYAN, Mr. CONYERS, Mr. FULTON of Pennsylvania, Mr. HALPERN, Mr. NIX, and Mr. TUNNEY):

H.R. 12898. A bill to authorize the Administrator of General Services to transfer certain airspace for use for housing purposes; to the Committee on Public Works.

By Mr. RAILSBACK (for himself, Mr. BIESTER, Mr. RANDALL, Mr. WYDLER, Mr. ANDERSON of Illinois, Mr. SEBELIUS, Mr. COWGER, Mr. BUTTON, Mr. DERWINSKI, Mr. POLLOCK, Mr. ICHORD, Mr. SCOTT, Mr. NICHOLS, Mr. WINN, Mr. ANDREWS of Alabama, Mr. MIKVA, Mr. GRIFFIN, Mr. MATHIAS, Mr. LUKENS, and Mr. QUIE):

H.R. 12899. A bill to amend title 28, United States Code, to prohibit Federal judges from receiving compensation other than for the performance of their judicial duties, except in certain instances, and to provide for the disclosure of certain finanical information; to the Committee on the Judiciary.

By Mr. SAYLOR:

H.R. 12900. A bill to authorize the Secretary of the Interior to conduct investigations, studies, surveys, and research relating to the Nation's ecological systems, natural resources, and environmental quality, and to establish a Council on Environmental Quality; to the Committee on Interior and Insular Affairs.

H.R. 12901. A bill to provide for the better utilization of scarce medical personnel within, and to improve the efficiency of, the Department of Medicine and Surgery in the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. THOMPSON of New Jersey:

H.R. 12902. A bill to provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs and to establish uniform and equitable land acquisition policies for Federal and federally assisted programs; to the Committee on Public Works.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of the rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BEALL of Maryland:

H.R. 12903. A bill for the relief of Dr. Narciso A. deBorja; to the Committee on the Judiciary.

H.R. 12904. A bill for the relief of Dr. Rolando F. Del Rosario; to the Committee on the Judiciary.

H.R. 12905. A bill for the relief of Dr. Arturo De los Santos; to the Committee on the Judiciary.

SENATE—*Wednesday, July 16, 1969*

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

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

O God of this universe and of the universes beyond, who from the dawn of time, and through the processes of all history has been creating from the formless void, the orbs and spheres in the unbounded immensity of space; and in whose wisdom Thou hast placed man as Thy highest creation to have dominion over all Thy works; we thank Thee that it is given to us to live this day when earthbound man, unfettered, soars to lunar lands and spaces.

We thank Thee for man, for the majesty of his intellect, the depth of his soul, and for the sense of wonder and adventure with which Thou hast endowed him. As we hear again the words of holy writ, "What is man that Thou art mindful of him? Thou crownest him with glory and honor, and didst set him over the works of Thy hands"; make us humble and thankful before Thy creation in man and in nature.

Be with us day by day in our labors. Teach us now and always that the true home of the soul is in Thee. Awaken us to the splendors of the new age that we may be pioneers in the vast reaches of the human spirit, and partners with Thee in the emancipation of man from hate and fear, from poverty and disease, from injustice and war, that a better world may come, and Thy will be done in and through us. In Thy holy name, we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, July 15, 1969, be dispensed with.

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

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

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

MESSAGE FROM THE HOUSE— ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 648) for the relief of Ernesto Alunday, and it was signed by the President pro tempore.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees

be authorized to meet during the session of the Senate today.

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

EXECUTIVE SESSION

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

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

The PRESIDENT pro tempore. The nominations on the Executive Calendar, under "New Reports," will be stated.

APPALACHIAN REGIONAL COMMISSION

The assistant legislative clerk read the nomination of Orville H. Lerch, of Pennsylvania, to be alternate Federal co-Chairman of the Appalachian Regional Commission.

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

MISSISSIPPI RIVER COMMISSION

The assistant legislative clerk read the nomination of Brig. Gen. Willard Roper, U.S. Army, to be a member of the Mississippi River Commission.

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

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

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

LEGISLATIVE SESSION

Mr. MANSFIELD. 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.

GENERAL CROPLAND RETIREMENT

Mr. ELLENDER. Mr. President, on February 28, 1969, I wrote the Secretary of Agriculture asking that he evaluate several land retirement studies, including one completed by the Department of Agriculture.

Yesterday I received his analysis of the programs from which the conclusions may be reached that:

First. A general cropland retirement program of the scope considered—50 to 70 million acres—would cost less on an annual basis than the $3 billion or so spent on present programs during recent years ranging from $759 million to $1,383 million.

Second. Such a program would not restrict production of the major problem crops, except possibly for wheat, at the acreages assumed in both studies. Actually, production of the major crops likely would increase with consequent depression of prices unless the acreage retired was greater than the 70-million-acre level considered in the economic research service study.

Third. Gross and net farm incomes would be reduced below the levels of recent years with current programs. At the 50-million-acre level, reduction of income would be greater than reduction of Government costs. With larger acreages retired, farm income would decline less than the decline in Government costs, assuming that the larger acreage could be rented out of production at the costs indicated and that no new land would be brought into production in response to improved outlook for commodity prices.

Fourth. In the absence of tight control in program administration, the impact of a general cropland retirement program could fall heavily in areas of low productive land. In such areas, however, long-term rental of land could give people an opportunity to adjust out of farming. The benefits of such a program would accrue chiefly to landowners. Tenants and country town businessmen likely would be worse off.

Mr. President, I ask unanimous consent that the Secretary of Agriculture's letter to me and the enclosure "Two Studies of General Cropland Retirement" be printed in the RECORD at this point.

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

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, July 12, 1969.

Hon. ALLEN J. ELLENDER,
Chairman, Committee on Agriculture and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On February 28 you wrote to me asking about results of three publications dealing with general cropland retirement. You questioned particularly the apparent conflict between some statements in an Extension Service leaflet "Adjusting American Farm Output" sponsored by the Farm Foundation, the Agricultural Policy Institute at North Carolina State University, and the Center for Agricultural and Economic Adjustment at Iowa State University and the conclusions reached by our Economic Research Service in ERS 377 "Analysis of a General Cropland Retirement Program," and results shown in CAED Report No. 32 "Farm Programs for the 1970's" published by Iowa State University.

The Extension Service leaflet was prepared as an essay chiefly useful to promote discussion in extension education activities. It neither cites references to support its conclusions nor includes sufficient data to test results given. It is more useful, therefore, to consider the ERS Report No. 377 in comparison with the Iowa CAED Report No. 32. This we have done in the enclosure to this letter.

The main conclusions and estimates given in both of these studies are very similar despite some differences in methods.

Both studies give estimates of cost to the Government of retiring 50 to 70 million acres of cropland. Estimates of annual costs range from $759 million for a 50-million-acre program to $1,383 million for a 60-million-acre program. As a result of methods used, both sets of estimates are probably lower than would actually be required.

Both studies show that production of the major crops—wheat, feed grains, soybeans, and cotton—would be greater than the average of recent years, except possibly for wheat at the 70-million-acre level of land retirement. In recent years, we have had 40 to 50 million acres diverted from the major crops under annual commodity programs.

Both studies show a significant concentration of retired land in the Great Plains despite limitations on the percentage of cropland in any one county or area permitted to participate.

The Iowa study shows commodity prices and gross and net farm incomes to be lower than the 1965–67 average. At the 50-million-acre level, net farm income is estimated at $12.6 billion. It was $14.6 billion in 1967 and $15.4 billion in 1968. Government costs would be lower by about $1.8 billion than costs under commodity programs of recent years.

A general cropland retirement program does not appear to be specifically effective in restraining output and raising prices of the "problem crops," at least within the level of acreages tested by these two studies—up to 70 million acres. However, some land can be shifted out of crop use and into grass, trees, recreation, and other desirable uses at less cost under long-term general cropland programs than under annual programs. Moreover, long-term contracts encourage people—as well as land—to adjust out of crop farming. Thus, much of the land would likely remain out of crop use on expiration of a long-term contract, thereby effecting permanent adjustment in use of resources.

This letter and the attached statement have been reviewed by Dr. J. Carroll Bottum, Purdue University; Dr. Earl Heady, Iowa State University; Dr. Luther Tweeten, Oklahoma State University; Dr. W. W. Wilcox, Library of Congress; and Dr. L. T. Wallace of the staff of the Council of Economic Advisers, as well as by economists in our Economic Research Service and other agencies of the Department.

Our studies of alternative farm programs are continuing. We look forward to sharing the results of these studies with you and your Committee.

Sincerely,

CLIFFORD M. HARDING,
Secretary of Agriculture.

TWO STUDIES OF GENERAL CROPLAND RETIREMENT

Iowa State University and the Economic Research Service, U.S. Department of Agriculture, both published studies in 1968 appraising general cropland retirement as a tool for dealing with farm price and income problems.[1] Although each study was done by different people with sligthly different methods and assumptions, the major results are very similar.

The ERS study asks: How much would it cost the Government to retire 50 or 70 million acres of cropland under long-term contracts if (a) farmers expected 1967 prices (1966 for cotton), (b) no more than 30 percent of the cropland of any county could come into the program, and (c) farmers were free to use remaining cropland as they wished? It asks also: How much of the major crops would farmers produce on land remaining in use and where would land coming into the program be located?

The Iowa study gives estimates of the annual cost of retiring 50 and 60 million acres of cropland, the prices and production of major commodities that would be expected with the program, and the probable location of acres coming into the program with no more than 50 percent of the cropland in any one area permitted to participate.

Results of both studies are influenced by

[1] Leo V. Mayer, Earl O. Heady, and Howard C. Madsen, "Farm Programs for the 1970's," Center for Agricultural and Economic Development, Iowa State University, CAED Report No. 32, Oct. 1968; and James Vermeer and Rudie W. Slaughter, "Analysis of a General Cropland Retirement Program," Economic Research Service, USDA, ERS 377, May 1968.

the assumptions and estimating methods used. While these differed somewhat, major results are much alike.

COST OF LONG-TERM LAND RETIREMENT

The Iowa study says that 50 million acres in long-term whole farm contracts could be retired for an annual cost of $857 million; 60 million acres could be retired for an annual cost of $1,383 million.

The ERS study says 50 million acres could be retired for an annual cost of $759 million; 70 million acres could be retired for an annual cost of $1,345 million.

Both studies assumed that the cost of land retirement would be only the difference between the farmer's cost of production and his gross returns. Thus, both sets of estimates are lower than would actually be required because most farmers are not likely to participate unless putting land into the program gives them a clear advantage over continued cropping.

Further, neither set of estimates made allowance for the cost of "buying the farmer out of his job." Some farmers who have ready alternative uses for labor and capital might participate at the rates indicated.

Differences in the two sets of estimates are largely explained by the fact that the Iowa researchers assumed that whole farms would come into the program, some payment would be made for grass seeding and maintenance of diverted land, up to 50 percent of the cropland of any one area would be permitted, and family, as well as hired labor, is counted as part of the cost of production.

ERS researchers dealt with cropland without regard to whole farm combinations. They assumed that land and crops yielding lowest net returns per acre would come into the program first, they permitted only 30 percent of the cropland in any one county to enter the program, and they made no allowance for cost of seeding or maintenance of diverted land. When these different assumptions and methods of estimating—some of which are offsetting—are taken into account, the two sets of estimates of costs of diverting cropland are very much alike.

EFFECT OF LAND RETIREMENT ON OUTPUT

Both the ERS and the Iowa studies assume that farmers would be compensated for retiring cropland in such a way that the lowest yielding land would be offered first. Thus, several million acres could be retired without substantial effect on total output of major crops. With general cropland retirement and with no constraints on use of land remaining in cultivation, output of the problem crops could actually increase. The table below shows average 1965–67 production of a few crops and production estimated in the Iowa and ERS studies with specified acreages in a general land retirement program.

	1965–67 production	Iowa study, acres retired		ERS study, acres retired	
		50,000,000	60,000,000	50,000,000	70,000,000
Wheat (million bushels)	1,374	1,584	1,653	1,223	891
Feed grains (million tons)	163	168	67	176	172
Soybeans (million bushels)	916	996	996	1,100	1,089
Cotton (million bales)	10.6	14.5	14.5	16.3	16.3

Differences in these estimates are explained by differences in estimating procedures. Except for estimated production of wheat, the differences are not great. According to the Iowa estimates, U.S. farmers would produce more wheat, feed grains, soybeans, and cotton with 60 million acres in general land retirement than they did in 1965–67. According to the ERS estimates, farmers would produce more of each of these crops except wheat. Reduction in production of wheat in the ERS study is explained by the concentration of retired acreages in the Great Plains.

COMMODITY PRICES WITH CROPLAND RETIREMENT

ERS researchers assumed 1967 average prices received by farmers for all commodities except cotton. Prices of cotton in 1967 were abnormal, so 1966 average prices were used for that crop. Some of the prices used were: wheat $1.41, corn $1.07, soybeans $2.49, and cotton $0.208; prices of other commodities were comparable. No attempt was made to equate prices with supply and demand. Actually, with the production estimated, these prices likely would not prevail, they would be lower.

Iowa researchers estimated prices that theoretically would equate supply and demand. With the supplies indicated, projected demand would suggest prices as follows: With 50 million acres retired—wheat $1.29, corn $1.03, soybeans $2.05, and cotton $0.235; with 60 million acres retired—wheat $1.42, corn $1.13, soybeans $2.38, and cotton $0.238.

Differences between the two sets of prices are not large and are explainable by the differences in procedures. The Iowa researchers were using mostly 1966 data and projected estimates of demand. With later data and current outlook for demand, it is doubtful that these prices would hold at the levels of production estimated. The price estimate for cotton especially is questionable; 14.5 million bales of cotton probably could not be disposed of at $0.238 per pound.

If indicated prices are not realized at the estimated volume of production, then estimated gross and net farm incomes would not be realized either.

EFFECT OF LAND RETIREMENT ON FARM INCOME

Iowa researchers estimate that with 50 million acres retired under a general cropland retirement program, net farm income would be about $12.6 billion; with 60 million acres retired, net farm income would be about $14.0 billion. Realized net farm income was $14.6 billion in 1967 and $15.4 billion in 1968.

According to the Iowa estimates, a 50-million-acre retirement program would result in Government payments to farmers of $1,258 million, $1,821 million less than Government payments to farmers in 1967. With such a program, cash receipts of farmers would be $1,295 million less than 1967, and net income would be $1,995 million less than 1967. With a 60-million-acre retirement program, Government payments to farmers would be $1,295 million less than 1967, and net income would be $635 million less than 1967.

The ERS researchers did not report estimates of gross and net farm incomes in the study considered here.

IMPLICATIONS OF THE TWO STUDIES

Neither the ERS nor the Iowa study represents a very realistic appraisal of the probable costs of a general cropland retirement program. Both estimate retirement costs at the difference between gross returns and costs of production. Neither allows for a margin of payment as incentive for farmers to participate. Neither estimates the cost of retiring a farmer's job opportunity, as well as a farmer's land. Thus, the estimates of cost of land retirement, similar in the two studies, must be considered as minimal.

Both studies show that the production of major crops—wheat, feed grains, soybeans, and cotton—would be somewhat greater with a general land retirement program than has prevailed in recent years. The one exception is the estimated reduction in production of wheat in the ERS study which results from heavy concentration of retired land in the Great Plains.

Both studies show that with 50 to 70 million acres of land in a general cropland retirement program, heavy concentration of retired land would occur in the Great Plains and especially in the Northern Plains. This is true despite the fact that no more than 30 percent of the cropland in any one county was permitted to enter the program under specifications used in the ERS study. The Iowa study permitted 50 percent of the cropland in an area to participate.

The Iowa study suggests that a general cropland retirement program would accelerate the decline in number of farms and in farm-generated business in rural communities. Although the ERS study did not deal with the issue of the impacts of cropland retirement on rural communities, there is no reason to question the implications of the Iowa study.

One important consideration not dealt with in either the Iowa or the ERS studies is the effectiveness of a long-term general cropland retirement program in encouraging permanent shifts in land use. Current annual land diversion programs discourage rather than encourage fundamental adjustments in use of resources. Some land can be rented out of production cheaper under a long-term contract than an annual agreement. And even after a long-term contract expires, land affected is less likely to return to crop use. Approximately half the land that was in the Conservation Reserve remains in grass, trees, recreation, or other noncrop uses.

In addition, long-term contracts on land use often give people, as well as land, a better chance to adjust to new opportunities. Farmers who want to retire, those who have or can get off-farm jobs, and those who want to use land more extensively for other reasons are the people most likely to be attracted to long-term cropland retirement. The value of adjustment opportunities for people are difficult to estimate and neither study addressed itself to this issue.

General conclusions that may be inferred from both studies are:

1. A general cropland retirement program of the scope considered (50 to 70 million acres) would cost less on an annual basis than the $3.0 billion or so spent on present programs during recent years.

2. Such a program would not restrict production of the major problem crops, except possibly for wheat, at the acreages assumed in both studies. Actually, production of the major crops likely would increase with consequent depression of prices unless the acreage retired was greater than the 70-million-acre level considered in the ERS study.

3. Gross and net farm incomes would be reduced below the levels of recent years with current programs. At the 50-million-acre level, reduction of income would be greater than reduction of Government costs. With larger acreages retired, farm income would decline less than the decline in Government costs, assuming that the larger acreage could be rented out of production at the costs indicated and that no new land would be brought into production in response to improved outlook for commodity prices.

4. In the absence of tight control in program administration, the impact of a general cropland retirement program could fall heavily in areas of low productive land. In such areas, however, long-term rental of land could give people an opportunity to adjust out of farming. The benefits of such a program would accrue chiefly to landowners. Tenants and country town businessmen likely would be worse off.

INFLATION, CRIME, AND DUTY

Mr. DIRKSEN. Mr. President, inflation and crime are the two great domestic

challenges of the moment. Both are destroyers.

Those who commit acquisitive crimes such as robbery, burglary, larceny, and embezzlement operate in a limited way. Inflation, however, strikes at all—young and old, rich and poor.

Robbery implies violence with a gun. Inflation takes away value without a gun. Burglary means breaking and entering. Inflation is everywhere every moment. Embezzlement is taking value from someone who is unaware of it at the moment. Everyone is aware of inflation every moment, whether he buys, sells, or builds.

Both must be brought to heel if order and our free system are to survive.

The President has sought the cooperation of Congress in dealing with the crime challenge, and Congress has responded generously.

The President has sought and is seeking the cooperation of Congress in dealing with inflation. He has asked for immediate action on the surtax, the repeal of the investment tax credit, and extension of the excise taxes on cars and telephones. That request has languished. He has done so to protect the balanced budget and to siphon off spendable funds. These are weapons in the combat with inflation.

The House of Representatives has acted on the important items, but it now appears that those who shape policy for the Democrat majority in the Senate insist on coupling these important and gravely needed measures with other tax reforms which, perhaps desirable, are not so urgent. This is a serious matter, because the Democrat majority, by long-established practice and custom, has the acknowledged power to call up or refuse to call up this imperative legislation, if it is on the calendar.

Speaking for the administration—and I trust for the entire Republican minority in the Senate—we have a solemn duty to do what we can to bring about the enactment of the surtax and related legislation at the earliest possible date. Delay could be dangerous. We hope those who determine legislative policy in the Senate will aid us in this effort. We hope they will also aid us in getting this legislation out of the Finance Committee and to the Senate Calendar.

There are so many factors to indicate how deadly serious this matter is. A weakening stock market, the confusion of the business community concerning Government policy, the sharp decline in time deposits, the high level of business and real estate loans, the deep concern of the Federal Reserve Board, the drop in money supply, the overextended credit situation, the highest interest rates in a century, the deficit in our foreign trade balance, and others all indicate the seriousness of the problem before us.

We hope, therefore, that those who control legislative policy of the Senate realize the gravity of the matter and that we all have the responsibility of putting first things first. It is hoped also, that if the surtax and related items can be brought to the Senate Calendar that the majority leader and the Democratic policy committee will concur in calling the measure for consideration without a day's delay. We point out that whatever the pending business before the Senate, it should be set aside and action on the surtax bill completed.

The House and Senate can complete action on this proposal before the impending recess on August 13. To wait until after the return of Congress on September 3 could be an open invitation to real economic trouble.

Mr. MANSFIELD. Mr. President, as always, I listened with interest to what the distinguished minority leader had to say, and especially so because of his remarks relative to the state of the economy at the present time, the state of the market, the matter of high-interest rates, and the need for legislation.

He states that tax reform is "perhaps needed." I would, myself, delete the use of the word "perhaps"—abolish it entirely—because, in my opinion, tax reforms are vitally needed to make sure that many of our millionaires pay at least something in the way of taxes, and that the middle class and the poorer people, who are called upon to bear the greatest burden of taxation, are given some tax relief. I think it is high time, that it is imperative, in fact, that tax reform be considered by this body.

I am pleased to note, according to the press, the fine progress being made by the Ways and Means Committee of the House in that field. It is true that the stock market has been declining, but if my memory serves me—and, incidentally, I have no stocks—the decline has been occurring for well over a month. It is true we are undergoing a process of inflation, but everybody in the Chamber knows that has been going on for quite some time now.

The distinguished minority leader said we should consider "first things first." Why not consider first things first together? In that area I would include the extension of the surtax, and also the need for necessary tax reforms.

If we were to take up the surtax alone, it is my very strong belief that a sizable number of the Members of the Senate would use that course as a vehicle to which to attach all kinds of amendments, and that the end result would be not a surtax extension bill but a Christmas-tree bill which would take care of selected segments of our population which would like to receive special consideration and special treatment.

In my opinion, it would be a disservice to the President and the economy of the country to take up the surtax bill on that basis, without the necessary and vitally neded tax reforms long overdue. Indeed, the end result might well be no surtax extension at all and a decidedly further drop in the economy of this Nation.

Mr. DIRKSEN. Mr. President, I have only one response to make to the majority leader, and generally speaking I take no great exception to what he had to say.

I simply say, Mr. President, that we have to separate the urgent things from those that can wait; and second, we have to separate those things that we can do on the basis of what we see at the moment from those that are going to take time.

The House of Representatives passed on this matter. It will be no great difficult matter to pass on. All we have to do is to bring it in, place it on the calendar, and then have my distinguished friend from Montana call it up with the concurrence of the policy committee on that side of the aisle. It is quite that simple, in my judgment.

I do not decry the fact there should be tax reform, but I do know from my experience on the Committee on Finance that Members are over there now who have been presenting their views on different bills, including excess profits, and a host of other things, which can wait; but the surtax and the investment tax credit, and the return from the excise taxes really cannot wait. They go to the revenue of the country and they go to the integrity of the President's budget.

I call attention to these other things because those are fiscal and monetary phenomena and factors that are in being, and I think we would be rather shortsighted if we undertook to ignore them.

I point out one other thing, Mr. President. My distinguished friend represents the majority party in the Senate. He has the votes. He can determine when a reform bill shall come before this body. I would be the last person in the Senate, not only knowing the rules but also the customs and practices, to try to preempt the leadership; I would never do it. That is why this statement is in the nature of an entreaty to the majority leader; it is an appeal on the basis of trying to look down the road and see how dangerous this could be unless we get this action and get it right soon. That is the only case I can make, so this is an appeal to my distinguished friend who has so much to say, and, in fact, who has the power not to call up or to call up legislation that ought to be before us.

Mr. WILLIAMS of Delaware. Mr. President, I join the minority leader in expressing the hope that the leaders on the other side of the aisle will give top priority to the consideration of extension of the surtax.

Action on it is needed now. Uncertainty as to whether we shall or shall not act, or what action will be taken, can create chaos in the economic community.

Mr. President, I join the majority leader in expressing not only the hope but also the determination that we do have meaningful tax reform brought before the Senate at an early date. I shall be here presenting some views of my own in that connection, but we should separate the packages.

I realize the argument is made that if the bill is brought out earlier we shall find numerous amendments which can develop it into a Christmas tree. I most respectfully remind the majority leader that the same argument was made last year when President Johnson recommended the tax in its initial stage. At that time, the Senator from Florida and myself joined in the bipartisan effort to put this measure through because we felt that the economy of the country was such that it had to be enacted, and we were confident that, acting together in a bipartisan effort, we could prevent that bill from developing into a Christmas

tree. We did. There were no amendments of an extraneous nature to that bill. I am confident that we can do it again. All we are asking is the same bipartisan support today in the interest of our country that we as minority Members gave to them when they had control.

I hope that we can get that. I certainly do not think the majority party would want to take the responsibility for what happens if we do not act.

I noticed that when my good friend from Massachusetts spoke here yesterday he proposed a series of reform measures—many with which I agree. On some of them I would go further than he did, but he made a constructive suggestion. But these are controversial. In the colloquy yesterday, as an example, the Senator from Massachusetts indicated he opposed the proposal in the reform package in the House which would levy a tax on foundations. I disagree with him on that point. I realize that will be a highly controversial measure when it comes before the Senate. This is an example of the difference of opinion among those of us who seek the tax reform. On many we shall be in agreement, but those who have different views are entitled to be heard and should be heard. That takes time and is why the two proposals should be separated.

The PRESIDENT pro tempore. The time of the Senator from Delaware has expired. Without objection, the Senator from Delaware may proceed for an additional 3 minutes.

Mr. WILLIAMS of Delaware. I thank the Chair.

But after hearings and ample opportunity to express their views we can report a bill. The chairman, backed by the full membership of the committee, can give the Senate a pledge that it will report a tax reform bill. Then the leadership can bring it up. We need this tax reform, but we certainly need to act responsibly in the meantime by not holding up the other bill.

