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Congressional Record

PROCEEDINGS AND DEBATES OF THE 91st CONGRESS, FIRST SESSION

SENATE—*Wednesday, January 22, 1969*

(Legislative day of Friday, January 10, 1969)

The Senate met at 12 meridian, on the expiration of the recess, and was called to order by the Vice President.

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

O Thou, who art from everlasting to everlasting, the ancient of days, yet ever the same, give us hearts to love Thee and minds to serve Thee this day. Preserve us from yielding to the pressing demands which would numb the soul or crowd Thy presence from our lives. In all our labors give us the grace to discern the high from the low, the important from the unimportant, and so to lift all we do into the higher order of Thy kingdom of righteousness and peace.

When the evening comes, and the day is done, and we lie down to sleep, may there be nothing to regret. Wilt Thou then give us the sleep of the just and that blessed rest of those whose minds are stayed on Thee.

For Thy name's sake. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Tuesday, January 21, 1969, be approved.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a brief period be allowed for the transaction of routine morning business, and that statements therein be limited to 3 minutes.

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, for the information of the Senate, at the conclusion of the period for the transaction of routine morning business, it is the intention of the leadership to call up the nomination of Gov. Walter Hickel to be Secretary of the Interior.

APPOINTMENTS BY THE VICE PRESIDENT

The VICE PRESIDENT. The Chair, in accordance with Senate Resolution 223, 90th Congress, second session, appoints the Senator from California (Mr. MURPHY), the Senator from Arizona (Mr. FANNIN), the Senator from Florida (Mr. GURNEY), and the Senator from Ohio (Mr. SAXBE) as members of the Special Committee on Aging.

The Chair, in accordance with Senate Resolution 281, 90th Congress, second session, makes the following appointments to the Select Committee To Study the Unmet Basic Needs Among the People of the United States: the Senator from Kentucky (Mr. COOK) in lieu of the Senator from Delaware (Mr. BOGGS), the Senator from Kansas (Mr. DOLE) in lieu of the Senator from New York (Mr. GOODELL), and the Senator from Colorado (Mr. DOMINICK) in lieu of the Senator from Vermont (Mr. PROUTY).

EXECUTIVE COMMUNICATIONS, ETC.

The VICE PRESIDENT laid before the Senate the following letter, which was referred as indicated:

REPORT OF BOARD OF TRUSTEES OF THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

A letter from the managing trustee and members of the board of trustees of the Federal supplementary medical insurance trust fund, transmitting, pursuant to law, a report of