Finally, Mr. President, as to tax reform I am glad that at last we have some new recruits for that worthy project. I remind them, however, of the fact that others of us have for years been trying to get reforms on the part of our tax laws.

Much to my regret, this is the first administration in the past 10 years which has pledged its support to meaningful reform of the revenue code. This is something that we did not get in the past administration.

Now that we have that cooperation, now that the Ways and Means Committee is working, and now that the Finance Committee is ready to act, let us put it on the statute books and not just make speeches.

The way to put it on the statute books is to take up the surtax quickly and follow that with the controversial tax reforms. These are controversial areas, but in spite of this we should act on them.

In arriving at a decision on procedure the views of the minority should be taken into consideration as well as the views of the majority party. I remind them again that last year, when they needed bipartisan support, I was the one that led it at that time. I think we have a reasonable right to expect that we get a little cooperation at this time.

Mr. KENNEDY. Mr. President, in listening to the dialog this morning, those of us on this side of the aisle can look back over the history of the recent election campaign in which the presidential candidate of the Democratic Party indicated his support for extension of the surtax.

At that time, our distinguished present President had some rather serious reservations about the surcharge. As a matter of fact, he expressed his opposition to its extension.

Thus, it is curious for us to be on the Senate floor listening to our good friends on the other side of the aisle attempting to point out the responsibility of the Democratic majority and the members of the policy committee. We are trying to establish what I think is an orderly, constructive, and extremely important procedure for enabling the Senate to exercise its right to vote on the extension of the surtax and meaningful tax reform.

I would also remind our good friends on the other side of the aisle that the fight against inflation is not assisted when highly responsible members of the administration raise the specter of wage and price guidelines. In the face of such talk, it is only natural for businessmen to place orders and work out pending transactions, and thereby obviously feed the inflationary fires.

Nor do I think the administration is contributing to the adoption of a responsible fiscal policy when it raises doubts that the surcharge will really be considered or passed by the Senate. In accord with the position stated so clearly, eloquently, and appropriately by the majority leader and the members of the policy committee, we are proceeding in a way that is responsible in terms of meeting both our fiscal crisis and our monetary crisis.

I was disappointed that the remarks of the distinguished Senator from Illinois did not manifest a greater sense of urgency concerning the millions of taxpayers of this country who are suffering from the inequities of our current tax system. It is clear, of course, that our taxpayers are concerned with the fiscal position of the Nation, but they are also the ones who routinely pay their taxes and are becoming increasingly aware of the abuses in our Internal Revenue Code.

The PRESIDENT pro tempore. The time of the Senator from Massachusetts has expired.

Mr. KENNEDY. Mr. President, I ask unanimous consent to proceed for 2 additional minutes.

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

Mr. KENNEDY. Mr. President, I thank the Chair.

We now have a major opportunity to enact significant and meaningful tax reform. I feel that the policy committee is acting in a most responsible manner in meeting the crises in our fiscal policy and our tax system.

Mr. DIRKSEN. Mr. President, will the Senator from Massachusetts yield?

Mr. KENNEDY. I yield.

Mr. DIRKSEN. I find no quarrel with what my friend says. It is only this: It evidences no effort to try. Why does the Senator not help us? We are not in charge. Why does not the Senator say, "We will try?" The Finance Committee is to meet in executive session tomorrow morning. Why does not the Senator get word to the chairman and say, "Do your best to get out a bill and get it to this floor?"

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. DIRKSEN. The weight of economic advice and authority suggests that this is becoming a dangerous situation.

The PRESIDENT pro tempore. Does the Senator from Illinois yield to the Senator from Massachusetts?

Mr. DIRKSEN. I yield.

Mr. KENNEDY. There is no problem about trying. The distinguished chairman of the Committee on Finance has met with the policy committee. As a matter of fact, when the Democratic policy committee announced its initial decision about the extension of the withholding rates, it was a unanimous decision that was reached, in full accord with the distinguished chairman of the Committee on Finance. So we on this side of the aisle feel there is no misunderstanding. We have had a number of explanations of the respective positions. We would certainly be heartened if the communications that have come from this administration in the area of tax reform had been more explicit and more reassuring to those of us who are interested in meaningful tax reform. I think, once again, we are willing to try, and we are going to try. As the distinguished Senator from Delaware stated yesterday, I am sure we are going to have a real opportunity to maintain both a strong fiscal policy and to achieve meaningful tax reform.

As I indicated, I think that the tax reform proposals of the administration could be much more substantial. They fail to deal with the substantive provisions of the percentage depletion allowance, or with capital gains, or with interest on State and local bonds, or with accelerated depreciation for real estate. Even the minimum tax proposed by the administration is weak, because it fails to include capital gains and interest on State and local bonds. And, the tax relief for the poor proposed by the administration does not go as far as it should in helping families near the poverty level. In light of these deficiencies, I think we on this side of the aisle may be pardoned for having some doubts as to the administration's real commitment to meaningful tax reform.

Mr. President, last April, at the time the administration submitted its tax reform proposals to the Ways and Means Committee, Joseph A. Pechman, senior economist at the Brookings Institution, pointed out a number of the weaknesses in the proposals, and made the comment that the administration's package was hardly the "Mona Lisa" of tax reform.

Mr. President, because of the importance of the questions that have been raised, I ask unanimous consent that

Mr. Pechman's comments, which appeared in an article in the Washington Post, be printed in the RECORD.

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

[From the Washington (D.C.) Post, Apr. 27, 1969]

IF YOU SUPPORT TAX REFORM, NIXON'S PACKAGE IS WEAK

(By Joseph A. Pechman, Director of Economic Studies, the Brookings Institution)

The Nixon tax reform package was unveiled last week with the fanfare that usually accompanies a major presidential tax recommendation. First, a presidential message proclaimed that "reform . . . is long overdue" and outlined in general terms a series of ten proposals. The next day Treasury officials read to the Ways and Means Committee an inch of technical papers describing in great detail 16 proposals which, they emphasized, are only a "first step in reshaping the Federal tax system to make it fair and efficient."

Chairman Mills and his colleagues listened carefully to the testimony, complimented the Treasury for its diligence, suggested that the package is a bit timid even for a first step, but cautiously avoided committing themselves.

All this was in response to pressures for tax reform which had been building up since it became evident that President Nixon would be forced to propose extension of the surtax to fight inflation. Congress accepted the surtax last year only after attaching to it a requirement that the President submit a tax reform plan by the end of the year. President Johnson balked, partly because he regarded this as an infringement of presidential prerogatives and partly because he isn't a tax reformer at heart anyway.

But Assistant Secretary of the Treasury Stanley S. Surrey took the Congressional mandate seriously. As his last official will and testament, he left behind a tax reform plan which was later transmitted to Congress by the new Treasury.

Armed with this ammunition. Congressional tax reformers served notice that the surtax would not be extended unless it was accompanied by a "real" reform. This movement has a lot of steam behind it because there is simply no way to answer the argument that the surtax penalizes those who already pay taxes, while those who escape paying in one way or another go scot-free.

The Surrey package is a skillful blend of a large number of tax changes which would distribute $1.7-billion of individual income tax revenue—out of a $75-billion total—from those with incomes of more than $15,000 to those below this level. The showpieces of the package are an increase in the minimum standard deduction which would remove 1.25 million families from the income tax rolls; taxation at capital gains rates of capital gains transferred through bequests and gifts (which are not now subject to income tax) before calculating the amount of property subject to estate or gift tax; a device to disallow personal deductions in proportion to the percentage of tax-exempt income received by taxpayers; and a minimum income tax levied at half the regular rates on a comprehensive income tax base which would include most, but not all, of nontaxable income.

In the light of the grave deficiencies in the tax law, the Surrey package is really quite modest. In fact, it fails to do anything about the most important and expensive "special provisions" in today's tax structure—most notably, percentage depletion, tax-exempt interest, the definition and rates of capital gains tax, and the favored treatment of married couples through income splitting.

All told, these provisions cost the Treasury at least $20-billion annually at present tax rates. Surrey would recover less than a billion of this amount by the minimum tax and the allocation of deductions between taxable and nontaxable income sources.

Edwin S. Cohen, Surrey's successor in the Treasury, is also well versed in the intricacies of the Internal Revenue Code. His problem was to satisfy the demand for tax reform and, at the same time, differentiate his product. The package he put together for President Nixon is a work of art, even if it is not the Mona Lisa of tax reform.

Cohen carried over a few of Surrey's proposals with little or no change (example: elimination of multiple surtax exemptions for large corporations that break up into hundreds of small corporations each of which is worth $6,500 in reduced taxes); went further than Surrey in some respects (example: tighter rules for foundations and other tax-exempt organizations); and discarded several of the proposals most likely to meet political resistance (example: imposition of a capital gains tax on gains transferred as gift or death).

The eye-catching change made by Cohen concerns the taxation of the poor. Surrey's hike in the minimum standard deduction would have left three-quarters of a million poor families on the income tax rolls. As a substitute, Cohen devised a new "low income allowance" which raises the minimum taxable income level by a flat $1,100 above the per capita exemptions and happens to duplicate almost to the dollar the official "poverty lines" at this year's prices. To limit the revenue loss, the low income allowance is tapered off by 50 cents for each dollar of income tax above the present minimum taxable levels so that the allowance disappears rapidly (at $3,300 for a single person, $3,700 for a married couple, and $4,500 for a family of four).

This device permits Cohen to claim, correctly, that he has eliminated virtually all the poor from the income tax roll at far less cost than the corresponding minimum standard deduction. (Of course, the heaviest federal tax on the poor is the payroll tax—not the income tax—but the burdensomeness of the payroll tax is ignored because it is legally earmarked for social security.)

The most controversial feature of the Cohen package is the new limit on tax preferences (LTP), a substitute for the minimum tax. The theory of LTP is that no one should be permitted to exclude more than 50 per cent of his income from the tax base. For example, an individual with a $100,000 salary and $300,000 of tax preferences would be taxed on half of the $400,000 total, or $200,000, instead of on $100,000 as he is now.

But the effectiveness of LTP depends on the definition of the term "tax preference." Cohen omitted two items in Surrey's list which are crucial to any attempt to limit tax preferences—tax-exempt interest and long-term capital gains. As a result, Cohen would pick up only $8-million from his LTP, a far cry from the $420-million yield of Surrey's minimum income tax which is also a pittance when compared with the huge benefits that present tax preferences provide.

Many tax experts do not regard the Surrey plan as earth-shaking, and the Cohen plan is even weaker. In the past, the high water mark of tax reform has been the Administration's bill, but things are different this year. Congress may surprise everybody by passing a tougher bill than either the Surrey plan or the Cohen plan. It all depends on the flak congressmen will get from their constituents. If you believe in tax reform, write your congressman and senators!

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

Mr. DIRKSEN. Mr. President, let me just interpose one thought. I am delighted to hear my distinguished friend from Massachusetts say so. When I take my place in the Senate Finance Committee tomorrow morning at 10 o'clock, I will be looking for a message from him addressed to the chairman of the Democratic policy committee and from the distinguished majority leader addressed to the chairman of the Finance Committee, and I will be all eyes and ears as I listen when he makes an appeal to the distinguished chairman of that committee to get busy and get a tax bill out of that committee tomorrow, if possible. That is what I call a try—not after Labor Day or Christmas.

Mr. MANSFIELD. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. The time of the Senator from Illinois has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have 2 additional minutes.

The PRESIDENT pro tempore. Is there objection? The Chair hears none.

Mr. DIRKSEN. I yield to the majority leader.

The PRESIDENT pro tempore. The Senator from Illinois yields to the Senator from Montana.

Mr. MANSFIELD. Mr. President, may I say that the Committee on Finance, when it meets tomorrow, will have a message from the majority leader as a matter of courtesy. May I also say there is nothing to stop the Finance Committee from reporting any bill which a majority of its members desire to report, nor is there anything to stop the bill from being placed on the calendar. However, I think I should recall to the distinguished minority leader, who knows this as well as I do, that we have a very important bill on the calendar, now under discussion, undergoing intensive debate. The debate has a long, long way to go. It is a bill which calls for the authorization of something on the order of $20 billion.

When I talked to the distinguished Senator from Mississippi (Mr. STENNIS), at the time this bill came up—and he will correct me if I am wrong—it is my recollection it was our thought that we ought to stay with the bill until action on it was completed. The bill will take all of this month. It will go into next month. It is a matter which I think should be played out, so no one should be under any delusion that the present bill will be laid aside for consideration of the tax bill when and if it is reported out of the Finance Committee.

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

The PRESIDENT pro tempore. The time of the Senator from Illinois has expired. The Senator from Illinois did not utilize a great deal of it, but when he yielded, it had the same effect.

Mr. DIRKSEN. Mr. President, I ask unanimous consent for 1 minute.

The PRESIDENT pro tempore. The Senator from Illinois requests 1 minute. Is there objection? Without objection, the Senator from Illinois is recognized for 1 minute.

Mr. DIRKSEN. Mr. President, I know the sound of the death knell when I hear it.

Mr. MANSFIELD. Mr. President, no, no. The Senator is undergoing a poetic flight of fancy.

Mr. WILLIAMS of Delaware. Mr. President, I ask for a couple of minutes.

The PRESIDENT pro tempore. The Senator from California has been seeking recognition since the debate began, and the Chair feels an obligation to recognize the Senator from California.

Mr. MURPHY. I thank the Chair.

Mr. President, I ask permission to withhold for a moment, to give the floor back to the Senator from Delaware.

The PRESIDENT pro tempore. If the Senator wishes to yield to the Senator from Delaware, he may do so.

Mr. MURPHY. Yes.

Mr. WILLIAMS of Delaware. Mr. President, I was going to make the suggestion that will perhaps get us out of this dilemma. The Democratic policy committee has apparently taken the unanimous position that it wants reforms in our tax laws. The Senator from Massachusetts, one of the leaders of that policy committee, yesterday introduced his reform package. I am wondering if he will introduce that bill, cosponsored unanimously by the Democratic policy committee, and present it to our committee. If he can I think perhaps we can solve this dilemma. He may be surprised at the results. If there is such unanimity on the part of the Democratic policy committee, then have its members cosponsor that bill and have it presented to the Finance Committee tomorrow.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. WILLIAMS of Delaware. I yield.

Mr. KENNEDY. It was kind and considerate of the distinguished Senator from Delaware to make that suggestion. His statement that my proposals contained some parts which meet with his approval is obviously heartening to me. However, as I mentioned in my remarks yesterday, there are many areas which I hope the committee will consider. I am really trying to follow the procedure which the chairman of the Finance Committee has outlined. He asked the Members of the Senate who have some ideas or recommendations to submit their proposals for consideration by the committee. I believe this represents the position of the Democratic policy committee. I am hopeful that other Members of the Senate will follow that recommendation. The Senator from Louisiana (Mr. LONG) has outlined a procedure which is acceptable to members on this side of the aisle. Let me say again, however, that it is heartening to me that any part of the proposal I have made is thought by the Senator from Delaware to be meritorious.

Mr. WILLIAMS of Delaware. What I want to know is just how unanimous is the recommendation of the Democratic policy committee. At least, it would lay at rest the question of whether the Democratic policy committee is unanimous in supporting the reform proposals.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. WILLIAMS of Delaware. I yield.

Mr. MANSFIELD. May I say that it is up to the Members of the Senate—in this particular case the members of the Finance Committee—to make up their own minds what the committee as a whole wants to do and what it wants to report.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that I may have 1 minute.

The PRESIDENT pro tempore. Without objection, the Senator from Delaware is recognized for 1 minute.

Mr. MURPHY. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. MURPHY. Does the Senator from California still have the floor?

The PRESIDENT pro tempore. The Chair intends to recognize the Senator from California when the Senator from Delaware yields the floor, whether the Senator from California has the floor or not.

Mr. MURPHY. I thank the Chair.

Mr. WILLIAMS of Delaware. Mr. President, I wish to thank the majority leader for his statement that this responsibility rests with the Finance Committee. I hope the Democratic policy committee will abide by the decision rendered.

Mr. MANSFIELD. The Senator need not worry about that. It is the responsibility of the policy committee to schedule legislation, not to make it. We are very careful not to cross the line between the policy committee of the Senate and the Finance Committee of the Senate or any other committee of the Senate because, after all, the policy committee is the servant of the Senate.

ORDER OF BUSINESS

Mr. ERVIN. Mr. President, I ask unanimous consent that the Senator from California may yield to me for an insertion without losing his right to the floor.

The PRESIDENT pro tempore. Is there objection? Without objection, the Chair recognizes the Senator from North Carolina.

PREVENTIVE DETENTION—AN AFFRONT TO CONSTITUTIONAL PRINCIPLES

Mr. ERVIN. Mr. President, a few days ago President Nixon sent to Congress a package of bills pertaining to his war on crime. Two of these bills, court reorganization of the District of Columbia and the creation of a Federal public defender office for the city, are worthy proposals. The third, relating to preventive detention, is quite another story.

The pretrial detention authorized by the Nixon bill is unconstitutional and smacks of a police state rather than a democracy under law.

It repudiates centuries of Anglo-American concepts of fairness, due process, and common standards of justice. The administration would put in jail uncounted numbers of citizens without trial. It would authorize a hearing—a sort of "pretrial trial"—in which the defendant would be convicted if the state could prove a "substantial probability" of guilt, and produce more "evidence" of "dangerousness."

For centuries, the constitutional standard of conviction in this country has been "proof beyond a reasonable doubt," not merely "probable cause" or "substantial probable cause," whatever that means.

Under the Nixon bill, the state has the right to throw an individual in jail for 60 days. The administration concedes that it cannot try these defendants within 60 days. So after that time, the defendants will once again go free. Any danger they represented to the community would once again be present.

The administration bill protects no one. All it does is convict and imprison without due process.

Such detention unfairly deprives an individual of the opportunity to assist in his defense. It may cost him his job. It is detrimental to his family. And it subjects him to the psychological and physical deprivations of jail life.

Judges are not gifted with the prophetic powers necessary for accurate judgments as to which individuals represent a danger to the community. This law will be highly susceptible to abuse. It will result in the imprisonment of many innocent persons.

The real answer to the problem of crime committed by persons while awaiting trial lies not in the preventive detention of individuals presumed innocent, but in the speedy trial of the accused and the swift and sure punishment of the guilty.

PRIVACY AND FREE TRAVEL: PERSONAL BODY SEARCH OF TRAVELERS

Mr. ERVIN. Mr. President, the incident I am going to describe was reported to me by a constituent who knows of the Constitutional Rights Subcommittee's interest in the protection of individuals from unwarranted governmental invasion of privacy.

In addition to the right of privacy, her story also has a strong bearing on the American citizen's enjoyment of the freedom to travel.

This lady, an English teacher, returned last month from a 3-week vacation-study trip to Europe. Arriving at Dulles Airport, she passed through immigration inspection, and dragged her bags along to the customs barrier. There she was told by an official that she had duty to pay. She was taken to an office, where another official introduced himself and a woman official, and then left her in the company of two women. One of these asked her to remove her jacket, blouse, and underclothes. When she hesitated and asked whether this was standard procedure or a random spotcheck, or what, she was told that "someone" had thought she looked as though she might have something concealed beneath her blouse.

She asks a question the Customs Bureau should be required to answer:

Are all full-bosomed women to be subjected to this sort of indignity? Being singled out solely because of one's physical structure, taken aside, and asked to undress constitutes an indignity I find peculiarly offensive.

Immediately after this experience and consequent inconveniences including conveyance which she had been forced to miss, my constituent sat down at the airport and wrote me a letter. She was, she wrote, "literally footsore and aching, having been 18 hours out of bed, tired, longing only to get home, and not even remotely acquainted with dope or whatever it was they were looking for, and strongly opposed to its use."

She asks:

What should I have done? It is a very curious circumstance to be in! I was really too tired and too stunned to comprehend it. Shouldn't they have said at once what they wanted? I went to that room for the purpose of paying duty.

I need to tell someone who has some concern over invasion of privacy. I think that a search of this kind should be undertaken only in an extreme case—and then in such a way that the victim has some foggy idea of what the hullaballoo is all about. Everybody in that room—four or five custom people—everybody except me knew what was going on, why I was there, probably what had been said. I never did find out. If someone said I was carrying something illicit, I think I should have been told who said so and what he said, instead of being left alone with two strange women who began with, "would you mind taking off your jacket?" and then proceeded garment by garment—again, not an honest "Strip to the waist," which is what they meant.

While this case involved an external personal body search, it is related to another problem involving the Customs Bureau which the subcommittee investigated last year: that is, the extent to which due process and the personal privacy of the individual is protected in internal body searches by customs officers.

The practice of internal body searches by customs officials is one of recent origin, and it is not at all clear to me that the basic 1866 statute authorized such techniques or that it established sufficient procedural and substantive protection for the individual in modern times.

In response to subcommittee inquiry about the extent of such practices and the regulations governing them, I received a letter and memorandum from the Treasury Department which describes their attitudes on this matter. Since the administrative policies and issues as well as the constitutional principles involved are similar to those raised by the personal search in my constituent's case, I ask unanimous consent that her letter, with her signature deleted, and the correspondence between the subcommittee and the Treasury Department be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. ERVIN. Mr. President, I believe this is an area which deserves the careful attention of the new administration.

We cannot know for sure how often such incidents occur. I am told most people are too embarrassed to write their Congressmen. Since the regulations allow such searches on the mere "belief or suspicion" of the customs official, there is obviously ample opportunity for abuses in this area.

I sincerely hope that travelers returning from abroad this summer are not going to be subjected to the unrestrained zeal of customs officials whose overenthusiastic exercise of their discretionary powers may not only deny constitutional rights of travelers, but equally important, may tarnish the welcome of our borders.

The wise conclusion which Mr. Justice Brandeis drew from the lessons of history might with profit be applied here:

Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficient. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning, but without understanding.

EXHIBIT 1

JULY 1, 1969.

Hon. SAM J. ERVIN, Jr.
Senate Office Building
Washington, D.C.

DEAR SENATOR ERVIN: Thank you for your prompt response to my letter of 24 June about what I considered unwarranted and unjust treatment by customs officials. It is reassuring to know that you are concerned about such a practice. Certainly I had never heard of it, aside from tales of diamond smuggling, false heels, and the like. All my other encounters with customs had been simple and pleasant, and I still have no notion what changed this one into an experience more fitting in a totalitarian state. Anything that will keep others from having to undergo this distressing and humiliating experience is to the point, and I have no objection to your citing this experience in a speech if you think it will help curb a practice that should never be inflicted upon normal, law-abiding citizens.

Aside from being singled out and set apart from other passengers, I think I object most to the sort of pre-judging involved. I have taught Milton's *Areopagitica* too long not to recall phrases like "their intent not being known to be evil"; and I think that a search of this kind should be undertaken only in an extreme case—and then in such a way that the victim has some foggy idea of what the hullaballoo is all about. Everybody in that room—four or five customs people—everybody except me knew what was going on, why I was there, probably what had been said. I never did find out. If someone said I was carrying something illicit, I think I should have been told who said so and what he said, instead of being left alone with two strange women who began with, "would you mind taking off your jacket?" and then proceeded garment by garment—again, not an honest "Strip to the waist," which is what they meant.

As I am sure I told you, I was led into this office thinking that I was to pay duty there on the two bottles of brandy and gin I had bought in the export shop in London. The man in charge in the office asked whether I had anything about my person, etc., and of course I said I did not have; and I think it was then I asked whether this was standard procedure or random selection—and learned that it had nothing to do with my paying duty: "he didn't want to embarrass me," I was told. Better if he *had* embarrassed me—I'd have been prepared for the humiliation to follow.

None of this, so far as I could tell, had to do with my luggage, my purchases abroad, or anything in my handbag or among my other effects: it was all to do with my person. Maybe that's what offended me—that some unnamed, unseen person could single out my person and have it subjected to what must be considered an indignity—and nothing in my previous life, loyal citizenship, service to society, or normal good citizenship warded off any result of this anonymous allegation. In my forties, I found it hard to absorb this course of events—and felt chiefly a profound sense of shame; and I hate to think of the psychological damage such an experience might do to a younger person less experienced in encountering various kinds of damned foolishness.

On the other hand, there was something terribly amateurish and unknowledgeable about the official approach—nothing sleek and professional about the way I was separated from the herd, nothing complimentary to the intelligence in the assumption that anyone smuggling anything worth going to all this trouble for would be so naive as to let it bulge through his clothes. It didn't really make very good sense, especially when I gathered that it was marijuana I was supposed to be carrying. The official spotter doesn't sound very ept; the employees required to carry on the search were obviously embarrassed and, eventually, apologetic; and the system doesn't compare very well with the British "red and green" system I found when I landed at London Airport. It's a little more like cops-and-robbers, about as sophisticated as the nine-year-old mind.

Any way you take it, if anyone is ever to be subjected to such a search, it ought to be on pretty strong evidence; and the person ought to be told what is going on and why.

The basis for this disruption that left me in such a state that I did not even want to face other Americans is almost frivolous, no matter how many sonorous noises anyone makes about "the drug traffic is wicked" and "we have a job to do." I have a job to do, too—to work with students in very troubled times; and if I went about it as awkwardly as this, they'd laugh me out of existence, and they'd be right. But when I try to do this job well—and anyone in college teaching these days knows that there are many quiet negotiations and meetings intended to forestall possible demonstrations and violence—when I have tried to contribute to my country and my society by work like that of this year just past, it is peculiarly insulting to be set aside as one who would corrupt the young people one has worked so hard to help. I'm not pleading position or rank, and I am fully aware that there are idiots in my profession who praise the beauties of smoking pot; but unless the point of this search is to prove that customs is no respecter of persons, is there any point in harassing and humiliating someone who has been trying very hard to contribute to the society that inflicts this treatment?

When I finally realized that I was not in that office to pay tribute on a bottle of liqueur and asked whether this questioning (about things concealed on my person) was standard procedure or random sampling, I did not receive a direct reply.

I try hard not to see what is not there, like Communists in the woodwork, nor to imagine that significance exists when it is only circumstance I see, but now, after a week's reflection, the whole incident still seems to me a very bad nightmare. At the time, when my leg muscles ached so that I could not even wear heels for the trip, when I had to carry my own luggage several times, when I had sat for more than eight hours at a window seat rather than disturb other passengers so I could get out and stretch, when I had been out of bed for eighteen hours or so, I thought I was in never-never land; and I was not far wrong. My luggage missed the plane to North Carolina, and I had to transport it to National Airport and pay two more sets of tips at Washington rates; I never got to see the friends who were to have met me; I had to find my own way between airports; I was left in an emotional depth; I looked even more travelworn because of the disarray of my hair; and I managed to have dinner, finally, at three a.m. DST—that is, only twenty-seven hours after I got out of bed to make this joyous trip home. This is no tale of a pioneer's

travail—merely the result of one woman's being subjected to that inept mess at Dulles Airport because some idiot thought I might be carrying something. Our country was founded in what was supposed to be the age of reason. As Chub Seawell would say, call your next case.

I came back into my native land, by choice, at Dulles Airport, on a Pan Am flight (from London) I arrived at National Airport, where I scrawled my note to you, about 8:10 p.m. To my knowledge nothing in my deeds, words, actions, or dress should have contributed in any way to the impression that I am more or less than I am—a law-abiding citizen. I am most grateful for your concern, because without it, I would be ready to question some of the basic assumptions about our democracy (and republic) that I have always held. I shall be most interested to hear further about this matter and to learn what the traveler may do if he is faced with it—particularly when the customs office holds the trump card of dumping one's possessions and delaying schedules further. If I can be of assistance, please be assured of my cooperation. And thank you again for caring.

Sincerely yours,

———. ———.

JULY 14, 1969.

Hon. DAVID M. KENNEDY,
Secretary of the Treasury,
Washington, D.C.

DEAR MR. SECRETARY: It has come to my attention that a constituent, ———, upon her recent return from a summer visit to Europe, was subjected to an unwarranted personal search by Customs officials at Dulles Airport.

Her experience and comments are described in the enclosed letter.

I should appreciate your having this incident investigated and advising the Subcommittee what steps will be taken to prohibit such occurrences in the future.

As you may know, the Subcommittee has also been concerned about the Bureau's use of body searches on citizens in its quest for smugglers.

Certainly, I think that the possibility of being subjected to such offensive techniques without very strong and reasonable grounds pose formidable obstacles to the citizen's enjoyment of travel abroad for vacation or for business purposes. Such practices can be viewed not only as a violation of his personal privacy but also as a deterrent to the effective exercise of the freedom of travel.

While none would argue the merit of government's efforts to prevent smuggling, I believe the principles of a free society demand that a certain element of risk is unavoidable. For myself, I would rather see one smuggler escape than have one hundred American travelers stripped and searched on the mere suspicion that they might be trying to smuggle something through customs.

I would hope that the new Director of Customs would set as his first order of business a thorough review of the policies and practices which threaten the constitutional rights of Americans who travel abroad.

On behalf of the Subcommittee, I would strongly urge that he consider issuing new regulations providing a semblance of due process for disembarking passengers, and that he take drastic steps to assure their enforcement.

With all kind wishes, I am

Sincerely yours,

SAM J. ERVIN, Jr.,
Chairman.

JULY 25, 1968.

Hon. HENRY H. FOWLER
Secretary of the Treasury
Washington, D.C.

DEAR MR. SECRETARY: In the course of this Subcommittee's study of privacy and individual rights, our attention has been directed to reports that citizens and foreign travelers entering the United States may be subjected to offensive and unwarranted personal searches by customs officials.

If these reports are true, I am sure every American would be concerned that his government should engage in such techniques. Such a policy could seriously distort our national image as a country which offers a warm welcome to visitors from abroad.

To assist us in our study I should appreciate your supplying the Subcommittee with replies to the following questions:

1. Are internal examinations ever made of persons entering the United States?

2. If so, what categories of travelers are subject to this practice? For what reasons?

3. Are records kept on the frequency of such examinations and on the circumstances surrounding each case?

4. What specific statutes and regulations authorize such examinations?

5. Are the regulations governing examinations published in the Code of Federal Regulations?

6. Is the individual entitled, under your regulations, to prior notice of such a search and to the presence of counsel or another person if he so requests?

Please supply copies of pertinent statutes, regulations and operating memoranda.

I should particularly like to receive examples of instructions issued to officials at ports of entry for their guidance in determining the need for such personal searches.

With appreciation for your assistance in our study, and with all kind wishes, I am

Sincerely yours,

SAM J. ERVIN, Jr.
Chairman.

TREASURY DEPARTMENT,
Washington, D.C.

Hon. SAM J. ERVIN, Jr.,
Chairman, Committee on the Judiciary, Subcommittee on Constitutional Rights, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In your letter of July 25, 1968, you express your concern about allegations that citizens and foreign travelers entering the United States may be subjected to offensive and unwarranted personal searches by customs officers.

This Department and the Bureau of Customs place the highest emphasis on courtesy in dealings with the traveling public. At the same time, in processing the overwhelming numbers of such persons, more than 212 million of whom entered the United States during the past year, customs officers have to be concerned with their assigned task of enforcing the customs laws, particularly those laws which prohibit the smuggling of contraband articles into the United States. The focus on this aspect of their responsibilities is assuming increasing importance by reason of the steady and spectacular increase in smuggling attempts. The magnitude of this increase can be seen when it is realized that seizures of smuggled heroin jumped from 78 pounds in fiscal year 1967 to 246 pounds in fiscal year 1968 and those of marihuana from 26,312 pounds to 70,210 pounds during the same period.

Unfortunately, smugglers of both sexes have found it extremely effective to make use of body cavities for the purpose of secreting prohibited merchandise of small bulk and extremely high value, specifically heroin.

There is enclosed for your information a memorandum prepared in the Bureau of Customs which supplies detailed answers to the specific questions raised in your letter of July 25.

If we can provide any additional information or be of further assistance, please feel free to call on us.

Sincerely yours,

JOSEPH M. BOWMAN.

AUGUST 16, 1968.

Re body searches (letter from Chairman ERVIN of the Senate Judiciary Committee, dated July 25, 1968.

Hon. JOSEPH M. BOWMAN, Jr.,
Assistant Secretary,
Commissioner of Customs.

The specific questions are answered as follows:

1. Are internal examinations ever made of persons entering the United States? Yes, they are, but on very rare occasions. As an example, during the month of June 1968, at the port of San Ysidro, California, where almost 3,500,000 persons entered the United States, there were five such searches, each of which resulted in the seizure of heroin concealed in body cavities and the arrest of the smugglers.

2. If so, what categories of travelers are subject to this practice? For what reasons?

All that we have any knowledge of in recent times have been returning residents of the United States who cross the border into Mexico for purposes of using and acquiring narcotics. The reasons for their selection were their appearance, i.e., external evidence of the use of narcotics, the presence of narcotics paraphernalia in their effects, criminal record of narcotics violations, *advance information*, or admission under questioning that they had secreted narcotics within their bodies.

3. Are records kept on the frequency of such examinations and on the circumstances surrounding each case?

Such records are kept at each port, but we do not maintain any central record.

4. What specific statutes and regulations authorize such emaxinations?

Statutory authority for such searches is found in 19 USC 1582 and 19 USC 482. Instructions are issued by supervisory personnel in individual cases, and policy is set forth in letters from the Bureau headquarters and in a manual prepared for field guidance.

5. Are the regulations governing examinations published in the Code of Federal Regulations?

No such regulations are published in the Code of Federal Regulations.

6. Is the individual entitled, under your regulations, to prior notice of such a search and to the presence of counsel or another person if he so requests?

No he is not, but such body searches are, by direction, always performed by medically trained personnel such as public health physicians, nurses or doctors attached to hospitals, and not by Customs personnel.

Attached are the following:

Sec. 3.4, "Customs Inspector's Manual" on personal searches, which would include body searches. the latter being one category of personal searches.

Extract from letter dated July 18, 1966, setting forth Bureau policy on body searches.

Copy of memorandum entitled Authority of Customs Officers to Search Persons Entering United States from Abroad; Conduct of Search of Bodily Cavities.

I regret that we do not have available here any local or port directives on this subject, but these are subjects which are covered in formal and on-the-job training programs, and are not necessarily the subject of formal directives or regulations, except as indicated above.

Since searches by Customs officers are in a special category, a fact which was recognized by the acts of the first Congress of the United States and which have been consistently upheld by the courts since that time, it would be impractical to issue specific regulations or attempt to publish prescribing circumstances under which any of the 212 million people who last year entered the United States might be subject to internal searches when, in fact, there were no more than 125 so examined. This is particularly

true when the statutes seem to clearly authorize such searches and when the data shows that almost all of those searched were found in possession of narcotics or other contraband; and most of them had prior criminal records and they obviously were thoroughly aware of the risk they run from Custom searches, or they would not have had the contraband so concealed. The following figures may serve to better illustrate this point. San Ysidro, California, is our most active enforcement port in terms of overall searches, seizures, and arrests. During June of this year 3,499,680 persons entered from Mexico. From this traffic there were 345 personal searches, of which 180 resulted in seizures. Five of these personal searches included internal searches, all of which resulted in seizures of heroin and the arrest of the violators. Even so, in every instance our officers have thoroughly explained to each suspect in advance of the personal search the reasons for his search so that he (1) may be fully informed of what is happening; and (2) may be afforded an opportunity to voluntarily produce any contraband concealed on or in his person.

It has never been considered that a person being processed through Customs upon entry into the United States should be entitled to have counsel present before being subjected to such normal Customs processing as the examination of his baggage or, where appropriate, the search of his person. Clearly, a quasi-judicial proceeding for each of the 212 million people entering this country, on an annual rate, at the present time, is not feasible, and would be inconsistent with the authority granted to Customs by the Congress from the earliest days of this country and recognized by the courts as necessary for the enforcement of Customs laws.

———.

REGULATIONS

3.4 Personal Search—The search authority of customs officers is broader than that vested in other federal officers. This is because of the recognition that such search authority is essential to the proper enforcement of the laws governing the entrance of persons and things into the United States. This essential authority must be zealously guarded against any abuse. Customs search authority is based on the suspicion and belief of a customs officer that there is concealed merchandise or contraband which is being introduced into the United States in a manner contrary to law. Therefore, as a customs officer you have full authority under such conditions to make any reasonable search. When circumstances warrant, this search may extend to the removal of any part or all of a suspect's clothing. Normally you should confer with your supervisor before proceeding with such a search.

(a) A search of pockets and women's handbags should not be made as a matter of routine, but may be made when deemed necessary. Such searches should be made as courteously and tactfully as possible, and consideration should be given to the passenger's right to privacy. Search of pockets should not be made in the public view, and in no case should "hipslapping" be used as a method of inspection.

(b) As an inspector, you have full authority to make personal searches. Under the law it is your belief or suspicion which forms the basis for a decision to make a personal search. Full personal searches (i.e., those not limited to baggage, purses and pockets) are authorized, with the concurrence of the supervisor on duty, if deemed necessary because:

(1) There is information at hand that the passenger is, or is believed to be attempting to smuggle, or,

(2) The name of the passenger appears on the soundex list, and it is established that the passenger is the person named and is listed as a potential smuggler of articles or contraband of a nature likely to be concealed on the person, or,

(3) The person appears to be under the influence of narcotics, marihuana or other dangerous drugs, or there are strong indications that he is a user of such drugs for other than medicinal purposes or is a convicted violator of the narcotic or smuggling laws, or,

(4) During the course of your questioning or examination there arises a serious suspicion that articles have been concealed in the clothing or on the person of the passenger. Some reasons for suspicion, further questioning, closer examination and a conclusion that a personal search is warranted may include, but are not limited to, the following: (a) unusual actions on the part of the passenger which cannot be explained logically, such as making a point of turning so that a particular part of his body will be away from your view, the relutance to make a natural movement of his arm or other part of his body or obviously holding a coat or other article so that a particular part of his body will be concealed; (b) unusual appearance which might include suspicious or abnormal bulges, excessive clothing in hot weather, etc.; (c) a hypodermic needle or syringe, a finger-stall, a burnt or smoke blackened spoon, an eye dropper or any other narcotic addiction paraphernalia found in the baggage or effects of a passenger; (d) contraband or articles found in his effects which indicate that the passenger is not acting in good faith. (See also Section 3.6 *Art of Inspection.*)

(c) A personal search is not a routine search, and the decision to perform such a search is not to be taken lightly. No personal search should be made as a retaliatory or punitive measure. If it has been determined that a personal search is to be made, whenever possible you should ask someone, preferably another customs officer, to act as a witness. The search must be conducted in privacy. At airports or seaports if proper facilities are not available ask a representative of the carrier to assign a room for this purpose. At border stations if no search room is provided make arrangements to use other facilities. In making a personal search the following rules should be observed:

(1) Whenever possible, have a witness to any personal search.

(2) Watch the subject closely while en route to, or inside, the search room to prevent him from discarding any contraband, from drawing a weapon or using force to prevent search or arrest.

(3) Conduct the search in a professional or businesslike manner, without frivolity or gratuitous remarks. The less said the better. After first checking to see that the passenger has no concealed weapons, instruct him to remove his clothing one piece at a time. Each piece should be thoroughly searched and the contents placed on a table in full view of the passenger. All bills, receipts, price lists, tags, and other papers, notes, names, addresses and phone numbers, or other articles pertinent to the investigation should be segregated and detained pending further action. You should inform the passenger that the articles are being temporarily detained. You should be able later to identify the articles and the person from whom they were removed if necessary.

(4) Remember the person being searched is a fellow human being. Allow him to maintain as much human dignity as possible. Do not make any remarks about his appearance, clothing, or character. You can be absolutely right in what you do and make one remark that will make you absolutely wrong.

(5) Try to gain the willing cooperation of the person you are searching. This may avoid the necessity of resorting to force.

(6) Avoid any unnecessary physical contact with the suspect.

(7) In case of trouble or anticipated trouble notify a supervisor immediately, if possible.

(8) Be sure the passenger can see what you are doing especially when you examine his wallet or money container.

(9) Answer reasonable pertinent questions if you can do so without detriment to the case under investigation. However, do not engage in lengthy, aimless conversation or volunteer any information.

(10) The extent of the search should depend on the circumstances of the case. For example, if you are looking for watch movements you should not have the subject strip and bend over for you to examine his body. If you are looking for heroin, you should examine his body closely.

(11) Once the decision has been made that a personal search is in order, it should be made to the extent deemed necessary. In no case should any complaint, threat of complaint or physical resistance result in a passenger's not being searched, or in his being searched any less thoroughly than is required by the circumstances. Customs officers have the authority to use such force as is reasonably necessary to accomplish a search.

(12) Make a record of the search, giving the name and address of the subject, the reason for the search, the result, including the seizure number, if a seizure is made, your name and the name of the witness and any other information that might be useful in a subsequent inquiry or investigation.

———

EXTRACT OF LETTER

The purpose of this letter is to point out that it is most important that:

(1) body cavity searches, including searches of stomach contents, be held to a minimum,

(2) that they be undertaken only when there is a positive reason to believe that they will be productive, and

(3) that when conducted they be conducted under appropriate circumstances, i.e., by a doctor or nurse, and in suitable surroundings, such as a doctor's office or a public health unit, or a hospital.

This letter should be brought to the attention of all customs agents and customs port investigators and instruct them to be guided thereby.

Sincerely yours,

LAWRENCE FLEISHMAN,
Assistant Commissioner.

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MEMORANDUM, AUGUST 22, 1968

Subject: *Authority of Customs Officers to Search Persons Entering United States From Abroad; Conduct of Search of Bodily Cavities*

Customs officials are given the authority to search persons crossing borders into the United States by two statutes, 19 U.S.C. 1582 and 19 U.S.C. 482. 19 U.S.C. 1582 provides:

"The Secretary of the Treasury may prescribe regulations for the search of persons and baggage and he is authorized to employ female inspectors for the examination of search of persons of their own sex, and all persons coming into the United States from foreign countries shall be liable to detention and search by authorized officers or agents of the Government under such regulations."

19 U.S.C. 482 provides in part:

"Any of the officers or persons authorized to board or search vessels may stop, search, and examine * * * any vehicle * * * or person, on which or whom he or they shall suspect there is merchandise which is subject to duty, or shall have been introduced into the United States in any manner contrary to law, whether by the person in possession or charge * * * or otherwise * * * and if any such officer or other person so authorized shall find any merchandise on or about any such vehicle * * * or persons * * * which he shall have reasonable cause to believe is subject to duty, or to have been unlawfully introduced into the United States * * * he shall seize and secure the same for trial."

These two statutes have been construed to authorize searches of the broadest possible character. For example:

A reading of this Section (1581) in conjunction with Section 1582 indicates that it was the intention of Congress to create a broad authority for customs officials to conduct reasonable searches necessary to the enforcement of customs laws. Strict construction should not be permitted to defeat the policy and purpose of the statute. *United States* v. *Yee Ngee How*, 105 F. Supp. 517, 522 (N.D. Cal. 1952).

In fact, searches of persons coming into the United States from a foreign country are in a specialized category. This distinction from searches generally was recognized by the fountainhead case on the subject of searches and seizures, *Boyd* v. *United States*, 116 U.S. 616 (1886), in which this language is used (pages 623–624):

"The search for and seizure of * * * goods liable to duties and concealed to avoid payment thereof, are totally different things from a search for and seizure of a man's private books and papers for the purpose of obtaining information therein contained, or of using them as evidence against him. The two things differ *toto coelo*. In the one case the Government is entitled to the possession of the property; in the other it is not. * * * The seizure of goods forfeited for a breach of the revenue laws, or concealed to avoid duties payable on them, has been authorized by English statutes for at least two centuries past; and the like seizures have been authorized by our own revenue acts from the commencement of the Government. The first statute passed by Congress to regulate the collection of duties, the Act of July 31, 1789 (1 Stat. at L. 43), contains provisions to this effect. As this act was passed by the same Congress which proposed for adoption the original amendments to the constitution, it is clear that the members of that body did not regard searches and seizures of this kind as 'unreasonable', and they are not embraced within the prohibition of the amendment.

"* * * in the case of excisable or dutiable articles, the Government has an interest in them for the payment of duties thereon, and until such duties are paid has a right to keep them under observation, or to pursue and drag them from concealment; * * *"

The special character of the search which customs officials may make on entry has been noted by the courts in almost every case in which such a search has been challenged, very often on the authority of the *Boyd* case. *United States v. Ye Ngee How*, 105 F. Supp. 517, (N.D. Cal. 1952); *Blackford v. United States*, 247 F. 2d 745 (9th Cir. 1957), cert. denied, 356 U.S. 914 (1958); *King v. United States*, 258 F. 2d 754 (5th Cir. 1958); cert. denied, 359 U.S. 939 (1959); *Murgia v. United States*, 285 F. 2d 14 (9th Cir. 1960), cert. denied, 366 U.S. 977 (1961); *Witt v. United States*, 287 F. 2d 389 (9th Cir. 1961), cert. denied, 366 U.S. 950 (1961); *Mansfield v. United States*, 308 F. 2d 221 (5th Cir. 1962); *Denton v. United States*, 310 F. 2d 129 (9th Cir. 1962).

That the right of border search does not depend upon probable cause is pointed out by these same cases. Neither a search warrant nor an arrest is needed to search in these circumstances. *United States v. Yee Ngee How, supra.* It has been said that mere suspicion is a sufficient basis for a border search. *Cervantes v. United States*, 263 F. 2d 800 (9th Cir. 1959) and *Witt v. United States, supra.* This is justified on the ground that detention and search are essential to the enforcement of the laws governing entry of persons, and to the detection and punishment of smuggling. *King* v. *United States, supra.*

It can be concluded initially, therefore, that customs officials have an absolute right to stop and search anyone coming into the United States from a foreign country. The question then becomes what the limits of the search are.

It has become a common practice to smuggle drugs across the border in body cavities. Several courts have taken judicial notice of the fact that a large percentage of narcotics smuggling is accomplished in this way. *Blackford v. United States, supra; United States v. Michel*, 158 Fed. Supp. 34 (S. D. Tex. 1957). This method has created substantial problems for Customs officials. Unless the drugs can be removed and seized, convictions would be difficult to obtain.

The constitutionality of physical searches and the removal, or inducing removal, of drugs from a body cavity pursuant to a border search has not been considered by the Supreme Court. While it is true that the Supreme Court found evidence obtained by use of a stomach pump inadmissable in *Rochin* v. *California*, 342 U.S. 165 (1952), the search which culminated in the use of the stomach tube was not a border seizure, and facts as outlined indicate a series of events beginning with illegal entry and an assault upon defendant. The Supreme Court indicated in *Breithaupt* v. *Abram*, 352 U.S. 432 (1957), where an involuntary blood test for intoxication was in the question, that it was the whole chain of events in *Rochin* that the court found brutal and shocking. The court has said that it is not per se violative of the constitution to remove foreign matter from body cavities. See *Breithaupt* v. *Abram, supra.* Since the decision in *Rochin* both the Fifth and the Ninth circuits have considered and upheld border searches where the evidence of narcotic smuggling was obtained by a physical examination. *Blackford* v. *United States, supra; King* v. *United States, supra; Denton* v. *United States, supra; Espinoza* v. *United States*, 278 F. 2d 802 (5th Cir. 1960), cert. denied, 364 U.S. 827 (1960); *Barrera* v. *United States*, 276 F. 2d 654 (5th Cir. 1960). See also *Lane* v. *United States*, 321 F. 2d 573 (5th Cir. 1963), cert. denied, 377 U.S. 936 (1964), cert. denied, 381 U.S. 920 (1965).

The Fourth Amendment proscribes a search only if it is unreasonable. The "reasonable" restriction has dual significance, for a search must be reasonable in the first instance as well as reasonably conducted. *Blackford* v. *United States, supra; United States* v. *Michel, supra*, affirmed sub nom., *King* v. *United States, supra.* The fact that the search is a border search satisfies the first requirement because of the broad authority to conduct such searches. Neither a warrant nor an arrest, nor probable cause is needed to search a person entering from a foreign country. *United States* v. *Yee Ngee How, supra.* Unquestionably, however, not every such person may be subject to the indignity of an extensive physical examination. There must be some circumstance which will confer upon the course of conduct a factually reasonable aura. Therefore, the decision to make a physical search must have reasonable justification and the search itself must be conducted in a reasonable manner. Both criteria have been illustrated in the reported cases. No minimum standard has yet been developed, since no case has found such a search, incident to entry, unreasonable.

Certain standards have been evolved as to the reasonableness of the probe and search itself:

(1) Customs officials must make no attempt themselves to force the removal of the object contained within a body cavity. *Blackford* v. *United States, supra.*

(2) Actual physical examination should be conducted by qualified physicians under sanitary conditions with the use of medically approved methods. *Blackford* v. *United States, supra; King* v. *United States, supra; Barrera* v. *United States, supra, Application of Woods*, 154 F. Supp. 923 (N. D. Cal. 1957); *United States* v. *Michel, supra.*

(3) The examination and/or probing should not be overly painful. (Pain endured due to defendant's action in attempting to impede the examination should not be considered.) *Blackford* v. *United States, supra.*

(4) Officials should not exert more than the least amount of force necessary to enable doctors to examine defendant. *Blackford* v. *United States, supra; Espinoza* v. *United States, supra.*

Thus, if a customs official has reasonable cause to believe that a person is attempting to smuggle drugs or other items into the country within his body, there appears to be no question but that a physician may remove such item or cause it to be removed if reasonable means are used. There is no necessity for consent to be obtained from the one to be searched.

That a peace officer has authority to request assistance from private individuals is not a new concept. At common law a sheriff was authorized whenever necessary for keeping the peace and apprehending wrongdoers to "command all the people of his county to assist him; which is called the *posse comitatus*, or power of the county, . . ." 1 Bl. Comm. *343. Eventually it was realized that every peace officer is authorized to call upon private individuals to aid him in making arrests or preventing crimes. Persons acting under such a request are "not themselves officers, nor are they mere private persons, but their true legal position is that of a *posse comitatus*." *Robinson v. State.* 93 Ga. 77, 83, 18 S.E. 1018, 1019 (1893). On the theory that due administration of the law is handicapped by refusing to render assistance which an officer has authority to require, a person called upon for assistance is guilty of a misdemeanor if he improperly refuses. He is not entitled to delay while conducting an inquiry into the officer's authority. See *Firestone v. Rice*, 71 Mich. 377, 380, 38 N.W. 885, 886 (1888).

The authority of a customs officer to request assistance stems from statute rather than the common law. Section 507, Title 19 U.S.C., derived from the Act of July 18, 1866, c. 201, section 10, 14 Stat. 180, confers authority on every officer or other person authorized to make search and seizure. Section 507 provides:

"Every officer or other person authorized to make search and seizures by this title, shall, at the time of executing any of the powers conferred upon him, make known, upon being questioned, his character as an officer or agent of the customs or Government, and shall have authority to demand of any person within the distance of three miles to assist him in making any arrests, search, or seizure authorized by this title, where such assistance may be necessary; and if such person shall, without reasonable excuse, neglect or refuse so to assist, upon proper demand, he shall be deemed guilty of a misdemeanor, punishable by a fine of not more than $200, nor less than $5."

This section has apparently never been interpreted in terms of any issue raised with respect to its scope. It has been the subject of such references as that appearing in footnote 8 of *United States v. Collins*, 349 F. 2d 863, 869 (2d Cir. 1965). In line with the common law as it developed, this statute authorizes a demand of any person to assist in any search. In view of the language, it would not seem that a construction might be arrived at precluding a demand for assistance from a physician in the physical examination of a suspected smuggler. The cases have indicated that one of the elements making such a search reasonable has been the participation of a physician. Since the statutes authorizing the search itself have been broadly construed, (see *United States v. Yee Ngee How, supra*), there is no reason to believe that the courts would construe the authority to demand assistance as it appears in section 507 restrictively.

It should be noted that while the officer

has authority to demand assistance under penalty for refusal, the area from which such assistance may thus be demanded is limited to three miles. However, a search may reasonably, even necessarily, be conducted in more than one place. In this light, the section is not geographically limiting.

TAX LEGISLATION

Mr. MURPHY. Mr. President, it has been a characteristic of mine that I can never contain my desire to be in good company, and while I have a chance to join in a colloquy with such Senators as the distinguished majority leader, the distinguished minority leader, and the distinguished Senator from Massachusetts, even though I am not a member of the Committee on Finance, I should like to speak on the matter at this time.

I am pleased that we all recognize the need. I would also point out that the tax reform which I sincerely hope will be forthcoming will be the first since 1954; and I assure my distinguished colleagues that I am as enthusiastic as any Senator for tax reforms. I have paid my share of taxes ever since the beginning—in some years I thought more than my share—and I have done it without complaint. I certainly agree that there must be reform.

Therefore, Mr. President, I join with the distinguished minority leader and the distinguished Senator from Delaware in rising to express my hope that the Senate will recognize the clear public interest which demands swift and affirmative action on the House-passed bill to extend the surtax.

The administration, the Congress, and the public are keenly aware of the urgent need for our Government to take steps to control inflation. Extension of the surtax is an essential step in this direction—and we cannot wait, in taking this step, for the deliberation required in formulating a comprehensive tax reform measure.

It seems to me that there is a serious shortage of logic in the argument of those who would seek to hold up extension of the surtax until it can be tied to a tax reform measure. Just about everyone I ever heard of is for serious, thorough, and comprehensive tax reform—and for achieving it this year. The President is for it. The leaders of this body are for it. The leaders of the House of Representatives favor it. I am certainly in favor of it, as are both political parties.

It is well known that the House Ways and Means Committee is pressing ahead with far-reaching proposals for tax reform, and the chairman of that committee has stated his intention to present such legislation before the August recess. We all intend to have tax reform by the end of this year, but we recognize that enactment of this legislation will take some study and deliberation by both Houses of Congress.

In the need for extension of the surtax, however, we are faced with what is essentially an economic housekeeping measure. It is a stabilization measure, designed to raise desperately needed revenues in order to help stop one of the most serious inflationary crises ever to face this Nation.

An essential part of the program to fight inflation is speedy action to extend the surtax. When we in the National Government show that we mean business about holding down inflation, business and financial decisions will reflect our determination. But until we show that we mean business, decisions by private enterprise are naturally going to assume a softness on our part in facing up to the crisis.

Yet, despite the obvious need for all deliberate speed on this tax measure, we are faced with the prospect of delay—which could extend over several months—because of the misguided belief that it is essential to tie the tax reform package to this legislation.

No one in this Senate seriously questions the need for meaningful tax reform. Nor are there many who question the need for stern measures to battle inflation. Why it is that some Members who are equally concerned about both problems insist on running the grave risk of accomplishing a solution to neither, I just do not understand.

Inflation—and that is just another word for outrageously exaggerated prices on virtually all of life's essentials and luxuries—is striking right now at those least able to defend themselves: the poor, those on fixed incomes, the elderly and retired. Millions of Americans who pay little or no taxes—and who will pay little or no taxes under the terms of this very bill—are faced with constantly shrinking purchasing power. The need to act is urgent.

So it is essential for us to strike deliberately at inflation. Now, if there had been some equivocation on the part of the President on tax reform, if leaders of either party in either House had even hinted that meaningful tax reform would not become a reality this year, if that had been the case I too would be wary of passing this surcharge extension without tax reforms attached, even though I would be playing with the Nation's economic health and would have to search my conscience before agreeing to 1 day's delay.

But that is not the case. The commitment of everyone concerned with tax reform is definite, public, and emphatic. We all know that a real tax reform bill, to be truly effective, must be prepared thoroughly. This takes time.

If we insist on tying these matters together, then we invite inevitable delay on the surcharge—thus inevitably feeding inflationary psychology. In short, we invite a possible disaster if we do not convincingly show our domestic and foreign interests that we mean business in fighting inflation.

Mr. President, I call for this body to act responsibly. No one likes to vote for a tax. We are all tired and hard pressed because of burdensome Federal, State, and local taxes—with the poorest of our citizens suffering the most.

But we must act responsibly. We must vote against the phony tax of inflation, and for the real tax which we can control and limit. That vote must take place just as quickly as our processes will allow.

It seems to me that these two matters, the matter of need and the matter of extreme urgency, must be separated. The passage of the surtax is tied directly to the difficulties caused by inflation. It seems to me that the division should be clear and disinterested, and, as the distinguished minority leader has asked, the surtax should be considered as a matter of immediacy. The serious crisis is upon us.

Then I think we should act as fast as we can to get on with tax reform, which has been so badly needed, and I sincerely hope that the wishes of what is, I am sure, a majority of this body will prevail, and that we will be permitted to separate the two, and not make the one contingent upon the other, because the needs are separate and the one must be done immediately.

I believe every Member of this body feels so, and that the general public is very conscious of the need for the surtax. Then, when that is passed and the immediate crisis is taken care of, we can move with all haste to act upon the tax reform bill that has been so badly needed for so many years.

Mr. FANNIN. Mr. President, we have heard many statements on the surtax made in speeches on the floor of the Senate in the last few days, but I do not think any statements have succinctly brought forth the real need we have in this time of emergency in passing the surtax legislation as has that of the Senator from California.

I commend the distinguished Senator from California for pointing out the emergency nature of this situation.

We hear a great deal said about the tax penalties and the need for reform. I certainly agree that these matters need prompt attention. But I think that the burden imposed upon our people as a result of our taxes, cannot compare with the burden imposed on them by inflation. That is exactly what the Senator was talking about this morning.

He brought out that if we have a tax bill containing the surtax alone or a bill containing the items that are in the House bill passed at an early date, it would help many of the people of our country to a great extent because it would affect the costs they would incur in the purchase of necessities.

Mr. President, we know that today just the purchase of the very necessities of life is a heavy burden. That is why priority should be given to the legislation.

We also have another very important matter that faces us, as the distinguished Senator from California has brought out. That is the feelings of other countries of the world toward our dollar.

This is very important to us, and we must, by action, prove to the other countries of the world that we are willing to curb inflation and take whatever action is necessary to bring our monetary program back into line with the needs of our country and the other countries of the world.

We know that the International Monetary Fund is seeking to adopt a paper gold program and that there is a desire to have the IMF handle the transactions between the different countries of the world.

The ACTING PRESIDENT pro tempore. The time of the Senator from Arizona has expired.

Mr. FANNIN. Mr. President, I ask unanimous consent that I may speak for another 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Arizona is recognized for an additional 5 minutes.

Mr. FANNIN. The surtax is an absolute necessity if we are to control inflation. We feel that the surtax extension should be promptly enacted. When this has been done, there would be ample time to consider the other reform measures. And we need time. Many of the proposals, we know, are highly controversial. So we will not have unanimity of feeling, and we will not have a meeting of the minds immediately. But perhaps over a period of time we can iron out some of the programs that have been fostered for many years. However, our immediate need is to do something now to control inflation. We must pass a surtax bill that will, as almost every Senator agrees, assist greatly in easing the financial difficulty that faces us now.

I am very glad that the distinguished Senator from California (Mr. MURPHY) has stated the problem in a manner which can be readily understood. I trust that other Senators will read his remarks.

Mr. MURPHY. Mr. President, I thank the distinguished Senator from Arizona for his remarks.

There is absolutely no disagreement; every one is completely certain. All the experts, all the economists, and all others charged with a responsibility for our fiscal policy have said to us, "We must stop inflation. We must have a balanced budget. This can be accomplished only in certain ways. The best way is to have a surtax."

No one is more opposed to imposing additional taxes on the taxpayers than I. The people have been taxed too much in the past.

But this, as I have said, is an emergency. It is a situation that we find it very hard to conceive, unless we have once seen it in action. Runaway inflation—and we are on the verge of it—can destroy the entire set of stable values in the Nation. I have seen it happen in other nations in my lifetime.

I am not even certain that we have not run out of time. It is not a question of putting it off in order to achieve something else. Tax reform will be achieved. No one will work more diligently, I am sure, than the minority leader (Mr. DIRKSEN), the Senator from Arizona (Mr. FANNIN), and I. Tax reform is needed. But it can best be accomplished with proper deliberation and time. Hopefully, Congress could pass a tax reform bill before the end of this session.

But the tax asked for by the President and passed by the House of Representatives is needed now; it is needed immediately. It is needed for the protection of the values of the goods that are owned by our citizens. That is why I plead, as earnestly as I can, that the Senate be permitted to act upon the surtax bill, even if it be necessary to set aside the pending business, to get it done, and done quickly. When we could return to the other business. Let the proper committee start the wheels of progress toward getting tax reform, reform which, as I said before, we have not had since 1924.

I thank the Senator from Arizona.

Mr. DIRKSEN. Mr. President, yesterday I had a chance to read Wordsworth's very gentle poem:

The world is too much with us; late and soon,
Getting and spending, we lay waste our powers.

When frustrations overwhelm me, then, of course, I have to turn elsewhere for a little comfort. I received that inspiration for a little comfort this morning as that rocket started lunar-bound, and I wondered what they would find.

Then I thought, well, it is all put down here somewhere, because in the very first chapter of Genesis it is recorded that:

In the beginning God created the heaven and the earth.

Fortunately, Mr. President, the long arm of the Supreme Court has not yet reached into this Chamber to interdict prayer, or to prevent one from reading from this majestic book:

And the earth was without form and void; and darkness was upon the face of the deep. And the Spirit of God moved upon the face of the waters.

And God said, Let there be light: and there was light.

And God saw the light, that it was good: and God divided the light from the darkness.

And God called the light Day, and the darkness he called Night. And the evening and the morning was the first day.

And God said, Let there be a firmament in the midst of the waters, and let it divide the waters from the waters.

And God made the firmament, and divided the waters which were under the firmament from the waters which were above the firmament: and it was so.

And God called the firmament Heaven. And the evening and the morning were the second day.

And God said, Let the waters under the heaven be gathered together unto one place, and let the dry land appear: and it was so.

And God called the dry land Earth; and the gathering together of the waters called the Seas: and God saw that it was good.

And God said Let the earth bring forth grass, the herb yielding seed, and the fruit tree yielding fruit after his kind, whose seed is in itself, upon the earth: and it was so.

If that was not in there, you would wonder what would have happened to the subsistence of mankind.

The ACTING PRESIDENT pro tempore. (Mr. METCALF in the chair). The Senator's time has expired.

Mr. DIRKSEN. I ask unanimous consent for 5 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Illinois is recognized for 5 additional minutes.

Mr. DIRKSEN. One of these things we so lightly go over; let me read it again:

Let the earth bring forth grass.

That is the benediction of the earth.

The herb yielding seed.

Suppose the herb did not have any seed? It could not reproduce itself. What would have happened in all the centuries and centuries? We could not have subsisted.

And the fruit tree yielding fruit after its kind, whose seed is in itself.

And it is. We do not know how lucky we are for this benediction.

And the earth brought forth grass, *and* herb yielding seed after his kind, and the tree yielding fruit, whose seed *was* in itself after his kind: and God saw that *it was* good.

And the evening and the morning were the third day.

And God said, Let there be lights in the firmament——

This what I was getting around to—

of the heavens to divide the day from the night; and let them be for signs, and for seasons, and for days, and years:

I do not know how long ago that was written, but you cannot improve on it, and no scientist has ever been able to improve upon it.

And let them be for lights in the firmament of the heaven to give light upon the earth: and it was so.

And God made two great lights; the greater light to rule the day, and the lesser light to rule the night: *he made* the stars also.

And God set them in the firmament of the heaven to give light upon the earth,

And to rule over the day and over the night, and to divide the light from the darkness: and God saw that *it was* good.

They are proceeding on this missile program way out there, more than 214,000 miles. It is something whose creation was recorded when this book was compiled.

The thing that I was thinking about, Mr. President, as these brave and courageous astronauts left this globe, was just what will they find among other things? I had hoped that maybe out of it all there could come some truth about space and the interrelationships between all of these planets, whether it is an inferior planet like Mars, Mercury, Venus, Jupiter Saturn, Uranus, or Pluto. They are all up there, and they all have a strange relationship that the astronomers have pointed out. However, these men are going to the Moon. They started this morning. Oh, what a body that really is. Is it all dust? Who knows? It may be impregnated with gold. We cannot tell.

They are going to bring back 180 pounds of material and distribute it to these laboratories. Maybe the rocks they bring back, Senator BYRD (Mr. BYRD of West Virginia), will somehow be loaded with diamonds. We cannot say. I do not know. However, I do know this, because everyone knows it who takes account of what happens on this earth, that that moon up there is a moving force that holds the water up against the earth when we have an ebb tide, and when it gets around and turns loose its attractive power, we get a flood tide.

If one wants to call up the Coast and Geodetic Survey, they can tell him when the tide is coming in at Capetown, South Africa, 10 years from now or longer, or when it is coming into Chesapeake Bay. It has all been worked out, and it works. That is the important thing.

If that moon were any closer, I expect those tides would engulf all of the land surface of the earth. And if it were fur-

ther away, we might be wanting for water.

If that sun were any closer, we would burn to a crisp. It would burn everything we grow, the flowers I raise, and the vegetables. And if it were much further away, they would all freeze. So would we.

There is an amazing calibration in the whole universe. And so this morning as I watched—and I watched for as long as I could see it—I hoped that out of all this vast expenditure we could at long last develop some truths about these interplanetary relationships, the impact on our weather, the impact on our lives, and our impact on the moon.

We ought to conquer that one first, I think, before we get too uneasy about getting Apollo No. 12 in the air. I would just like to see what they bring back and then have the laboratory tell us all about it. Then we should go back and equate it with what was written in that book a long time ago. I am insanely curious as I think of this amazing venture as the result of our advances in technology.

Mr. President, I yield the floor.

EXECUTIVE COMMUNICATIONS, ETC.

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

PROPOSED LEGISLATION REMOVING THE INTEREST-RATE CEILING ON GOVERNMENT BONDS

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to facilitate the management of the public debt by removing the interest-rate ceilings on Government bonds, and for other purposes (with an accompanying paper); to the Committee on Finance.

PROPOSED AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend the Internal Revenue Code of 1954 to authorize charges for certain services together with a comparative type showing the changes that would be made in existing law by the draft bill (with accompanying papers); to the Committee on Finance.

PROPOSED CONTROLLED DANGEROUS SUBSTANCES ACT OF 1969

A letter from the Attorney General of the United States, transmitting a draft of proposed legislation to protect the public health and safety by amending the narcotic, depressant, stimulant and hallucinogenic drug laws, and for other purposes; to the Committee on the Judiciary, by unanimous consent.

THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATIONS FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports relating to third preference and sixth preference classifications for certain aliens (with accompanying papers); to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

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

By the PRESIDENT pro tempore:

A bill enacted by the Legislature of the State of Ohio; to the Committee on the Judiciary:

"HOUSE BILL 324

"An act to amend sections 3723.01 and 3723.02 of the Revised Code relative to the Ohio-West Virginia Interstate Air Pollution Control Compacts

"Be it enacted by the General Assembly of the State of Ohio:

"SECTION 1. That sections 3723.01 and 3723.02 of the Revised Code be amended to read as follows:

"SEC. 3723.01. The 'interstate compact on air pollution' is hereby ratified, enacted into law, and entered into by the state of Ohio as a party thereto with the state of West Virginia, which has legally joined in the compact as follows:

"INTERSTATE COMPACT ON AIR POLLUTION

"The contracting states solemnly agree that:

"Article I

"The party states to this compact hereby provide for the control of the interstate movement of air pollutants through the establishment of an interstate agency with powers to prevent, abate, and control interstate air pollution. And where appropriate, develop and implement ambient air quality standards in any designated air quality control region common to the party States.

"Each of the party states pledges to the other faithful cooperation in the control of air pollution which originates in one state and endangers human health or welfare, animal or plant life, or property, or which interferes with the enjoyment of life or property, in the other state.

"The party states recognize that no single standard for outdoor atmosphere is applicable to all areas within the party states due to such variables as population densities, topographic and climatic characteristics, and existing or projected land use and economic development. The guiding principle of this compact is that air pollution shall not endanger human health or welfare, animal or plant life, or property, or interfere with the enjoyment of life or property.

"Article II

"As used in this compact 'air pollution' means and shall be limited to the discharge into the air by the act of man of substances (liquid, solid, gaseous, organic or inorganic) in a locality, manner and amount as to endanger human health or welfare, animal or plant life, or property, or which would interfere with the enjoyment of life or property.

"Article III

"The party states hereby create the Ohio-West Virginia interstate air pollution control commission, hereafter called 'the commission.'

"The commission shall consist of five commissioners from each party state, each of whom shall be a citizen of the state he represents. In addition, the Chairman of the Commission shall request the President of the United States to designate a Federal representative to the Commission who shall serve as an ex officio member of the Commission, but without vote except as hereinafter provided. The commissioners from each party state shall be chosen by the governor of such state in accordance with the laws of each state, as follows:

"Two of the members from each state shall be chosen from appropriate state agencies, one of whom is the officer responsible for air pollution control, and one of whom is the director of health. The governor of each party state, or his designee, shall be the third member of the Commission. Two other members shall be chosen, one of whom is experienced in the field of municipal government, and one of whom is experienced in the field of industrial activities in choosing said two other members, the governor shall provide for adequate representation of appropriate local interests in any air quality control region designated by the Secretary of Health, Education and Welfare, pursuant to the provisions of section 107(A)(2) of the 'Air Quality Act of 1967,' 81 Stat. 490, 42 U.S. C.A. 1857c–2.

"The governor of each state, unless he appoints a designee, shall serve during his term of office, and if the governor of any state appoints a designee, such designee shall serve at the will of the governor appointing him until the expiration of the governor's term. The Commissioners who shall be appointed by virtue of the offices which they hold shall serve during their continuance in office. The term of the other two commissioners shall be five years. However, the Commissioner appointed by reason of his experience in the field of municipal government and the Commissioner appointed by reason of his experience in the field of industrial activities shall be appointed, one for an initial term of one year and the other for an initial term of two years. Upon the expiration of each such initial term, Commissioners appointed to fill any vacancy shall be appointed for a term of five years.

"Vacancies on the commission shall be filled for the unexpired term in the same manner as appointments to full terms.

"Each State shall have but one vote and every decision, authorization or other action shall require the majority vote of the party States. The vote of each State shall be determined by a majority of the commissioners from each party State present at the meeting where such vote is to be cast. In the event of a tie or stalemate, the Federal representative to the Commission shall cast the deciding vote.

"The commission may sue and be sued, and shall have a seal.

"The commission shall elect annually, from among its members, a chairman and vice-chairman. The commission shall appoint an executive director who shall act as secretary, and who, together with such other commission personnel as the commission may determine, shall be bonded in such amount or amounts as the commission may require.

"Notwithstanding the civil service, personnel, or other merit systems laws of any of the party states, the commission shall appoint, remove or discharge, and fix the compensation of such personnel as may be necessary for the performance of the commission's functions. To the extent practicable, terms and conditions of employment for members of the staff of the commission shall be similar to those pertaining to comparable employees of the individual party states.

"The commission may establish and maintain, independently or inconjunction with one or more of the party states, a suitable retirement system for its employees. Employees of the commission shall be eligible for social security coverage in respect to old-age and survivors insurance: provided, that the commission takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The commission may establish and maintain or participate in such additional programs of employee benefits as may be appropriate to afford employees of the commission terms and conditions of employment similar to those enjoyed by employees of the party states generally.

"The commission may accept, or contract for the services of personnal and other services or materials from any state, the United States or any subdivision or agency of either, from any interstate agency, or from any institution, person, firm, or corporation.

"The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services conditional or otherwise, from the United States, or any agency thereof, from any state or any subdivision or agency thereof, or from

any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same. The identity of any donor, the amount and character of any assistance, and the conditions, if any, attached thereto shall be set forth in the annual report of the commission.

"The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

"The commission shall have power to formulate and adopt rules and regulations and perform any act which it may find necessary to carry out the provisions of this compact, and to amend such rules and regulations. All such rules and regulations shall be filed in the office of the commission for public inspection and copies of such rules and regulations shall be filed in the office in each party state in which rules and regulations of state agencies are filed and shall thereafter be made available to interested persons upon request.

"The commission annually shall make to the governor and legislature of each party state a report covering the activities of the commission for the preceding year, and embodying such recommendations as may have been adopted by the commission. The commission may issue such additional reports as it may deem desirable. These reports shall be available for public examination.

"The commission shall have the authority to collect and disseminate information relating to its functions under, and the purpose of, this compact.

"Article IV

"The commission may, whenever it finds air pollution which originates within the area of its jurisdiction in one of the party states and has an adverse effect in the other party state, make a report recommending measures for the prevention, abatement, or control of any such air pollution. Copies of such report shall be furnished to all existing state and local air pollution control agencies with jurisdiction over the source or sources of air pollution identified in the report. In preparing any such report, the commission may confer with any appropriate national, regional, or local planning body, and any governmental agency authorized to deal with matters relating to air pollution problems and may conduct such hearings and investigations as it may deem appropriate. The commission may consult with and advise the states and local governments, corporations, persons, or other entities with regard to the adoption of programs and the installation of equipment and works for the prevention, abatement, or control of air pollution.

"Without restricting the generality of the powers and duties of the commission elsewhere herein provided, the commission shall:

"(A) Develop and implement ambient air quality standards and, in accordance with such data as are available on the latest technology and economic feasibility of complying therewith, emission standards in order to prevent and control air pollution located within the area over which it has jurisdiction.

"(B) Revise and modify such standards to reflect improvements in knowledge of air pollution and its prevention and control and in accordance with such data as are available on the latest technology and economic feasibility of complying with such standards.

"(C) Engage in action which would insure the use of the latest technologically and economically feasible and effective techniques or devices for the prevention and control of air pollution in new installations proposed for construction in its area of jurisdiction.

"(D) Undertake and carry on air Monitoring activities as a continuing activity.

"(E) Have authority to enter at reasonable times upon any private or public property (excluding any Federal Building, installation or other property) for the purpose of investigating the source, type, character and amount of any air pollutant or emission alledged to violate the standards at any time established by the commission pursuant to the provisions of this compact: Provided, however, that no such investigations shall extend to information relating to secret processes or methods of manufacturing or production.

"(F) Have authority, upon reasonable evidence of a violation of the standards established by the Commission pursuant to the provisions of this compact, which violation presents an imminent and substantial hazard to public health, to issue public notice of such hazard and the cause thereof, by any and all appropriate means, and to issue a cease and desist order or such other reasonable order as may be deemed necessary by the Commission to cause such violation to be discontinued, at such time and upon such conditions as the Commission may determine, and to enforce such order by appropriate proceedings, including but not limited to injunctive proceedings in any court of competent jurisdiction. And, further, the Commission is hereby empowered to institute proceedings in any court of competent jurisdiction to enjoin any air pollution or emission which presents such an imminent and serious hazard to public health as to create an emergency.

"Before any report of the commission which specifically identifies a particular industrial or other installation, structure, or facility as a source of air pollution becomes final, the commission shall give the owner or operator of such installation, structure, or facility notice by certified mail of the anticipated adoption of such report and shall afford the owner or operator of the installation, structure, or facility not less than ten days after the mailing of such notice to file with the commission its written objections thereto. If no such objections are filed with the commission within such specified period, the report shall become final. If such objections are filed with the commission within such specified period, the commission shall afford such owner or operator not less than ten days from its receipt of such objections to discuss with the commission the findings, conclusions, and recommendations of the report before it is finally adopted by the commission.

"Within a reasonable time, as determined by the commission, after the commission furnishes a report to the appropriate existing state and local air pollution control agencies pursuant to this Article and, if the recommendations made in such report for the prevention, abatement, or control of air pollution from a specific source or sources have not been implemented, or if the appropriate state or local air pollution control agencies have not taken sufficient action to prevent, abate, or control the air pollution, the commission may, after a duly conducted and constituted hearing, on due notice, issue an order or orders upon any municipality, corporation, person, or other entity causing or contributing to a violation of ambient air quality standards. At any such hearing evidence may be received and a finding made on whether, in fact, a violation of the commission's air quality standards exists and on the sources of such pollution. Any such order or orders may prescribe a timetable for the abatement or control of the air pollution involved. Any such order shall become final and binding unless a petition for review of the same shall be filed and prosecuted pursuant to the provisions of Article V of this compact.

"In a party state, any court of general jurisdiction in any county in which the air pollution originates or any United States district court for the district in which such pollution originates shall entertain and determine any action or proceeding brought by the commission to enforce an order against any municipality, corporation, person, or other entity domiciled or located within such state and whose discharge of air pollution takes place within or adjoining such state, or against any employee, department, or subdivision of such municipality, corporation, person, or other entity, and shall entertain and determine any petition for review pursuant to the provisions of Article V of this compact.

"Article V

"All hearings held by the commission shall be open to the public. At any hearing held pursuant to Article IV of this compact the party states, any agencies thereof, and any affected person, corporation, municipality, or other entity shall be entitled to appear in person or by representative, with or without counsel, and may make oral or written argument, offer testimony, or take any combination of such actions. All testimony taken before the commission shall be under oath and recorded in a written transcript. The transcript so recorded shall be made available to any member of the public or to any participant in such hearing upon payment of reasonable charges as fixed by the commission. No information relating to secret processes or methods of manufacture or production shall be disclosed at any public hearing or otherwise and all such information shall be kept confidential.

"All hearings shall be had before one or more members of the commission, or before an officer or employee of the commission expressly designated to act as a hearing officer.

"Any party state or person aggrieved by any order made by the commission shall be entitled to a judicial review thereof. Such review may be had by filing a verified petition in any of the appropriate courts referred to in Article IV, setting out such order and alleging specifically that such order is:

"(a) Arbitrary, capricious, and abuse of discretion, or otherwise not in accordance with law; or

"(b) Contrary to constitutional right, power, privilege, or immunity; or

"(c) In excess of authority or jurisdiction conferred by this compact or statutes in implementation hereof; or

"(d) Without observance of procedure required by law; or

"(e) Not within the purposes of this compact; or

"(f) Unsupported by the weight of the evidence.

"The petition for review shall be filed within thirty-five days after receipt of written notice that such order has been issued. Written notice of the filing of a petition for review and a copy of said petition shall be personally served upon the commission. Any party or person filing a petition for review shall, within fifteen days thereafter, secure from the commission a certified copy of the transcript of any hearing or hearings held in connection with the issuance of the order, review of which is sought, and shall file the same with the clerk of the court in which the action or proceeding for review is pending. An extension of time in which to file a transcript shall be granted by said court in which such action or proceeding for review is pending for good cause shown. Inability to obtain a transcript within the specified time shall be good cause. Failure to file a transcript within the period of fifteen days, or to secure an extension of time therefor, shall be cause for the dismissal of the petition for review by the court or on petition of any party of record to the original action or proceeding. Where more than one person may be aggrieved by the order, only one proceeding for review may be had and the court in

which a petition for review is first properly filed shall have jurisdiction.

"The court may, for good cause shown, admit and consider additional evidence bearing upon the issue or issues before it.

"No review of a commission order shall be had except in accordance with the provisions of this compact.

"Article VI

"The commission may establish one or more advisory and technical committees composed of such as the following: Private citizens, expert and lay personnel, representatives of industry, labor, commerce, agricultural, civic associations, and officials of local, state, and federal government, as it may determine, and may cooperate with and use the services of any such committee and the organizations which they represent in furthering any of its activities under this compact.

"Article VII

"Nothing in this compact shall be construed to:

"(a) Limit or otherwise affect the powers of any party state or any of its subdivisions to enact and enforce laws or ordinances for the prevention, abatement, or control of air pollution within their respective borders.

"(b) Limit or otherwise affect the powers of any party state to enter into a compact or compacts with other states for the prevention, abatement, or control of interstate air pollution.

"(c) Prevent or restrict any party state or any political subdivision thereof from adopting standards to achieve a higher level of ambient air quality than those adopted by the commission for the area covered by the commission's jurisdiction.

"(d) Authorize any party state or any political subdivision thereof to adopt standards which will achieve a lower level of ambient air quality than those adopted by the commission for the area covered by the commission's jurisdiction.

"Article VIII

"The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

"Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. Aside from such support as may be available to the commission pursuant to Article III, the cost of operating and maintaining the commission shall be borne equally by the party states.

"The commission may meet any of its obligations in whole or in part with funds available to it under Article III of this compact,: provided, that the commission takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the commission makes use of funds available to it under Article III, the commission shall not incur any obligations prior to the allotment of funds by the party states adequate to meet the same.

"The expenses and any other costs for each member of the commission shall be met by the commission in accordance with such standards and procedures as it may establish in its rules and regulations.

"The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its rules and regulations. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become a part of the annual report of the commission.

"The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

"Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

"Article IX

"This compact shall become effective when enacted into law by the states of Ohio and West Virginia and approved by the Congress of the United States. The compact shall continue in force and remain binding upon each party state until expressly repealed by any party state, but no such repeal shall take effect until one year after the enactment of the statute repealing this compact.

"Any order of the commission issued prior to the termination of this compact shall be enforceable thereafter by any party state in the same manner as though this compact were still in force except that any appropriate officer or agency of the enforcing party state may act in the place and stead of the commission.

"Article X

"The provisions of this compact shall be reasonably and liberally construed. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision is declared to be contrary to the Constitution of any party state or of the United States, or the applicability thereof to any government agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected.

"Article XI

"The present party States hereto, namely, West Virginia and Ohio, hereby agree and consent to the Commonwealth of Pennsylvania and the State of Kentucky, or either of them, becoming parties to this compact.

"SEC. 3723.02. Pursuant to Article III of the compact set forth in section 3723.01 of the Revised Code, the governor shall appoint two commissioners one of whom is experienced in the field of municipal government, and one of whom is experienced in the field of industrial activities, in addition to the director of health, the officer in charge of air pollution control, and the Governor or his designee, as members of the Ohio-West Virginia interstate air pollution control commission. These five commissioners, acting jointly with like officers from the other party state, shall promulgate rules and regulations to carry out more effectively the terms of the compact. The commissioners shall cooperate with all departments, agencies, and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact and all such departments, agencies, and officers shall cooperate with the commissioners. The Municipal Commissioner and the Industrial Commissioner shall be paid fifty dollars for each day spent in performing their duties and shall be reimbursed for all reasonable expenses actually incurred in performing their duties.

"SECTION 2. That existing sections 3723.01 and 3723.02 of the Revised Code are hereby repealed.

"CHARES F. KURFESS,
"Speaker of the House of Representatives.
"JOHN W. BROWN,
"President of the Senate.

"Passed May 21, 1969.

"Approved May 28, 1969.

"JAMES A. RHODES,
"Governor.

"The sectional numbers herein are in conformity with the Revised Code.

"DAVID A. JOHNSTON,
"Director, Ohio Legislative Service Commission.

"Attest:

"TED W. BROWN,
"Secretary of State."

ENROLLED BILLS SIGNED

The PRSEIDENT pro tempore announced that on today, July 16, 1969, he signed the following enrolled bills, which had previously been signed by the Speaker of the House of Representatives:

H.R. 3166. An act for the relief of Aleksandar Zambeli;

H.R. 3172. An act for the relief of Yolanda Fulgencio Hunter; and

H.R. 3376. An act for the relief of Maria da Conceicao Evaristo.

EXECUTIVE REPORTS OF A COMMITTEE

As in executive session, the following favorable reports of nominations were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

John O. Olsen, of Wisconsin, to be U.S. attorney for the western district of Wisconsin; and

Farley E. Mogan, of Oregon, to be U.S. marshal for the district of Oregon.

BILLS INTRODUCED

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

By Mr. BOGGS (for himself, Mr. ALLEN, Mr. BAYH, Mr. COOPER, Mr. DODD, Mr. DOLE, Mr. ERVIN, Mr. GRAVEL, Mr. HANSEN, Mr. HOLLINGS, Mr. MAGNUSON, Mr. MCCARTHY, Mr. MCGEE, Mr. METCALF, Mr. MILLER, Mr. MOSS, Mr. MUNDT, Mr. MUSKIE, Mr. NELSON, Mr. PACKWOOD, Mr. STEVENS, Mr. THURMOND, and Mr. YARBOROUGH):

S. 2636. A bill to make the provisions of the Vocational Education Act of 1963 applicable to individuals preparing to be volunteer firemen; to the Committee on Labor and Public Welfare.

(The remarks of Mr. BOGGS when he introduced the bill appear later in the RECORD under the appropriate heading.)

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

S. 2637. A bill to protect the public health and safety by amending the narcotic, depressant, stimulant and hallucinogenic drug laws, and for other purposes; to the Committee on the Judiciary, by unanimous consent.

(The remarks of Mr. DIRKSEN when he introduced the bill appear earlier in the RECORD under the appropriate heading.)

By Mr. BIBLE:

S. 2638. A bill to amend section 7(a) of the Small Business Act; to the Committee on Banking and Currency.

(The remarks of Mr. BIBLE when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. INOUYE:

S. 2639. A bill for the relief of Miss Maximina Tolentino Sanchez; to the Committee on the Judiciary.

By Mr. FULBRIGHT (by request):

S. 2640. A bill to amend the Foreign Mili-

tary Sales Act; to the Committee on Foreign Relations.

(The remarks of Mr. FULBRIGHT when he introduced the bill appear later in the RECORD under the appropriate heading.)

S. 2636—INTRODUCTION OF A BILL TO MAKE THE PROVISIONS OF THE VOCATIONAL EDUCATION ACT OF 1963 APPLICABLE TO INDIVIDUALS PREPARING TO BE VOLUNTEER FIREMEN

Mr. BOGGS. Mr. President, I introduce for myself and 22 cosponsors, for appropriate reference, a bill which would make volunteer fireman training eligible for assistance under the Vocational Education Act of 1963 as amended in 1968.

This legislation would give to each State the option of apportioning part of its vocational education grant to the training of volunteer firemen.

Mr. President, there are an estimated 1.8 million volunteer firemen in this country, compared to an estimated 200,000 paid firemen. We all are aware of the fine work they do throughout the country. These men devote large amounts of time to their companies and put up with great inconvenience to serve their communities.

The existence of the volunteer companies guarantees many small communities protection from fire and accident at no—or little—cost to the taxpayer.

Several States, including Delaware, have devoted considerable sums of money to establish training facilities to enable these volunteers to perfect their skills. This legislation would give to each State the option of supporting this training by assigning portions of vocational education money to it.

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

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

The bill (S. 2636) to make the provisions of the Vocational Education Act of 1963 applicable to individuals preparing to be volunteer firemen, introduced by Mr. BOGGS (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. 2636

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (1) of section 108 of the Vocational Education Act of 1963 is amended by inserting immediately after the word "employment" the first time it appears in such paragraph the following: "(including volunteer firemen)".

S. 2637—INTRODUCTION OF THE CONTROLLED DANGEROUS SUBSTANCES ACT OF 1969

Mr. DIRKSEN. Mr. President, I introduce, for appropriate reference, a bill that is styled "The Controlled Dangerous Substances Act of 1969." This has been submitted by the Attorney General to the Presiding Officer of the Senate. I believe there is a copy of that message at the desk.

I ask that this message to the Vice President, together with a summary of the bill, and the bill itself, be submitted to the Committee on the Judiciary, and that it be regarded as appropriate reference.

The ACTING PRESIDENT pro tempore. Without objection, it will be so referred.

Mr. COTTON. Mr. President, will the Senator yield for a question?

Mr. DIRKSEN. Permit me to make just one statement.

Mr. President, I think everybody knows the danger that besets our society today in connection with abuses in the drug field. That relates to heroin, marihuana, LSD, and whatever else they have, and it is getting to be quite a menace. This bill, of course, endeavors to really restructure much that is on the statute books today, particularly in the Harrison Narcotics Act, the Federal drug statutes, the drug abuse control amendments, which we passed in 1965, and then the Narcotics Addict Rehabilitation Act of 1966. All these are kept essentially intact.

The Attorney General puts it very rightly when he says that we have to develop a legal framework for the control of these narcotics and dangerous drugs, and that is the design and the purpose of this bill. So I introduce it, Mr. President, for appropriate reference.

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

The bill (S. 2637) to protect the public health and safety by amending the narcotic, depressant, stimulant and hallucinogenic drug laws, and for other purposes introduced by Mr. DIRKSEN (for self and Mr. HRUSKA), was received, read twice by its title, and referred to the Committee on the Judiciary, by unanimous consent.

Mr. DIRKSEN. I yield to the distinguished Senator from New Hampshire.

Mr. COTTON. I merely wish to ask the distinguished minority leader a question. I have some general knowledge of this bill. Under the term "dangerous substances" is anything included other than drugs?

Mr. DIRKSEN. I suppose they all could be called drugs.

Mr. COTTON. The purpose of my question is that, obviously, it goes to the Committee on the Judiciary, and properly so.

Mr. DIRKSEN. Yes.

Mr. COTTON. We passed an act in the last Congress which came to the Committee on Commerce, of which I am a member—the Dangerous Substance Act. If things other than drugs were involved in this bill, I merely wanted to reserve the opportunity to ask subsequently that the Committee on Commerce be allowed to look at the bill after the Committee on the Judiciary has finished with it. If it is just drugs, I am sure that will not be necessary.

Mr. DIRKSEN. If that were the case, I am sure the Committee on the Judiciary would have no objection.

Mr. COTTON. It would be included in the jurisdiction of the Committee on the Judiciary.

S. 2638—INTRODUCTION OF A BILL TO AMEND THE SMALL BUSINESS ACT OF 1953

Mr. BIBLE. Mr. President, I introduce, for appropriate reference, a bill to amend the Small Business Act of 1953 to make explicit the power of the Small Business Administration to guarantee loans to small business firms.

As presently written, the applicable section of the act does not contain the word "guarantee." It has long been held by the Small Business Administration, without dispute from any Government or private agency, that the existing language is a sufficient basis for its existing guarantee program. My amendment would be of a technical and clarifying nature, to write in the reference to guarantee authority, the existence of which has always been taken for granted.

Section 7(a) of the Small Business Act reads as follows:

> The Administration is empowered to make loans to enable small-business concerns to finance plant construction, conversion, or expansion, including the acquisition of land; or to finance the acquisition of equipment, facilities, machinery, supplies, or materials; or to supply such concerns with working capital to be used in the manufacture of articles, equipment, supplies, or materials for war, defense, or civilian production or as may be necessary to insure a well-balanced national economy; and such loans may be made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis.

These terms reflect the origins of the SBA as the lending agency of last resort. The purpose of the SBA was primarily to make direct loan funds available at a statutory rate of interest, in the event that necessary financing could not be obtained by small firms from commercial sources. However, in order to stretch the Government dollar and to allow maximum involvement of private financial institutions, the act recognized the desirability of immediate and deferred participation arrangements.

There has been a recent trend toward stating these guarantee powers expressly in other statutes. For instance, in the equal opportunity program (42 U.S.C. 2902), the following powers are set forth:

> The Director is authorized to make, participate (on an immediate basis) in, or guarantee loans, repayable in not more than fifteen years to any small business concern . . .

I understand also that Senator MCINTYRE, the chairman of the legislative Small Business Subcommittee of the Committee on Banking and Currency, proposed on July 1 a parallel amendment to the Small Business Investment Act of 1958 which would be similar in effect to my bill.

Other explicit loan guarantee programs in the law include that of the

Export-Import Bank of Washington (12 U.S.C. 635); the aircraft purchase loan program of the Civil Aeronautics Board (49 U.S.C. 425); and loans for expediting defense production (50 U.S.C. App. 2091).

Therefore, I believe it would serve a useful purpose to add such strengthening language to section 7(a) of the Small Business Act.

This I feel would be especially timely in view of the recent emphasis of SBA on the guarantee program in several of its new, and some of its older programs also. In fact, an entirely legitimate question is whether there is an overemphasis in this direction at the expense of the direct loan activity originally favored by the Congress.

On June 25, I pointed out in this RECORD that the White House had reduced SBA direct and participation loan authority 58½ percent below the amounts authorized for fiscal year 1969 by the Congress. I feel strongly that such treatment is not in accord with the intention of Congress that the SBA business loan program remain as the lender of last resort.

It is in periods of tight money such as this, with the prime bank interest rate at 8½ percent and small business loans scaled upward from this point, when this Government lending function is most important. These SBA credit programs were designed as a safety valve. But, because of these massive White House cutbacks of the loan authority provided by Congress, the safety valve has been almost shut. In an effort to obtain some relief, a letter was sent to President Nixon urging immediate release of the $170.2 million in loan authority for direct, participation loans, and the SBIC lending programs. We have not yet received an answer to this plea.

Unfortunately, as long as circumstances remain as they are, and rock-bottom minimums of SBA loan funds are released by the Budget Bureau, we must live with these conditions as best we can. It is thus doubly important that all SBA lending authority, particularly the guarantee program, should rest on a sound legal basis.

Accordingly, I hope Congress will take action on a priority basis to enact the amendment which I am proposing, and thus make the guarantee authority explicitly a part of the SBA series of loan programs.

I ask unanimous consent that the text of this bill be printed in the RECORD following my remarks.

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

The bill (S. 2638) to amend section 7(a) of the Small Business Act, introduced by Mr. BIBLE, 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. 2638

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—

(1) in the first sentence, by striking out "make loans" and "such loans" and inserting in lieu thereof "make or guarantee loans" and "loans made hereunder", respectively;

(2) in clause (A) of paragraph (4), by inserting "or guaranteed" after "made";

(3) in paragraph (4), by striking out clause (C) and inserting in lieu thereof "and (C) no loan made or guaranteed under this subsection, including renewals or extensions thereof, shall have a maturity exceeding ten years except that such portion of a loan as is made for the purpose of constructing facilities may have a maturity of fifteen years plus such additional period as is estimated may be required to complete such construction";

(4) in paragraph (5), by striking out "In the case of any loan made" and inserting in lieu thereof "In furnishing financial assistance";

(5) in clause (A) of paragraph (5), by striking out "such loan" and inserting in lieu thereof "any loan made or guaranteed hereunder"; and

(6) in clause (C) of paragraph (5), by striking out "may not be made for a period or periods" and inserting in lieu thereof "shall not have a maturity".

S. 2640—INTRODUCTION OF A BILL TO AMEND THE FOREIGN MILITARY SALES ACT

Mr. FULBRIGHT. Mr. President, by request, I introduce, for appropriate reference, a bill to amend the Foreign Military Sales Act.

The proposed bill has been requested by the Secretary of State and I introduce it in order that there may be a specific bill to which members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill may be printed in the RECORD at this point, together with the letter from the Secretary of State to the Vice President dated June 30, 1969, and the section-by-section analysis of the bill.

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

The bill (S. 2640) to amend the Foreign Military Sales Act, introduced by Mr. FULBRIGHT, by request, was received, read twice by its title, referred to the Committee on Foreign Relations, and ordered to be printed in the RECORD, as follows:

S. 2640

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Foreign Military Sales Act (82 Stat. 1320) is amended as follows:

SECTION 1. Section 3 is amended as follows:

In subsection (b) strike out the entire subsection and substitute the following:

"No sales, credits or guaranties shall be made or extended under this Act to any country during a period of one year after such country seizes, or takes into custody, or fines an American fishing vessel for engaging in fishing more than 12 miles from the coast of that country. The President may waive the provision of this subsection when he determines it to be important to the security of the United States or he receives reasonable assurances from the country involved that future violations will not occur, and promptly so reports to the Speaker of the House of Representatives and the Committee of Foreign Relations of the Senate. The provisions of this subsection shall not be applicable in any case governed by an international agreement to which the United States is a party."

SEC. 2. Section 31 is amended as follows:

(a) In subsection (a) strike out "$296,000,000" and "1969" in the first sentence and substitute "$275,000,000" and "1970", respectively.

(b) In subsection (b) strike out "1969" and "$296,000,000" and substitute "1970" and "$350,000,000", respectively.

SEC. 3. Section 33 is amended as follows:

(a) In subsection (a) strike out "the fiscal year 1969" and substitute "each fiscal year."

(b) In subsection (b) strike out "the fiscal year 1969" and substitute "each fiscal year."

The letter and analysis, presented by Mr. FULBRIGHT, are as follows:

THE SECRETARY OF STATE,
Washington, D.C., June 30, 1969.

Hon. SPIRO T. AGNEW,
President of the Senate.

DEAR MR. PRESIDENT: I enclose a draft of legislation to amend the Foreign Military Sales Act (82 Statute 1320).

PURPOSE OF THE LEGISLATION

On October 22, 1968 the Congress enacted the Foreign Military Sales Act which consolidated and revised into a single act legislation to authorize sales by the United States Government of defense articles and services to friendly countries and international organizations. The primary purpose of the proposed legislation is to amend Section 31 of the Act by deleting obsolete authorization and aggregate ceiling figures, and substituting new figures for FY 1970; and to amend Section 33 of the Act to extend the regional ceilings on military assistance and foreign military sales to Africa and Latin America. In addition the proposed legislation would make technical changes in Section 3(b) of the Act (the Pelly Amendment) which changes are explained in the detailed Section-by-Section Analysis of the Foreign Military Sales Bill attached to the draft bill.

COST AND BUDGET DATA

The proposed ceiling on the aggregate total on the face amount of guaranties and credits extended under the bill by the Department of Defense during Fiscal Year 1970 is $350 million. In terms of obligational authority the amount required within the proposed statutory ceiling will depend on the relative mix of sales financed by the extension of credits and by the issuance of guaranties. As is now required by existing law, 100% of the face amount of any credit extended would be applied against the proposed ceiling and 25% of the face amount of any guaranty issued would be recorded as an obligation against the proposed obligational authority as a reserve for the payment of possible claims under such guaranty.

The President's budget for Fiscal Year 1970 requests new obligational authority of $275 million under the Foreign Military Sales Act to finance approximately $350 million of credit sales made after June 30, 1969 through the extension of credits and guaranties.

The Bureau of the Budget has advised that there is no objection to the presentation of this proposed legislation and that its enactment would be in accord with the program of the President.

Sincerely,

WILLIAM P. ROGERS.

SECTION-BY-SECTION ANALYSIS OF FOREIGN MILITARY SALES BILL

The bill amends the Foreign Military Sales Act (P.L. 90–629) in the following respects.

SECTION 1

This section makes the following changes to section 3(b) of the Act, which prohibits sales to countries who seize American fishing vessels in international waters, in order to perfect the intent and implementation of the restriction:

(i) The words "for engaging in fishing" have been substituted for "engaged in fishing" to make it clear that the restriction is aimed at seizures because of fishing activities.

(ii) A new sentence has been added to make it clear that the restriction does not apply where the seizure is lawful under an international agreement to which the United States is a party.

(iii) In lieu of an indefinite cut off of sales after an unlawful seizure, the revised language specifies that the period of ineligibility for sales shall be one year after each unlawful seizure.

(iv) The words "sales, credits, or guaranties" have been substituted for "sold" to make it clear that an unlawful seizure will make the seizing country ineligible for further contracts of credit or guaranty as well as for further contracts for sale. This change is not intended to require a cut off of the pipeline of undelivered items or of undisbursed obligated funds.

(v) New language has been added authorizing the President to waive the restriction when he receives reasonable assurances from the country involved that future violations will not occur.

SECTION 2

This section amends section 31 of the Act, which relates to authorization and aggregate ceiling on foreign military sales credits. Subsection (a) deletes the obsolete FY 1969 authorization for appropriation of $296,000,000 and substitutes an authorization for appropriation of $275,000,000 for the FY 1970.

Subsection (b) deletes the $296,000,000 aggregate ceiling on credits and guaranties applicable for the FY 1969 and substitutes a ceiling for the FY 1970 of $350,000,000.

SECTION 3

This section amends section 33 of the Act, which relates to regional ceilings on foreign military sales.

Subsection (a) makes the FY 1969 ceiling for Latin American countries a continuing ceiling applicable in each fiscal year. No change is made in the dollar amount of the ceiling.

Subsection (b) makes the FY 1969 ceiling for African countries a continuing ceiling applicable in each fiscal year. No change is made in the dollar amount of the ceiling.

ADDITIONAL COSPONSOR OF A BILL

S. 2548

Mr. TALMADGE. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from Massachusetts (Mr. KENNEDY) be added as a cosponsor of S. 2548, to amend the National School Lunchroom and Child Nutrition Act of 1965, to strengthen and improve the food service programs provided for children under such act.

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

SENATE CONCURRENT RESOLUTION 35—CONCURRENT RESOLUTION EXTENDING THE CONGRATULATIONS OF CONGRESS TO ORGANIZED BASEBALL UPON THE OCCASION OF ITS CENTENNIAL YEAR

Mr. WILLIAMS of New Jersey. Mr. President, we live in an age of great divergence; a time of marked differences of philosophy and of generation gaps. However, we have one great common denominator, the game of baseball.

At a baseball game, millionaires mix with kids who collected soda bottles to scrape up the price of a ticket. We can see teenagers on their first date, grandparents taking their grandchildren to a ball game, fathers and sons, and whole families. With one swing of the bat by a Frank Howard or the pitch of a Bob Gibson, the crowd is as one.

Similarly, our age is one of great complexity; of computer decisions and machine insensitivity. Baseball remains a bastion of individualized human effort; batter versus pitcher. As Mickey Mantle once said, "You can't steal first base." You have to earn it.

Baseball also represents a great part of the American dream: the kid from Broken Bow, Okla., or Harlem, N.Y., showing up in spring training, owning only one suit and carrying as his only luggage a bat and a wornout glove. From that start, he can become a national hero. This year, baseball observes its 100th anniversary, the highlight of which will be the 40th annual All-Star game here in Washington. Accordingly, Mr. President, I submit for appropriate reference a concurrent resolution commemorating these events.

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

The concurrent resolution (S. Con. Res. 35), which reads as follows, was referred to the Committee on the Judiciary:

S. CON. RES. 35

Whereas, baseball is among the oldest outstanding national games of the United States, combining the zest of the amateur with the skills of the professional and providing excitement, drama, interest, and entertainment both for participants and for spectators; and

Whereas, although baseball was already being widely played, watched, and attended in various forms on a largely amateur or recreational basis, the development of the game to its present status as a national institution truly began with the organization of America's first professional baseball team in 1869; and

Whereas, the year 1969 marks the one-hundredth anniversary of organized professional baseball in the United States and is baseball's centennial year; and

Whereas, the playing of the Fortieth All-Star Baseball Game, on July 22, 1969, in Washington, District of Columbia, together with related activities and observances in Washington and throughout the country, is the occasion for the special celebration of baseball's centennial year; and

Whereas, it is fitting that appropriate recognition be given to the many contributions which baseball has made to the American way of life both as a sport and as an expression of the American spirit: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That to commemorate the one-hundredth anniversary in 1969 of the birth of organized baseball, the Congress of the United States officially recognizes the year 1969 as baseball's centennial year and extends its congratulations and best wishes to the Commissioner of Baseball, the President of the National League, the President of the American League, the twelve teams of the American League, and the several minor leagues and all other organizations and individuals participating in or connected with organized baseball.

Mr. WILLIAMS of New Jersey. Mr. President, one final word about baseball at this milestone in its history. Legend has it that Abner Doubleday began the game in roughly its present form in Cooperstown, N.Y.

That is a fine old story, and I do not want to dismay my colleagues from New York, but the record should be set straight.

Actually, the latest research on the subject clearly indicates that the first baseball game was played in Elysian Fields, Hoboken. And Hoboken, of course, is in New Jersey.

If there should be some dispute about this conclusion, I urge that we investigate together in order to prove that New Jersey is really the birthplace of baseball. And if it takes time to resolve this question, let us take the time to do it. Another hundred years might be just about right.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 16, 1969, he presented to the President of the United States the enrolled bill (S. 648) for the relief of Ernesto Alunday.

CONTINUANCE OF INCOME TAX SURCHARGE AND CERTAIN EXCISE TAXES—AMENDMENTS

AMENDMENT NO. 78

Mr. NELSON submitted amendments, intended to be proposed by him, to the bill (H.R. 12290), to continue the income tax surcharge and the excise taxes on automobiles and communication services for temporary periods, to terminate the investment credit, to provide a low income allowance for individuals, and for other purposes, which were referred to the Committee on Finance and ordered to be printed.

AMENDMENT NO. 79

Mr. KENNEDY submitted an amendment, intended to be proposed by him, to House bill 12290, supra, which was referred to the Committee on Finance and ordered to be printed.

Mr. KENNEDY. Mr. President, yesterday, I proposed a series of eight major tax reforms that I believe should be considered by the Senate simultaneously with any legislation extending the current 10-percent income tax surcharge.

As I mentioned in my statement, I agree with the recent resolution of the Senate Majority Policy Committee requesting an extension of the withholding tax rates until September 30, pending action by Congress on tax reform. According to the current tentative schedules of the House Ways and Means Committee and the Senate Finance Committee, I feel that the September 30 date offer both the Senate and the House a reasonable opportunity to enact meaningful tax legislation in the immediate future.

The eight specific tax reforms I suggested were as follows:

Adoption of a minimum income tax,

calculated on a comprehensive tax base including capital gains, interest on State and local bonds, the excess percentage depletion allowance, accelerated depreciation on real estate, and appreciated property donated to charity.

Allocation of personal deductions between taxable and nontaxable income.

Major tax relief for poor- and middle-income groups.

Reduction of tax preference to the petroleum industry, including a reduction of the domestic percentage depletion allowance for the largest producers from 27½ to 15 percent, elimination of the allowance for foreign production, capitalization of intangible costs, restrictions on the foreign tax credit, and elimination of capital gains treatment for mineral production payments.

Modification of the capital gains tax, including extension of the holding period from 6 months to 1 year, elimination of the 25 percent alternative tax, and taxation of unrealized capital gains transferred by gift or at death.

Modification of the tax treatment of interest on State and local bonds through the use of a Federal interest subsidy or the establishment of an urban development bank.

Elimination of the accelerated depreciation deduction for buildings, with adequate safeguards to protect low- and middle-income housing.

Tighter controls on the deductions allowed for farm losses.

As I emphasized in my statement, the surcharge itself is unfair, because it aggravates the existing inequities in the tax laws and applies only to those who already pay taxes on their income. Equally important, the unfairness of our present tax laws is compounded by the fact that widespread use of tax shelters was available only to the wealthiest citizens.

AMENDMENT NO. 79

In accord with the procedure suggested last week and at the beginning of this week by the distinguished Senator from Louisiana, the chairman of the committee on finance, I ask unanimous consent to introduce an amendment containing several provisions along the lines of the specific recommendations I made yesterday for tax reform.

Of course, at the present time, not all of the amendments have been technically perfected. I, therefore, appreciate the statement yesterday by the Senator from Louisiana that the amendments need not be letter perfect. I intend to revise these amendments in the coming days and weeks of the debate on tax reform, and I look forward to the opportunity to work with the Senator from Louisiana and the Committee on Finance in this area.

As I indicated in my statement yesterday, my suggestions for tax reform are in no way intended to be a comprehensive reform package I do hope, however, that my suggestions will help to stimulate and to carry on the debate in this area of vital concern to tens of millions of American taxpayers.

The ACTING PRESIDENT pro tempore. The amendment will be received, printed, and appropriately referred.

The amendment was referred to the Committee on Finance.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Nathan G. Graham, of Oklahoma, to be U.S. attorney for the northern district of Oklahoma for the term of 4 years, vice Lawrence A. McSoud;

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.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Wednesday, July 23, 1969, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

THE THIEU PROPOSAL

Mr. SYMINGTON. Mr. President, President Thieu's latest speech could represent an important new move in negotiations in which the world has placed so much hope. What he has offered is to open up political competition to the process of elections in the south in which the NLF could take part as an organized group; and in which they would have a voice as to the organization of the elections.

There is no point in debating whether Thieu might have offered more at this juncture or whether in certain respects his proposal lacks precision. What is important now is that the other side take this latest speech as the serious document we hope it is.

There are many possibilities which this proposal opens up. The language is framed in general terms. For example, there is no specific mention of the constitution. If the other side is interested in negotiating, this offer gives them a reasonable basis on which to do so. President Thieu has made his move. It is now up to the other side to make its move and to do so quickly and seriously.

THE MUNICIPAL BOND TAX EXEMPTION

Mr. TOWER. Mr. President, I was disturbed to read in the Wall Street Journal today that the city of New York had to pay an interest rate of 6.156 percent in order to sell $146,250,000 worth of bonds to the public. This interest cost is the highest ever incurred by New York City.

While it would not be accurate to cite one single factor as the cause of the unusually high interest cost to New York City, I think it is fair to note that a new element of uncertainty in the municipal bond market contributed to it. That uncertainty stems from concern on the part of potential municipal bond buyers that this Congress will act to remove tax exemption now granted on interest received on municipal bonds. According to the Wall Street Journal, proposed Federal legislation aimed at discouraging the issuance of tax-exempt bonds was a chief cause both of the city's record borrowing rate and of the slow initial demand for the securities from investors. In short, Mr. President, the mere possibility of such drastic change in Federal tax law has increased substantially the cost which the Nation's largest city must pay to borrow badly needed money.

It is also interesting to look at the "tombstone" advertisement published in connection with the offering. That ad contains the following language:

> Interest exempt, in the opinion of the counsel, from all present Federal income taxation.

Mr. President, the insertion of the word "present" in the traditional legal opinion is a good deal more significant than one might think. It means, to the potential buyer, that the legal counsel of the investment banking firm underwriting the issue is not sure that the interest payments on the bonds will be tax free. To put it bluntly, the word "present" is a red warning flag telling the potential investor to beware of these bonds. He must beware of them because Congress, in a tax reform fervor, may lose sight of reality and commonsense and act to eliminate or drastically curtail the tax exemption now attendant upon municipal bonds.

I am not a New Yorker and I know that most other Senators are not. But what happens in the financial markets in New York City greatly influences what happens in each and every State in the Union. The frequency and size of New York City's bond offerings make them a reliable barometer of the probable course of interest rates on bonds in other municipalities. The investors' fear that the Federal Government will step directly into the municipal bond picture will raise interest costs in municipalities all over the United States.

Mr. President, on July 8 of this year, I endeavored to explain to the Senate why I felt that the proposed changes in the present tax-exemption status of municipal bonds were unacceptable. At that time I placed in the RECORD a list of Texas municipalities which had passed resolutions supporting the position I have taken on this matter. Since that date, I have received the same resolution from other municipalities. I shall place a list of them in the RECORD today.

I shall certainly continue to emphasize the reasons for my belief that the tax-exemption is important to municipalities and to our Nation. I hope that other Senators will speak out on this issue, as well.

Mr. President, I ask unanimous consent that the list to which I referred and the article published in the Wall Street Journal be printed in the RECORD.

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

ADDITIONAL LIST OF TEXAS MUNICIPALITIES OPPOSING TAXATION OF MUNICIPAL BONDS

Childress, Friona, Victoria, Decatur, Olmos Park, Leon Valley, Jacksonville, Copperas Cove, O'Donnell, Palacios, Belton, Cleburne, Amarillo, Bellville, Tahoka, Cuero.

Livingston, Goldthwaite, Alpine, Allen Mc-

Allen, Karnes City, Sweetwater, Monahans, Taft, Burleson, River Oaks, Bangs, Orange, Hidalgo, Saint Jo, Highland Park.

NEW YORK CITY PAYS TOP 6.1562 PERCENT ON ISSUE OF $146,250,000; YIELD 6.05 PERCENT; SALES LAG

(By Philip Hawkins)

NEW YORK.—A landmark for costly public borrowing was set yesterday when New York City, the nation's largest issuer of tax-exempt securities, incurred a record 6.1562% interest rate in auctioning $146,250,000 of various-purpose bonds.

Following their award at a competitive sale, the bonds were publicly reoffered at prices to yield from 5.70% in 1971 to about 6.05% in 1986–90. As investment returns and borrowing costs are directly related, these levels also were the most liberal ever provided on the city's obligations.

For a New York resident in the 40% tax bracket, the exempted rates of interest were equal to a yield of about 14% on a fully taxable basis, according to financial officials. "Even if an investor obtained such an extraordinary fully taxed profit as 14%, he likely wouldn't have the safety of a class of securities—local government bonds—that rank in protection second only to Federal Government issues," one official commented.

Nevertheless, some sources estimated that less than 50% of the giant New York offering had been purchased by late evening. "The selling effort mainly is concentrated on luring the individual investors away from stocks and from savings accounts, but it requires a lot of time to place such a large issue at the rate of three or five bonds at a clip," one source said.

PROPOSED LAW SEEN COOLING SALES

Proposed Federal legislation aimed at discouraging the issuance of tax-exempt bonds was cited by some as a chief cause both of the city's record borrowing rate and of the slow initial demand from retail investors.

The House Ways and Means Committee currently has several changes to the existing status of tax-exempt bonds under study for possible inclusion in a major tax-reform bill for approval by Congress.

The proposals essentially would encourage states and municipalities to sell taxable bonds subsidized by the Federal Government, although it wouldn't prevent the local governments from issuing tax-free securities. Exemption privileges to investors also would be sharply curtailed.

Mario A. Procaccino, city comptroller, said the "threat of this planned new tax-exempt Federal legislation which certainly might frighten away some of the buyers of municipal bonds, was a major factor" in New York being forced to pay its steepest cost in nistory. He also blamed current "tight money market conditions," which have sent most interest rates skyrocketing to new highs over the past 10 months.

Infinite terms, the 6.1562% annual net interest cost means New York must pay about $61.6 million in interest alone over the issue's average effective maturity of about 6⅝ years, financial officials estimated.

It also was learned that an unsuccessful underwriting group in the New York bidding competition had planned to insert a proviso in its advertisement for the bonds warning prospective investors that the tax-exempt privilege might be jeopardized by the proposed Federal legislation.

CHASE BANK TEAM WINS

Ads by the team, managed by First National City Bank, would have stated: "Legislation is currently under consideration in the Congress of the U.S. which, if enacted, could partially affect the exemption from Federal income taxes of certain holders of these bonds," sources said.

The city's offering was won by a rival Chase Manhattan Bank syndicate, which bid a premium of $1000.023 for each $1,000 bond with coupons of 6%, 6¼% and 6¾%. Sources said the group probably planned to word its ads in the same manner as nearly all previous municipal bond commercials have begun: "Interest exempt, in the opinion of counsel, from all present Federal income taxation."

NEW JERSEY TURNPIKE RECORD

Caught in the middle of the thorny advertising question was a Smith, Barney & Co. team, which yesterday sponsored a negotiated $40 million public offering of New Jersey Turnpike Authority's tax-free 5⅞% term revenue bonds. A spokesman said ads and other official notices—which, in most bond sales, appear in newspapers on the day following the offering—will be delayed while "our lawyers decide on the language to be used in discussing the tax-exempt status of the bonds."

New Jersey Turnpike, in its sale yesterday, joined New York in setting a new high for costly borrowing. The road, considered the most sizable issuer within the category of public authority revenue bonds, accepted a 5.923% net yearly cost in selling the $40 million offering. Because they are quoted in simplistic terms of dollars for bid and asked prices much like over-the-counter stocks, these revenue bonds are important for providing the less sophisticated investor a handy entry into the market for fixed-income securities.

All the New Jersey Turnpike 5⅞s were said to have been quickly sold at the offering price of 100, to yield 5.875% in 2008.

Elsewhere in the bond markets yesterday, Government issues sustained a price setback amid dull retail trading, dealers said. Long-term Treasury issues fell as much as 1 1/16 point, while intermediate listings eased between ⅛ point and ¼ point, they said.

The important 4¼% Government bonds of 1987–92 lost 9/16 to end at 75½ bid, 76 asked, where an investor's yield was 6.22%.

A majority of prime-grade corporate bonds were unchanged in resale market trading, but a few seasoned issues of industrial companies among the list moved lower in anticipation of competition from two large similar types of offerings due to reach the market today, dealers said. For example, the Standard Oil Co. (Ohio) 7.60% bonds of 1999 slipped ⅝ point to close at 100⅝ bid, 101⅛ asked, to yield about 7.50%.

One of the major industrial offerings expected today is National Cash Register Co.'s $100 million of debentures, slated in a negotiated transaction through underwriters headed by Dillon, Read & Co. Sources guessed late yesterday that the office-machine maker's securities probably will be offered at 100 with a 7.70% coupon, to yield 7.70% in 25 years.

The other principal taxable-debt offering on tap today is Cities Service Co.'s $100 million of 30-year debentures carrying warrants to buy 500,00 Atlantic Richfield Co. common shares. Cities Service is under court order to divest all its stock holdings in Atlantic Richfield by early 1973. A group managed by First Boston Corp. and Loeb, Rhoades & Co. wouldn't disclose its pricing intentions on the Cities Service offering.

CLOSELY WATCHED BAROMETER

Yesterday's record 6.1562% rate was the first time New York had been forced to pay more than 6% for funds since Jan. 1, 1932, according to Comptroller Procaccino, the Democratic mayoral candidate in the city's coming election. The frequency and size of the city's public financings make them one of the most closely watched barometers of the probable course of interest rates generally.

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CAPTIVE NATIONS WEEK

Mr. MURPHY. Mr. President, this week marks the 10th annual observance of Captive Nations Week in the United States. We live in an era of progress that has brought men to the threshold of the moon, in a time when the sum of man's knowledge has more than doubled, and in a period of history during which man's greatest concern is for his fellow man. But, this has been a barren decade for the 100 million people in Europe who had the misfortune of being "liberated" by the Soviet Union at the conclusion of World War II.

For the past 24 years Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithunia, Poland, and Romania, have existed at the pleasure and for the benefit of their self-proclaimed liberator. The economic recovery of these countries has been manipulated by Soviet planners for the benefit of the Russian nation causing great misallocation of resources in these countries and depriving the East Central Europeans of the quality consumer goods they produce and the excellent price these goods would command in the world market. There is no question that the unfortunate East European nations have been so economically exploited by the Soviets their standard of living does not begin to approach the level that could have otherwise been achieved and which, through their efforts, they richly deserve.

The real tragedy of the captive nations is not, however, economic privation, but rather the debasement of human beings who are truly slaves in their own countries to the will of foreign dictators who came to power in a Kremlin "back room." The brutal reality of the subjugation of these people was demonstrated by the frightening and tragic spectacle of Soviet tanks rumbling through the streets of Prague in August of last year to confront Czechoslovakian patriots armed with banners and cobblestones in defense of their cherished, short-lived, new freedoms. May the world never forget the fate of Alexander Dubcek, who was flown to Moscow handcuffed on the floor of a Russian cargo plane and is now virtually unheard from as a result of his deviation from the Moscow line.

The disbelief in the West that the Russians would risk the gains of a "new detente" with the free world through armed aggression in Czechoslovakia is a tribute to the skill of the Russian propaganda machine that convinced so many in our country that the Russians really were not such bad fellows after all. So successful were they at masking their true intentions that here in the United States many political figures have become advocates of a policy toward the Soviet Union that can best be described as "forgive and forget." The same was true before the Cuban missile crisis.

No man has a greater desire than I that peace and tranquillity should pre-

vail in the world, but I am unable to forgive and forget the tragedy of these captive nations. I am unable to forgive and forget the ruthless oppression in Budapest in 1956. I am unable to forgive and forget the monstrous wall in Berlin. I am unable to forgive and forget Russia's role in the 1967 Middle East war.

Yet, when the Soviet Union, in a vain attempt to influence the election in the United States, rushed to ratify the Consular Convention, advanced and signed the Nuclear Nonproliferation Treaty, called for talks on the control of missile systems, and agreed to Moscow-New York flights, many in this country regarded this avalanche of paper promises from the Soviets as a fundamental change in Soviet foreign policy. But, as is carefully documented in Lawrence W. Beilenson's important book "The Treaty Trap," the Soviets have a long history of signing documents but a considerably shorter history of adhering to the principles they contain. And so, when the Senate considered the Consular Treaty, and the Nonproliferation Treaty, I suggested that perhaps it would be in the best interest of our country to see if the Soviets would demonstrate their sincerity with deeds as well as words. I had hoped that they would begin some construction at their end of the "bridge of understanding" between our countries. Events sadly proved that this was a hollow hope.

I am sure that it is not coincidence that, on the eve of the Senate's consideration of the Safeguard ABM system, Soviet Foreign Minister Andrei Gromyko, in his address to the Supreme Soviet, should call for a new era of friendship with the United States. I am not surprised that while he also said the Soviet Union was ready to begin strategic arms control talks with the United States, he carefully avoided commenting on President Nixon's proposal to begin such talks in the first 2 weeks of August.

Let me suggest to Mr. Gromyko, and the Russian leaders, on the occasion of our 10th observance of Captive Nations Week that a drastic alteration of Russian policy toward the captive nations—already long overdue—could be a significant step toward international understanding, from which greater cooperation between our countries could grow. When the promises of World War II for the self-extermination of these great people are finally kept, then we may view the promises of the sixties in a more favorable light. It is my most earnest and heartfelt desire that my colleagues and my countrymen regard a revision of Soviet policy toward the captive nations as a necessary first step in the construction of this bridge of understanding which we all hope can one day link our countries.

THE SAFEGUARD ABM

Mr. HOLLINGS. Mr. President, this morning we witnessed the beginning of one of mankind's greatest ventures. The technological expertise and development necessary to send man to the moon is enough to stagger the mind. The underlying tribute to man's spirit is equally important. It proves that what man dreams, he can achieve—if he has the will, and the need exists. The success of America's space program surely will stand the test of time and history. Once it was believed man was not meant to fly, since our Creator did not give us wings. Now the only limit to our ability is man's imagination.

We in the Senate are facing both a monumental test and an important decision. Simply stated, the decision is whether to approve the President's request for an anti-ballistic-missile system. The test is more important. Our success or failure to pass this test may determine our place in history and our very existence. Despite mankind's progress since the dawn of evolution, the human animal has not rid himself of the basic instinct to survive.

Although we reach for the stars today, we continue to be pressed on all sides here on earth by the Communists. We are told they are as peace-loving as we. As a people, perhaps they are. But their leaders are not. We have only to look to the recent lesson of Czechoslovakia for proof. And today, as the world watches Apollo, the Russian people were not given the chance to see it. The leaders of the Communist world are the ones we must fear. They have shown us by their deeds that they are not yet prepared to surrender the goal of world domination.

One reason why I support the proposed ABM system is that I recognize this. I think I am enough of a realist to believe we must be prepared for the worst. There are many who say ABM will not work. To them I say, If man can reach the moon and return, nothing is impossible.

Second, I believe the President of the United States must have his options. Without ABM, he has only two: do nothing and allow 70 million Americans to perish, or launch a counterattack and kill millions of our enemy. Both sides lose. But with ABM, he has a third and most important option. Under an attack, deliberate or accidental, he can fire into the atmosphere to destroy missiles.

And finally, perhaps most important, we must have ABM because of the development of the MIRV—multiple independently targeted reentry vehicle. This is one of the most frightening innovations of nuclear warfare. In the past, if our enemy wanted to kill 100 of our cities or launching silos, he needed 100 missiles. Today, with the Russian SS–9, for example, one missile can carry nine warheads. Instead of a hundred incoming missiles, we could face 900. Or, when 100 missiles were necessary to do the job, only a dozen would be needed.

I cannot accept the argument that our best defense is a larger and larger offense. We must have more protection than simply the threat of total, equal annihilation.

Today, we know Russia has an ABM system. We believe it to be effective because we continue to modify our missiles in order to penetrate it. Development is most important at this time. If we fail to develop an ABM system of our own, who can stand in this body and claim that the Soviets will not continue work on theirs, and thus reach a protective breakthrough which would leave us at their mercy? We cannot approve a policy of intentional and permanent ignorance.

The scientist can tell me his opinion of whether an ABM system will work. But the defense of this country is a political decision that I, as a Senator, must make alone. Eminent scientists are at odds on the question. My decision for defense, therefore, is a gamble. When I look at the stake in the gamble—200 million American lives and our Western civilization—I do not hesitate. I support President Nixon's Safeguard ABM.

PUBLIC TELEVISION COMES TO THE VIRGIN ISLANDS

Mr. BROOKE. Mr. President, in a few months we will celebrate the 20th anniversary of education's first real involvement in broadcast television. This effort began at Iowa State College—now Iowa State University—which in February 1950, began the operation of the first educationally owned and operated television station in this country.

The system grew rapidly. As far back as 1953, States were developing plans and starting to build statewide educational television networks—systems of interconnected stations designed to bring a broad scope of programing to all within the boundaries of the States involved. In May 1953, KUHT, in Houston, Tex., became the first licensed, noncommercial, educational television station in the country.

Today, with few exceptions, each State of the Union, as well as American Samoa, is benefiting enormously from broadcast public television.

In addition, we have regional educational television networks—vast systems of interconnected State networks such as the Eastern Educational Network. With such a system, Vermonters, for example, view exciting, live, public television programing from WETA in Washington, D.C.

The number of stations continues to grow. They now number 182. The audience continues to grow. The quality of programing continues to grow. Its impact continues to grow.

The in-school instructional services provided, the many fine programs for children out of school, the cultural, scientific, and public affairs programs for general home viewing and the excellent, course-like programs for special interest groups have caused the average American not only to change his former viewing habits, but participate in his local public television station program activities, and, in many cases, to actively support the operation of his station.

The public television station has become a part of our way of life. So well does it supplement and complement the library, the museum, the symphony hall, the concert stage, the public forum, the seminar room, the sports arena, the theater, and other presentational and demonstration forms that we think of it today in superlative terms.

John Milton wrote:

Good, the more communicated, more abundant grows.

The purpose of public television is to communicate "good," and it is doing it well.

Now, at long last, a public television system is being developed in the U.S. Virgin Islands. To serve the 60,000 citizens of those three lovely islands, the Virgin Islands public television system, establishing as a public corporation, a government authority, will construct two public television stations.

Public television does not come easily to the islands. Years of preparation and planning, significant local appropriations, anticipated financial support from Health, Education, and Welfare and the Corporation for Public Broadcasting and dedicated leadership are required to bring about public television in the islands. The farsightedness of the members of the Legislature of the Virgin Islands in bringing it to pass and the islands' continued support of it will result in the development on one of the Nation's finest educational television systems.

We must recognize that the insular aspects of life have resulted in limiting the experience of most island children. There is a cry for those new enriching and stimulating experiences that are part of the normal way of life of the continental child.

What public television can and often does do so effectively here, in the States, it must and will do meaningfully in the islands.

Lives will be enriched, minds will be stimulated and challenged, children will share new experiences, and the home will become a center for the many cultural, scientific, and public affairs experiences soon to be available to them.

In addition to what we might consider conventional educational fare, the Virgin Islands Public Television System will prepare programs for the special needs of the West Indian and his culture. Programing for special interest groups in the areas of medicine, law, public safety, business management, in-service teacher training, consumer education, and aging, as well as programs for the disadvantaged will be regularly scheduled.

I am confident that special programs produced in the Virgin Island will be available for regular showing on stateside public television stations. What wonderful viewing experiences will be enjoyed as we learn more of these marvelous islands both at home and in school.

I am pleased indeed to report that the management and staff of WETA, channel 26, our local Washington station, is working closely with the public television people in St. Thomas. WETA recently produced special program materials to aid the Virgin Islands public television system in its demonstration efforts.

And as a further point of interest, the general manager of the Virgin Islands Public Television System was, in fact, one of the original staff members of that Iowa station pioneering in educational television in 1950. That pioneer spirit lives on.

As we approach the 20th anniversary of television in education, we may rejoice at our success thus far, but we must continue our efforts to support the development of new and exciting facilities, such as these in our Virgin Islands, that will serve new population groups of Americans for generations to come.

THE PESTICIDE PERIL—XXVII

Mr. NELSON. Mr. President, alarmed over the dangers to our environment from the use of persistent, toxic pesticides, the National Audubon Society, America's largest direct-membership conservation organization, has announced plans for an all-out campaign to ban the insecticide DDT.

The Audubon Society has long been concerned about the threat to our environment and to man from pesticides. However, after the recent disastrous poisoning of the Rhine River by insecticides, the society has decided to turn its concern into an all-out campaign. Their message is that "long-lasting insecticides cannot be used safely out of doors, and that other pesticides must be handled and used with extreme care."

Mr. President, I ask unanimous consent to have printed in the RECORD a press release issued by the Audubon Society on this matter, but I would also like to draw the attention of Senators to the July issue of the society's magazine, Audubon, now available through libraries and local conservation organizations, which features a story entitled, "The Beginning of the End for DDT."

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

NATIONAL AUDUBON SOCIETY UNDERTAKES AN ALL-OUT CAMPAIGN TO BAN DDT

The National Audubon Society, America's largest direct-membership conservation organization, is undertaking an all-out campaign to ban the insecticide DDT. There are substitute chemicals and other insect control measures that are far less dangerous, the Society contends.

"The disastrous poisoning of the Rhine by insecticides this week simply dramatizes the danger inherent in these chemicals," said Dr. Elvis J. Stahr, the Society's president. "In this case, with literally millions of dead fish floating belly-up in a river once noted for its scenic beauty, the world can see the damage from even a non-persistent pesticide. What the world doesn't see so clearly is the damage being built up, day in and day out, by the persistent pesticides such as DDT and its chemical relatives—there is estimated to be a billion pounds of these chemicals—that are slowly polluting the world's environment from pole to pole, on land and sea.

"The reason DDT is especially dangerous is that it is long-lasting. DDT sprayed ten years ago or more still retains much of its toxic property today. So as we continue to spray, and the poison is diffused through the environment by air, water and other means, the levels grow higher and higher.

"We have long been telling this message to the American public. Now that the shock of the Rhine disaster has focused the world's attention on the pesticide problem, we are going to do our best to drive our message home with an all-out campaign. The message is simply that long-lasting insecticides cannot be used safely out of doors, and that other pesticides must be handled and used with extreme care."

Bumper stickers with the slogan BAN DDT in bright red letters will be distributed as a tear-out in the July issue of the Society's magazine, *Audubon*, and there will be a story entitled: "The Beginning of the End for DDT." The magazine goes to all 80,000 members of the Society, plus 20,000 schools, libraries and other such institutions. In addition, it goes to some 250 affiliated garden clubs, natural history groups and other local organizations.

Further, the Society is providing informational materials to these affiliated groups, and also to the Society's own 150 local chapters across the country, in order to back up grass roots efforts toward citizen action and education. For example, the Society wants to back up local chapters and garden clubs with facts to present when a local commission holds hearings on spraying with DDT to prevent Dutch elm disease. The Society maintains that in the case of the elm blight DDT does little good, anyhow. In fact, it does much harm and there are better ways of controlling the disease. (The best method is "sanitation": removing and destroying diseased portions of the trees, including the roots when an entire tree is infected.)

Where some spraying is advisable, the Society opposes all outdoor uses of DDT, aldrin, dieldrin, endrin, toxaphene and Heptachlor, and suggests instead "methoxychlor, malathion, dibrom, diszinon, guthion, naled, abate, Sevin, pyrethrins, rotenone or nicotine sulfate.

Generalizations are difficult, according to the Society's vice president-biologist, Roland C. Clement. Even the acceptable insecticides are powerful poisons to be used with care, he explained, and many have different effects on different types of wildlife or under different conditions.

ARMY OBLIGATIONS IN DISPOSAL OF POISON GAS

Mr. PELL. Mr. President, shortly after it was made public that the Army planned to dispose of massive quantities of obsolete chemical and biological munitions by dumping at sea, I drew the attention of Senators to the many unanswered questions surrounding the international legal and political implications of this plan. I followed up my remarks of May 12 by raising this issue in a letter to the Secretary of the Army, and on May 20, I placed this letter and the Army's interim reply in the RECORD, together with some further remarks on the disposal project.

This project has now been reviewed by the National Academy of Sciences' Special Ad Hoc Advisory Committee, headed by Professor Kistiakowsky, of Harvard. In its report, the advisory committee urged that the Army make every effort to avoid disposal at sea. Even in the case of the 418 cement "coffins" with 30 M–55 rockets, each containing almost 11 pounds of nerve gas, the committee recommended that "the Army convene a group of technically qualified individuals to consider whether a practically feasible way could be devised to dispose of the 'coffins' on an Army establishment."

Mr. President, I am sure that all would agree that the National Academy of Sciences has performed a most salutary public service, the value of which has been increased immeasurably by the Army's acceptance of the Academy's recommendations. As the Department of the Army undertakes to implement these rec-

ommendations, I know that every attempt will be made to dispose of these obsolete chemical and biological weapons in a manner which judiciously recognizes the interests of the Nation, as well as those of the international community.

Accordingly, in the event the Army decides that the M–55 rockets cannot be disposed of safely at one of our military bases, and therefore, must be disposed of at sea, I strongly urge the State Department to insist that this decision be discussed in the appropriate international forums, such as the United Nations Intergovernmental Oceanographic Commission. Such consultation is clearly required under article 25 of the Geneva Convention on the High Seas, and as a party to this Convention, the United States must make every effort to meet its full responsibilities. It is now incumbent upon the State Department to make it absolutely clear to the Department of the Army that the United States will not back away from its international treaty obligations.

ABM AND THE PRESS

Mr. FANNIN. Mr. President, while we are engaged in the ABM debate another debate is running concurrently. It is the conflict between members of the news media as to who is right and who is wrong.

For my own part, I think it is a mistake for legislators to base their actions or positions on a "what will the press think" basis. The better criterion, which I am sure is recognized by most legislators, is "What is the best course for the Nation?"

Therefore, I think it is particularly dangerous when we come across cases of deliberate or careless misrepresentation of the issues in the Nation's press. Mr. Claude Witze, senior editor, Air Force and Space Digest, has written a most perceptive column in the August issue of his magazine, which I would like to place in the RECORD. Mr. Witze cites at least two cases of severe distortion of the facts surrounding defense matters and I think the RECORD should bear this correcting information.

Additionally, Columnist Holmes Alexander has written a column which cites the almost fanatical preoccupation of certain segments of the media in their attack upon the supposed evils of the military-industrial complex. I have already spoken at some length on this matter, Mr. President. My views are on the RECORD. I would just like to commend these two gentlemen for calling attention to the inaccuracies and deficiencies that are apparent in their own profession as it touches these vital issues of the day.

Thomas Jefferson was outspoken in his defense of a free press, but it is also true that in order for the press to remain free it must first of all be honest.

I ask unanimous consent that the articles to which I refer be printed in the RECORD.

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

AIRPOWER IN THE NEWS—THE WAYWARD PRESS

(By Claude Witze)

WASHINGTON, D.C., July 8.—The Washington *Post* of last April 30 reported that an Air Force colonel had testified on Capitol Hill that "his civilian superiors approved the doctoring of internal Air Force documents to hide the huge cost overruns incurred by Lockheed Aircraft Corp, on the C–5A."

The account, under the byline of a reporter named Bernard D. Nossiter, continued:

"The officer, Col. Kenneth N. Beckman, said the data were suppressed because disclosure 'might put Lockheed's position in the common (stock) market in jeopardy.'"

A transcript of the hearing in question shows that Colonel Beckman did *not* make such a statement.

The proceedings were before the Subcommittee on Military Operations of the House Committee on Government Operations. The group is studying a proposal to establish a commission on government procurement, embodied in a bill (H.R. 474) introduced by Rep. Chet Holifield of California, who is chairman of the subcommittee.

The subject of overrun reports was brought up by Herbert Roback, the subcommittee's staff administrator. Here is what the official transcript reports:

"MR. ROBACK: Let me ask you this question: Why was the information, when you did identify around the middle of the year that there was going to be a substantial cost overrun, why did you not report that information?

"COLONEL BECKMAN: We did, to the highest levels. We reported it to the Secretary of the Air Force, Dr. [Robert N.] Anthony [Defense Department Comptroller], and to the Bureau of the Budget.

"MR. ROBACK: Well, how did you report it?

"COLONEL BECKMAN: We reported it verbally, sir.

"MR. ROBACK: Verbally?

"COLONEL BECKMAN: In the form of a presentation, and the reports of the presentation were put on file in the . . .

"MR. ROBACK. Why did you leave it off your written reports?

"COLONEL BECKMAN: Because of the nature of the overrun, sir. We felt, and Dr. Anthony and Mr. [Robert H.] Charles [Assistant Secretary of the Air Force for Installations and Logistics] agreed at the time, that the projections we were making were actually estimates, subject to actual approval later on, and that the nature of the estimates were such that if publicly disclosed might put Lockheed's position in the *common market* in jeopardy."

Eight pages later in the transcript the subject was brought up again by Rep. William S. Moorhead of Pennsylvania.

Here is the exact quotation:

"Mr. MOORHEAD: You have mentioned, I think, you used the words 'common market,' and I think you meant 'stock market,' the problem of . . .

"COLONEL BECKMAN: I meant the general market, sir, Lockheed's position in the *commercial market*."

The commercial market, of course, is the one where airlines buy airliners and it is a market where Lockheed competes with other airplane manufacturers. At no time, anywhere in the transcript, did Colonel Beckman, who is project officer for the C–5A, make any reference to the stock market, and it is clear he wanted to disabuse Mr. Moorhead of that impression.

As reported by Mr. Nossiter in the *Post*, the exactly opposite, and erroneous, conclusion was reached.

In the *New York Times Magazine* of June 22 there appeared a long article on alleged transgressions by the military-industrial complex. It was under the byline of Richard F. Kaufman. The author was identified by the *Times* as "an economist on the staff of the Joint Economic Subcommittee on Economy in Government, which Senator William Proxmire heads."

Here is a quotation from Mr. Kaufman's essay:

"Investigations by the General Accounting Office have revealed that the government's money and property have been used by contractors for their own purposes. The most recent incident involved Thiokol Chemical Corp., Aerojet-General (a subsidiary of General Tire & Rubber Co.), and Hercules, Inc. From 1964 through 1967 they received a total of $22.4 million to be used for work on the Air Force Minuteman missile program. The government accountants found that the three contractors misused more than $18 million of this money, spending it for research unrelated and inapplicable to Minuteman or any other defense program."

The report referred to in this matter is dated last May 7. It is GAO report Number 146876 and carries the title: "Use of missile procurement funds to finance research and development efforts." The report is critical of SAMSO (USAF's Space and Missile Systems Organization.) It says SAMSO "used about $18.1 million of missile procurement appropriations to finance work which, in our opinion, was of an R&D nature and which should have been financed with RDT&E funds."

None of the allegations made by Mr. Kaufman in the *New York Times Magazine* can be found in the GAO report. GAO did not accuse the firms of using government money for their own purposes or of spending any money for work unrelated to Minuteman. There is nothing in the GAO report to support the Kaufman conclusion.

What paper d'ya read?

MOMENT OF TRUTH

The Senate Armed Services Committee yesterday reported out the authorization bill for Fiscal 1970 military procurement and the debate, which promises to be prolonged, is under way. The headlines, of course, will center on the antiballistic missile (ABM) proposal. Just to let you know how the atmosphere is being charged, it is reported that last night, at a meeting arranged by a group called the Council for a Livable World, nearly fifty senatorial aides were given a "chalk talk" by leading scientific critics of the Safeguard system.

These include Dr. Jerome Wiesner, Dr. George Rathjens, and Dr. Herbert York, as well as former officials of the Arms Control and Disarmament Agency. While the chalk talk was underway, the Israeli Air Force shot down seven Syrian MIG 21s, the Egyptians sent their infantry across the Suez to carry out a large-scale assault, and Peking charged that the Russians are provoking armed conflict at the Amur River frontier. It will be interesting to see, before this magazine can be distributed, whether it is the chalk talk or the reality of a couple of wars that most influences the Senate vote. It seems evident, at any rate, that the Livable World does not include the Middle East or the area near Khabarovsk.

Senator John Stennis, Armed Services Chairman, will be giving his own talk, without chalk, in support of the authorization bill. The document recomends appropriations totaling $20,059,500,000. Of this, $12,880,000,000 is for procurement of aircraft, missiles, naval vessels, and tracked combat vessels; $7,179,500,000 is for research, development, test, and evaluation; $12,700,000 is for the construction of missile test facilities at Kwajalein. The total also is about $1.9 billion less than requested in the budget as revised last spring by the Nixon Administration.

The Senate debate will be focused on the ABM, probably almost to the exclusion of other issues. The committee says Congress should appropriate $759.1 million for the

Safeguard project. This is made up of $345.5 million for procurement, $400.9 million for R&D, and the $12.7 million mentioned above for the Kwajalein facility. There was disagreement in the committee on only the first of these sums. The authorization for procurement passed by a vote of ten to seven. Three of the dissenters, Senators Stuart Symington, Stephen M. Young, and Daniel K. Inouye, felt so strongly about the issue that they filed a minority report.

In the days ahead, the committe reasoning behind its support of the ABM will be overwhelmed, no doubt, in the torrent of the argument. It is worth noting that the report says President Nixon will be in a stronger position for arms-limitation talks with the Russians if deployment is under way. The committee does not believe the procurement program will jeopardize the talks or cause an escalation of the arms race. The requirement for ABM is called part of our over-all defense requirement, or the mix considered essential for security. Without it, the nation's second-strike capability will be in doubt. The committee considers the proposed funding to be minimal. It adds that the 1970 authorization is not an irrevocable commitment to the Safeguard system, but is subject to annual review.

ABM is, of course, an Army project. The authorization bill contains a number of decisions of greater immediate import to USAF. A major one is the recommendation that the Air Force be denied its request for $374.7 million to buy LTV Aerospace A–7D tactical fighter aircraft. With this program canceled, the committee would authorize using the same funds to buy additional McDonnell Douglas F–4E Phantoms. The argument given is that the A–7 price has more than doubled, to the point where the F–4E will cost about the same, but provide more versatility. In addition, the change will preclude the necessity for some expensive training and support programs. The report calls on the Secretary of Defense to shift the purchase to the Navy, or buy the airplanes for the Air National Guard. This would salvage much of the investment already made in the A–7.

The bill, as sent to the floor, would authorize a little more than $1 billion for the now-controversial Lockheed C–5 Galaxy transport. Of this, $225 million is to cover over-target costs in Fiscal 1969 and prior years. There also is included $481 million for twenty-three aircraft to complete four squadrons. $52 million for long-lead-time items that will be needed for the next twenty aircraft, $35 million for R&D, and $210 million for spares.

In a close look at the C–5, and its Total Package procurement contract, the committee chides both Lockheed and USAF for badly underestimating the technical difficulties and costs. Future contracts must be more simple, it said, and be reassessed at least once a year. The committee is satisfied with the airplane and is confident it will add to our military flexibility.

USAF's request for $599,800,000 for procurement of sixty-eight F–111D advanced tactical fighters was approved. The report disclosed, however, that in total only ninety-six F–111Ds—most of them authorized last year—will be equipped with the Mark II avionics system.

"In lieu of the Mark II system, a simpler system will be utilized on those F–111Ds which will constitute the remaining portion of the program," the report says. "Despite its long history of problems, including changes in programs, and cost overruns, the committee is recommending the continuing procurement of the F–111D since its unique and singular characteristic make it the best aircraft in the Air Force inventory for the night and all-weather interdiction mission."

And, the committee adds, they appreciate the advantages of the Mark II avionics system. But "any improvement can cost more than it is worth" and "Mark II has reached this point." There probably will not be any debate on this point, but there should be. The committee is the first on Capitol Hill to have words of praise for the General Dynamics aircraft which has suffered so much criticism. And it singles out virtues—the night and all-weather capability—that derive exclusively from Mark II. As explained elsewhere in this issue, the cost-effectiveness of the F–111D may be higher than they think (*See page 62*).

USAF's Advanced Manned Strategic Aircraft (AMSA) is recommended for continuation as a research and development project, with no authorization for production. The committee, however, added to the budget request, bringing the total for AMSA R&D up to more than $100 million for Fiscal Year 1970. It says this should "shorten the competitive design phase and permit the start of full-scale engineering development in Fiscal Year 1970."

Incidentally, the total USAF authorization for R&D is set in the authorization bill at $3,051 million. This is $510 million less than requested. It does include money for work on the new F–15 air-superiority fighter, but the exact sum for this is not broken out in the Senate report. Of equal importance, however, is the fact that the request for $60 million for R&D work on the Airborne Warning and Control System (AWACS) was slashed by the committee to $15 million, a step that will spread gloom in the Aerospace Defense Command and Tactical Air Command. Both have a high-priority requirement for the system.

The committee says the threat from hostile bombers is not "sufficiently clear and imminent." On this conviction, it also slashed a request for work on an improved interceptor from $18.5 million to $2.5 million.

From this study of the bomber defense issue, the committee decided to "direct" the Secretary of Defense to "study, review, and analyze" the real gravity of the Soviet bomber threat. He is asked to submit, with his Fiscal 1971 budget, "findings and recommendations as to the nature and extent of the threat, the current and future bomber defense requirements, the possibility of phasing down portions of existing facilities, and other matters. . . ."

The committee assumes, of course, that this will be done on the basis of the best possible intelligence evaluation. It hopes that the result will ensure, as it has since World War II, our best effort to achieve a Livable World.

OVERRUN? WHOSE OVERRUN?

Today the House of Representatives voted to spend another $12.5 million of the taxpayers' dollars to complete the John F. Kennedy Center for the Performing Arts, a gigantic and half-finished Taj Mahal on the shore of the Potomac for opera and theatergoers. The total cost of the building, according to the newspaper, will be $66.4 million. The original estimate, made about five years ago, was $46.4 million. That is an increase, according to our slide rule, of forty-three percent.

A House committee says the price went up because of a "meteoric rise" in construction costs, strikes, and "underestimating"—primarily of structural steelwork—and other unexpected expenses.

Nobody, to our knowledge, has called it an overrun.

THE INTERLOCKING DIRECTORATE AGAINST THE MILITARY

(By Holmes Alexander)

WASHINGTON, D.C.—You see the U.S. military getting kicked around, and then you look to see who's wearing the boots.

One pair fits Arthur Waskow. He was recently arrested for trespass and nuisance at the Pentagon. He was an organizer last January of the Counter Inaugural, was a founder last year of the New (Eugene McCarthy) Party which became the New Left, was in the infamous Pentagon March a couple of years back. He is mixed up with the pornographic Free Press and is sympathetic with race riots, but against other sorts of warfare. He expresses his governmental philosophy in a book titled "Creative Disorder." He is resident fellow at the Institute for Policy Studies here.

This Institute for Policy Studies is quite a catch-all. A co-director is Marcus Raskin. He was indicted, along with Yale Chaplain Coffin and Dr. Benjamin Spock, for conspiring to violate the draft laws. He belongs to the New Party, the New Left, has got connections with Black Power and Students for a Democratic Society. He was a staff member under President Kennedy on the National Security Council. Raskin and Waskow had their names voluntarily in the magazine Black Panther, last January 25, as signers of a petition to do something nice for Eldridge Cleaver.

Another co-director of the Institute for Policy Studies is Richard Barnet. Like Raskin he was a Kennedy administration insider and was assigned to the U.S. Arms Control and Disarmament Agency. You find that the Institute, a foundation, goes in big for U.S. disarmament. This has been going on for several years, and the seminars are briefing sessions for young assistants of Senators and Representatives. Often what a Senator or Representative says in a speech has been said before in these briefing sessions.

In the spring of 1969 the Institute's announced subject for the seminars was "military spending." Pretty soon Senator Proxmire and Representative Moorhead are getting headlines for denouncing Pentagon expenditures. Richard Kaufman of Senator Proxmire's Joint Economic staff attended the seminars. So did Pete Stockton of Representative Moorhead's staff.

One of these headlines, a three-column spread in the Washington Post for June 29, read "Six Davids Who Have Rocked Goliath." The first proper name used in the story is A. Ernest Fitzgerald, who is praised for exposing Pentagon cost-jumps. Fitzgerald, who works for the Air Force, addressed an Institute seminar in March on "cost control and contractor inefficiency." The Post reporter who praised him in the story, addressed an Institute seminar in April on "political influence of the defense industry."

You soon get dizzied trying to follow the veinwork of names-and-actions, cause-and-effect throughout this body of anti-military work. It produces tomes of the David-and-Goliath propaganda, where the attackers are represented as nice kids with slingshots and the Defense Establishment as a monster. You don't have any trouble finding that there exists an interlocking directorate of intellectuals who oppose law-and-order, national defense, the two-party system and the majority rule of our American pale faces. The directorate is interlocking in another way. Some of the Institute's board members, trustees and officer corps are respectable and irreproachable citizens.

You remember what Burke said, and you don't try to indicate the whole interlocking directorate. You don't know that a single Communist is involved, but you don't doubt that there are demonic chortlings in the Kremlin when the U.S. military gets booted around.

We're in an age when the in-thing to do is to agitate for the "rights of the accused." Seldom has there been heard so much accusation of the U.S. military. A good defense,

I think, would be a strong offense against the accusers. It ought to be the in-thing to defend the Defense Establishment which, while not faultless, is for us and not against us.

If this assault should succeed, we could wake up some day by the dawn's early light and find that the Flag is not "there" any longer.

THE ABA IS ALONE IN ITS STAND AGAINST THE HUMAN RIGHTS CONVENTIONS

Mr. PROXMIRE. Mr. President, yesterday, in speaking of the still unratified international conventions on forced labor and the political rights of women, I described the arguments against them set forth by the American Bar Association, and attempted to show why they were of questionable validity. But I by no means exhausted the objections to these arguments, and I hope today to present further reasons why the Senate Foreign Relations Committee should doubt their value.

The American Bar Association is, first of all, virtually alone in its stand. Over 30 prominent national organizations with long experience in human rights have recommended immediate approval of these conventions. These organizations include labor, religious and service groups of all kinds as well as the Departments of State and Labor of the Federal Government. Their representatives have been virtually unanimous in their support of these conventions.

It might be argued, though, that, despite this overwhelming disparity of opinion, the ABA is singularly well-qualified to judge in this case. This is, after all, a matter of international law, and what better group to advise our government on matters of law than the members of the legal profession?

The stand taken by the association, however, is far from the unanimous position of the entire legal profession. The house of delegates of the ABA, which formulated the association's position, passed its resolution against the conventions by a vote of only 115 to 92.

The strength of the opposition to the ABA stand within the legal profession is demonstrated conclusively by the fact that numerous State and city bar associations—among them the District of Columbia, New York State and city, Philadelphia and New Jersey—have all taken a position directly opposite that of the ABA.

As I described yesterday, Mr. President, the ABA objected to the treaties for the reasons that they would usurp national sovereignty in areas of solely domestic concern and that they would upset the balance between State and Federal jurisdiction by forcing the enactment of new laws. In direct contravention of these arguments, Mr. President, the Bar Association of New York City concluded:

> The Conventions appear neither to conflict with existing state and federal laws nor to require any new legislation for their implementation. . . . [and that] . . . the provisions of these treaties sufficiently reflect an appropriate international concern and that the Conventions are valid subjects of the treaty-making power.

I submit, Mr. President, that these considerations force us to question the value of the position taken by the ABA—a position upon which it stands wholly alone and upon which it is incapable of agreeing even within its own ranks. I therefore once again urge the Foreign Relations Committee to reconsider the faith it has placed in this position and to recommend to the Senate the speedy ratification of these conventions.

SUPPORT FOR BAN ON DDT INCREASES

Mr. NELSON. Mr. President, editorials published recently in the New York Times and the Janesville, Wis., Gazette, have called for a complete and total Federal ban on the use of DDT in the United States. I ask unanimous consent that the two editorials be printed in the RECORD.

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

[From the New York Times, July 7, 1969]

TIME TO STOP DDT IS NOW

A groundswell of opinion is building up against the further pollution of this country's air and water with dangerous pesticides. As a sequel to last week's calamity on the Rhine, in which some forty million fish were posioned, a New England legislative committee has warned that the same substance, though in far less quantity, has been found in the waters of Massachusetts and that uncontrolled pesticides in general confront that region with a "disastrous situation." Locally, the New York City Parks Department and Huntington, L.I., have forbidden the use of DDT.

Admirable as regional and local action is, however, it cannot have much more than educational value so long as the free use of DDT and other "hard" pesticides is permitted elsewhere in the country, not to say in the world. Taking years to decompose, these substances accumulate in the environment and are carried great distances by wind and water, by fish and bird, until their toxic presence is felt in creatures as distant as the penguins of the Antarctic.

It is past time for special interests to drop their outworn arguments about the usefulness of DDT in increasing production of crops, timber and livestock. Those who see the enormous threat from "hard" pesticides are becoming as resistant to such arguments as insects are becoming to the pesticides themselves. People can hardly react otherwise as reports come in showing whole species of edible fish with DDT residues approaching the danger mark of five parts per million, the maximum level considered safe for human consumption. In an open letter to Governor Reagan of California, marine scientists have warned that "if use of DDT is continued there is real danger that man's food supply from the sea will decline drastically while world population continues to increase."

It is this very threat that made so shocking the Department of Agriculture's project for combating pests that might be brought in on planes from Vietnam by blanketing a Texas air base with dieldrin. So toxic is that compound and so huge the quantity proposed that conservationists were understandably horrified, and the Air Force has now suspended the projected operation.

With these perils in mind, the National Audubon Society has launched a campaign for a nationwide ban on DDT, such as Senator Nelson of Wisconsin and Representative Dingell of Michigan have proposed in Congress. The prohibition would nationalize the action already taken by the states of Michigan and Arizona. While even this broad and rational approach does not touch the global aspects of the problem, it would reduce the immediate danger in the United States and force substitution of less harmful and more effective chemicals in the war on insects and disease.

[From the Janesville Gazette, June 26, 1969]

DDT REVIEW BOARD NO ANSWER

It will come as no surprise to anyone familiar with the devious nature of politics that a bill to set up a pesticide review board is progressing faster in the Legislature than the bill to ban the use of DDT in Wisconsin.

This is the way it usually works in politics. Someone introduces a bill for a genuine reform—such as outlawing DDT—and someone else offers an alternative bill like the pesticide review board that would have the effect of gutting the original measure. This is what is happening in Madison now.

If the Legislature adopts the bill to set up a pesticide review board instead of banning DDT, the people of Wisconsin will be the losers. Instead of action against a poisonous chemical that is polluting our state and killing our wildlife, we will get nothing but more talk. Meanwhile, the poisoning goes on.

Birds and fish are being killed right now by the deadly accumulation of DDT in their bodies. It is only a matter of time until larger forms of life begin dying too.

Nobody knows what genetic damage the human race has suffered or will suffer because of the indiscriminate use of pesticides like DDT. It is known that pesticides can disrupt the DNA molecule; that the effects are cumulative and may not show up for generations. By the time the evidence is in, it may be too late.

The Legislature should ban DDT in Wisconsin, and do it now. Skirting the issue with a pesticide review board will not make the danger go away.

JOINT ECONOMIC COMMITTEE GETS RESULTS IN LOWER FREIGHT RATES

Mr. PROXMIRE. Mr. President, last month the U.S. Court of Appeals for the District of Columbia Circuit affirmed the ability of the Federal Maritime Commission to disapprove of ocean freight rates that discriminate against U.S. foreign commerce. This case—American Export-Isbrandtsen Lines, Inc., and others, against Federal Maritime Commission's efforts to effectuate the Shipping Act of 1916, as amended, and correct serious disparities of the ocean freight system, a course of action which the Joint Economic Committee has long urged it to undertake.

Ocean freight rates are administered by international cartels of carriers. In all but seven of the hundred cartels, U.S.-flag lines are greatly outnumbered by foreign-flag lines. This predominance of foreign lines, formerly linked with deficient regulation on the part of our Government, has enabled foreign lines to determine freight rates, sailing schedules, and other conditions vital to the expansion of American commerce. Along these lines, the Joint Economic Committee, be-

ginning in 1963, undertook extensive investigations of its own to determine the economic effects of discriminatory ocean freight rates on American exporters, American manufacturers, and American consumers, and hence on the international payments position of the United States. These hearings had a salutary effect on the administration of maritime laws. Recommendations stemming from the hearings have been instrumental in stimulating more vigorous regulatory efforts by the Federal Maritime Commission.

One such recommendation counseled the Commission to "utilize its full statutory powers to remove discrimination against American exporters." (JEC Report, "Discriminatory Ocean Freight Rates and the Balance of Payments", August 1966, p. 4). When the Federal Maritime Commission found six ocean freight rates which tended to disfavor U.S. exports, it ordered the cancellation of these rates, the filing of lower rates, and "a written justification of the new rates based upon cost, value of service, or other transportation conditions." After investigations and hearings lasting 2 years, the court upheld this act, declaring that "certainly the United States has a right to protcet its own commerce against injury by carriers, organized or not."

In the past, lack of adequate governmental regulation has made it possible for monopolistic practices to continue shipping policies which are inimical to the U.S. interest. While a good deal has been accomplished in correcting this situation, much remains to be done. Recognizing that past actions of the Federal Maritime Commission have been only moderate and that these moderate actions have encountered entrenched opposition, the Joint Economic Committee urged the Commission to "go further, faster." (JEC report, August 1966, p. 4). In view of the fact that discriminatory ocean rates are a substantial impediment to our export expansion efforts, the Federal Maritime Commission should continue its vigorous efforts to equalize outbound and inbound ocean freight rates between the United States and foreign countries. Mr. President, I ask unanimous consent to have printed in the RECORD the decision of the U.S. Court of Appeals for the District of Columbia Circuit in the case of American Export-Isbrandtsen Lines, Inc., et al. against Federal Maritime Commission and the United States of America.

There being no objection, the decision of the U.S. Court of Appeals was ordered to be printed in the RECORD, as follows:

[U.S. Court of Appeals for the District of Columbia Circuit, No. 22,402]

AMERICAN EXPORT-ISBRANDTSEN LINES, INC., ET AL., PETITIONERS *v.* FEDERAL MARITIME COMMISSION AND UNITED STATES OF AMERICA, RESPONDENTS

(On petition for review of order of the Federal Maritime Commission, decided June 27, 1969)

Mr. Burton H. White, with whom *Messrs. Elliott B. Nixon* and *Elkan Turk, Jr.*, were on the brief, for petitioners.

Mr. Kenneth H. Burns, Solicitor, Federal Maritime Commission, with whom *Mr. James L. Pimper*, General Counsel, Federal Maritime Commission, and *Mr. Irwin A. Seibel*, Attorney, Department of Justice, were on the brief, for respondents. *Mr. Robert N. Katz*, Solicitor at the time the record was filed, and *Mr. H. B. Mutter*, Assistant Solicitor, Federal Maritime Commission, also entered appearances for respondent Federal Maritime Commission.

Messrs. Ronald A. Capone and *Robert Henri Binder* were on the brief for North Atlantic Continental Freight Conference, North Atlantic Mediterranean Freight Conference, and Outward Continental North Pacific Freight Conference, as *amicus curiae*.

Before PRETTYMAN, *Senior Circuit Judge*, and BURGER and ROBINSON, *Circuit Judges*.

PRETTYMAN, *Senior Circuit Judge:* This case involves an order of the Federal Maritime Commission relating to ocean freight rates and charges on outbound trade from North Atlantic ports in the United States to ports in the United Kingdom and Eire. The case was enormously complicated and lengthy. The Member Lines of two Freight Conferences were parties; the investigation and hearings lasted two years; the record contained about 5000 pages, plus 1000 pages of exhibits; the examiner's initial report was 100 legal-size pages and the Commission's final report another 42 pages; and the outbound tariff in 1965 contained some 1650 items. The case as it comes to us concerns only six items, presenting three or four issues interwoven into one basic contention.

The Commission determined that the rates upon six [1] commodity items [2] and one general tariff item [3] were so unreasonably high as to be detrimental to the commerce of the United States, and ordered the carriers to cancel those rates and to file lower rates with written justifications "based upon cost, value of service, or other transportation conditions". Petitioners attack the order principally upon the ground that the Commission has misconceived its own authority under the statute and is attempting to impose a rate-making system not found in that act.

Rate-making for ocean freight is a complex problem, involving the manifold intricacies of world trade. It involves many countries, many ports, many carriers, many shippers, many commodities, and a fantastic interlacing of routes. The carriers are organized into "Conferences", which carry on the administrative phases of the trade. They are exempt from the anti-trust laws in this country. By tradition ocean rates are fixed in large measure by the carriers. The factors which fix them are likewise in large measure the necessities of the situation. It is truly said they are what the traffic will bear. World trade is between buyers and sellers in different countries. Its movement is international. No one government controls it. So, if a producer has a product wanted in another country, its movement by ocean freight depends upon the interplay of the supply and the demand. Members of the North Atlantic United Kingdom Conference (known as NAUK) carry 98 per cent of the eastbound liner cargo, practically all at contract rates, with approximately 7000 contract shippers. Proposed changes in the rates and all normal questions relating to rates are submitted to and considered by a special group or committee, consisting of one member from each steamship line, which group meets about once a week. We are told that these groups take many factors into account in a vague, undocumented way, acting largely on their own expertise. We are told [4] that the Conferences consider principally three factors—competition, value of service, and cost of service. The procedure is simple and quick. We are told that in 1966 the Conference of eastbound North Atlantic carriers (NAUK) received 174 requests for rate adjustments and granted 140 of them.

In 1961 Congress amended the Shipping Act of 1916 by inserting a section [5] reading as follows:

"The Commission shall disapprove any rate or charge filed by a common carrier by water in the foreign commerce of the United States or conference of carriers which, after hearing, it finds to be so unreasonably high or low as to be detrimental to the commerce of the United States."

The present proceeding was brought under that section.

In its wide examination in the present proceeding the Commission found no general disparity between eastbound rates and others, but it found rather startling disparities in the general cargo N.O.S. rates (a catchall classification applying to commodities for which no specific commodity rates are specified) and in the five other items. Thus in regard to N.O.S. it found the outbound rate to be $70.75 [6] and the equivalent inbound rate to be $53.70 or, if the cargo value is very high, "32/6% ad valorem". It found, "This high N.O.S. rate is inhibiting the movement of cargo." The item "onions" is an important commodity in our export trade to the United Kingdom, but there is no westbound traffic in onions. The competition to our commerce is from Canadian ports. The Commission found the rate to be $39.50 per weight ton from North Atlantic ports of the United States, $27 from Montreal and Quebec, and $31 from Toronto.

When it found wide disparities the Commission presumed that such disparities would adversely affect the commerce of the United States. It ordered the Conference to cancel the six rates above named and to file lower rates on those items. It ordered the Conference to "file a written justification of the level of the new rates based upon cost, value of service, or other transportation conditions as outlined in the attached report."

As we understand the argument, petitioners believe that the Commission is attempting to take over the functions heretofore exercised by the Conference, as above described. They find this threat in the direction by the Commission that the Conference submit a schedule of rates to the Commission and "justify" it on the basis of costs, value of service, or other transportation conditions. Thus they see a transfiguration of their long-time, Congressionally-approved system into a new, tightly-bound method of regulation by an agency of the United States Government. We think the petitioners' fears are unfounded. Certainly the United States has a right to protect its own commerce against injury by carriers, organized or not. The Commission made exhaustive inquiry into the matter and made extensive findings. It did not depart from the traditional concepts as we have outlined them. It did not fix the rates or fix a maximum. It called upon the carriers to prepare the tariff schedules. It did not require that carriers measure the proposed rates by prescribed factors. It did not use the terms

[1] One item (sleds) has disappeared from the case.

[2] Egg albumen, meat offal, onions, plastic sheeting, and toys.

[3] General cargo N.O.S. (not otherwise specified).

[4] Comm'n Rep. 4.

[5] Sec. 18(b)(5), 75 STAT. 765, 46 U.S.C. § 817(b)(5).

[6] Rates are determined by cargo weight (W), or by cargo measurement (M), or by whichever (W/M) produces the most revenue. Rates when stated are usually marked accordingly—W, M or W/M.

"prove" or "establish". It required "justification" for the proposed new rates, which means an explanation with supporting data; the word is much less stringent than either of the other two. Its prescription of factors was in broad familiar terms—cost, value, "or other transportation conditions". "Cost" and "value" are terms used by the carriers themselves, according to this record, and the term "other transportation conditions" is certainly broad and unrestrictive, especially when coupled to the rest of the sentence by a disjunctive.

We are inclined to think the Commission would have been hard put to fulfill its statutory duty with less disturbance of the traditional practices in the trade.

Affirmed.

Circuit Judge Burger did not participate in the foregoing opinion.

IS THE MOON A LADY?

Mr. DIRKSEN. Mr. President, I ask unanimous consent to have a statement of the distinguished Senator from Pennsylvania (Mr. SCOTT) printed at this point in the RECORD. He is unavoidably away at this time.

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

STATEMENT OF SENATOR SCOTT

IS THE MOON A LADY?

Mr. President, in most Western languages, I believe, the sun is masculine and the moon feminine. In German, the moon is a man—Der Mond. Is the moon, then, a lady, preparing for the first visit of emissaries from her lover Earth or a male, hostile in stance and spirit to the intruding boot of the invader?

As we wait, with quickening pulse, the outcome of this adventure, this greatest of all adventures, one wishes to believe that the moon is a lady, Teutonic tradition to the contrary notwithstanding, and that she will part for these first brave visitors her veil of mystery with welcoming friendly grace.

UNLIKELY ALLIANCE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to insert in the RECORD an article which appeared in today's Wall Street Journal, written by Alan Adelson. It is entitled "Unlikely Alliance. Student Radicals Seek Workers' Cooperation in Fighting the 'System'."

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

UNLIKELY ALLIANCE: STUDENT RADICALS SEEK WORKER'S COOPERATION IN FIGHTING THE "SYSTEM"

(By Alan Adelson)

Student radicals seeking revolutionary changes in American society began with confrontations that shook universities and toppled administrators. Now they have a new strategy: Seek alliances with the working class.

This idea was inspired by the 1968 "May Revolt" in France, where workers joined students in an uprising that almost brought down the government. Many U.S. student militants believe the principle of a student-worker alliance can be transplanted here—indeed, that it must be if their revolutionary goals are to be realized.

All this probably strikes most Americans as nonsense. They grumble about inflation and taxes and congestion and other irritants of contemporary life, but there's little doubt that the great majority wants no wrenching change in the system. Also, many people would contend that so far the student radicals have mainly shown a talent for disruption and have given little evidence that they have a coherent program for replacing the organizations they complain of.

A FUTILE STRATEGY

Moreover, the idea of a small minority of students rallying American workers to a revolutionary alliance—at a time when the workers seem to be in a politically conservative mood judging from their apparent approval of "law-and-order" candidates—seems highly dubious. Even within the militant left, a coalition of diverse and sometimes feuding factions, a few dismiss the strategy as futile.

Nevertheless, the concept is shifting the entire thrust of the radical student movement, as well as infusing it with new ferment. After the French uprising, internal dissension erupted within the Students for a Democratic Society as factions quarreled over rival concepts of student-worker cooperation. Last month's SDS convention in Chicago, torn by a power struggle between two factions, ended with each side accusing the other of being "anti-working class."

Despite such conflict, militants are busily trying to apply the basic concept. Some examples:

—This spring students led by Mark Rudd, an SDS leader in last year's massive confrontation at Columbia University, joined black workers on the picket lines outside a Ford Motor Co. plant in New Jersey.

—Striking West Virginia coal miners, protesting what they charged were inadequate protective measures against "Black Lung" disease this year, requested and received help from students at the University of West Virginia.

—When workers struck a Standard Oil Co. of California refinery near San Francisco this year, they and student militants boycotting classes at San Francisco State College evolved an informal alliance: Students helped picket the refinery and workers helped picket the college.

A MARXIST CONCEPT

Experiences like these convince many militants that the new concept holds promise. They believe that without support from workers, students never will break what they regard as "corporate domination" of universities and society as a whole; without help from the students, say the militants, workers never will win a fair share of corporate profits. The idea goes back to the classical Marxist concept of the worker as the proper source of revolution.

Richard L. Greeman, 30, a veteran of the civil rights movement and the New Left and an assistant professor of French and the humanities at Columbia, was one of many American radicals who rushed to France last year to study the May uprising. He explains:

"Mao tells us to build from peasants, but in the U.S. we have no peasants. And Che said it's guerrilla warfare, but I just can't see grabbing a gun and running up to the Catskills. Then in France the students knocked de Gaulle and his government flat on their backs, and the workers saw their chance and called a general strike. That really woke everyone up because it showed that the student movement could play a role in the detonation of a workers' movement."

MIDDLE-CLASS WORKERS

There are, of course, strong and widespread doubts that things would work that way here. Peter Doeringer, a Harvard University professor of labor economics, says that unlike the poorly paid French workers, a great majority of U.S. laborers have been "co-opted into the middle class." Well-paid, insulated from the impact of recession, U.S. workers "have moved from economic insecurity to economic security, and in doing so they have adopted the political philosophy that traditionally goes with security," he says.

The militants readily concede that workers oppose revolution in the abstract but argue that in practice the workers have been driven closer to a revolutionary state of mind than most people realize, largely because inflation is eroding the workers' standard of living despite wage increases. Meanwhile, they argue, a growing number of wildcat strikes indicate union managements have lost control of their members.

"Things don't need to get much more extreme than they are now," says Eric Lerner, a member of the SDS labor committee. "The erosion of real wages already has put the U.S. into a situation of 'sequential strikes' where one union after another has to go out."

But an obstacle to implementation of the concept is that workers don't like student militants. "A well-placed fist could be the welcome that awaits SDS revolutionaries," Karl F. Feller, president of the Brewery Workers Union, has declared. Morever, at least until recently, student militants didn't like workers.

For the second straight summer, however, the students are trying to change all this with a program of summer "work-ins." The idea is for students to take jobs alongside full-time workers, get to know them and their problems and gradually convince them that they and the students have common grievances.

A LEARNING EXPERIENCE

In a successful summer, says Alan Spector, a national official of one SDS faction, "a student can teach a group of workers about American imperialism, and the workers can teach him about exploitation of the workers." But an SDS work-in manual cautions students not to expect change overnight.

"Don't be shocked by the racist remarks of the white workers, by confused political impressions, pro-war talk, 'keeping-up-with-the-Jones' talk,'" the manual advises. "If the workers understood racism, the war, middle-class morality, capitalist manipulation, etc., things would not be the way they are."

Participants say a work-in can be a harrowing ordeal. First the applicant runs a gauntlet of wary personnel officials; if hired, he's expected to risk the workers' hostility by forthrightly, yet diplomatically, telling them where he stands. "He should prod and test, push their opinions and ask questions," says Mr. Spector. Advises the SDS manual: "Don't talk to workers like you know everything and they know nothing. . . . Make it an exchange of experience, not a one-way affair."

One New York City College student who took a work-in job at a New York loading terminal of a trucking company last summer says he found himself in a heated lunch-hour argument with a burly freight handler over the war in Vietnam. Suddenly the handler was loudly demanding: "When push comes to shove, are you for us or are you for the communists?"

NO WAY OUT

The whole lunch table went silent. "All I could hear was the hum of the air-conditioner and my heart beating," the student says. "I figured having blundered this far there was no principled way out, so I answered: 'I'm a communist.'"

For the rest of the summer the student worked on, while co-workers spread the word that he was a "Red," he says. Nevertheless,

he's encouraged because, to his knowledge, no worker told management, and he was able to bring one worker after another into long political discussions. "I proved it's possible for a student to exist openly as a communist among one of the more reactionary sections of the working-class," he says.

Militants also are involved in a wide range of other activities with workers. Some SDS groups, for example, have demonstrated in favor of the application of real estate profits toward construction of workers' housing. In several cities, students protested because, they said, bus companies were taking profits made in part from worker patronage and investing them in endeavors not related to workers.

A more common approach is to support workers in labor-management disputes. The University of West Virginia students helped the striking coal miners by picketing and circulating pamphlets. Harvard students aiding striking linen delivery truck drivers in Cambridge this spring by seizing the truck of a strike-breaker, throwing all his sheets and towels into the street and then trampling on them. This spring's incident at the New Jersey Ford plant, located in Mahwah, about 30 miles northwest of New York, offers a detailed look at one instance of student support.

Hundreds of radicals from the area threw their support behind several hundred black workers and a few whites who refused to go to work because a white supervisor allegedly had cursed a black worker. Mr. Rudd led a contigent from Columbia—leaving an SDS "occupation" of two buildings at the university in order to join the workers' picket lines.

LEAFLETS AND PICKETING

Every day for a week, the students helped the workers picket, driving out to the plant in car pools to take assignments from a striking worker. They passed out leaflets saying, "Ford has a racist idea" (a parody of a widely used company advertising slogan) and "Join us! An injury to one is an injury to all!"

Mr. Rudd and the other student radicals deliberately subordinated themselves to the workers. In one of the few times that any student took the limelight, Mr. Rudd merely offered to help the workers any way he could. (Mr. Rudd's student followers now say that campus radicals will have to play a much more active role in future incidents of this kind, perhaps by offering the workers a "revolutionary program" to guide them.)

The walkout cut production by about 1,200 cars, Ford says. But despite the student help, the wildcat strike collapsed after a week, largely because most white workers never did join the blacks. What impact had the students had? The assessments varied widely.

Wilbur Haddock, a black strike leader, was enthusiastic. "The students' coming out here is very good for us in many ways," he said. "This is all part of the same revolutionary movement."

But many white workers were angry. "I don't like the idea of students picketing and telling us not to work," grumbled Lou Stecklin, a day shift worker. "They don't want to work, they don't want to study. I feel like going out and rearranging their hair a little bit."

MANAGEMENT'S VIEW

C. A. Kiorpes, manager of the plant, belittled the student effort. "It was spring, and where they used to have panty raids, now they say, 'Let's go picket an auto plant,' " he said. Mr. Kiorpes confessed near the end of the strike, however, that the influx of students was a confusing experience. "We don't know who these kids are, or why they are here," he said. "If we knew who and what was hurting us, we might begin to defend ourselves."

Some observers believe the student workins and other activities by militants actually are widening, not closing, the gap between intellectuals and workers. One such viewpoint comes from Robert Weissman, 39, a United Auto Workers Union official who had his own work-in 18 years ago when he graduated from college and then decided to become a labor organizer.

"I camouflaged my student background so I could be a worker among workers," Mr. Weissman says. "These students refuse to camouflage their educations. They want to flaunt the fact that they are student radicals. They are trying to bring their politics to the labor movement instead of coming with open minds. And because they are making this mistake, they are doomed."

Mr. Doeringer, the Harvard professor, thinks the students would have a better chance to influence workers if they focused their efforts on "unorganized sweatshops" such as nonunion warehouses, rather than on the relatively large, unionized plants they are now trying to infiltrate. The unorganized workers are more likely to be low paid and thus more receptive to revolutionary ideas, he reasons. But Mr. Doeringer also believes that while some hard-pressed workers may accept student help temporarily, "they will peel themselves off from the effort as soon as they win their economic demands."

TAKING OVER FACTORIES

Despite such views, many student militants are convinced their movement eventually will succeed among workers. They say that the antiwar sentiment that now pervades university campuses started with a relatively small number of activists.

Some even see the time when a student-worker alliance will wrest control over American factories from management. According to this view, shareholders and executives would be compelled to surrender their rights and money just to keep the system going. "If things happen here the way they did in France," says one militant, "the Army and the police will be unhappy too, and will flatly refuse to move against their class brothers (the workers)."

Some union leaders have claimed to have information that student radicals are planning to sabotage factories as part of their effort to achieve power.

The militants deny the union officials' charge. "Sabotage is absolutely out because its just not up to us to win the strikes for the workers or take over the factories," says Mr. Spector.

"But we do have a lot of people on the inside now, and the workers do listen to us. We make it clear we're not there to use them but to join in smashing the oppressive system. The ruling class is scared silly now, and it should be. We may not be going in to shut down those factories, but we're not going in to play marbles either."

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

NOTICE THAT NO COMMITTEES WILL BE AUTHORIZED TO MEET DURING CLOSED SESSION TOMORROW

Mr. MANSFIELD. Mr. President, I discussed this matter with the distinguished minority leader earlier in the day, and we both agreed, the Senate concurring, that during the closed session tomorrow no committees of the Senate should be allowed to meet. So I wish to make that announcement at this time on behalf of the distinguished minority leader and myself. There will be no committee meetings allowed during the closed session of the Senate on Thursday. Committees should now be on notice, as well as their staffs, to that effect.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ADJOURNMENT

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the orders of Tuesday, July 15, 1969, that the Senate adjourn until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 1 o'clock and 44 minutes p.m.) the Senate adjourned until tomorrow, Thursday, July 17, 1969, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate July 16, 1969:

IN THE ARMY

Lt. Gen. Richard Giles Stilwell, [redacted], Army of the United States (major general, U.S. Army), for appointment as senior U.S. Army member of the Military Staff Committee of the United Nations, under the provisions of title 10, United States Code, section 711.

I nominate the following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Harry William Osborn Kinnard, [redacted], Army of the United States (major general, U.S. Army).

I nominate the following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. George Irvin Forsythe, [redacted], Army of the United States (brigadier general, U.S. Army).

CONFIRMATIONS

Executive nominations confirmed by the Senate July 16, 1969:

APPALACHIAN REGIONAL COMMISSION

Orville H. Lerch, of Pennsylvania to be alternate Federal co-chairman of the Appalachian Regional Commission.

MISSISSIPPI RIVER COMMISSION

Brig. Gen. Willard Roper, U.S. Army to be a member of the Mississippi River Commission, under the provisions of sec. 2 of an act of Congress approved June 28, 1879 (21 Stat. 37; 33 U.S.C. 642).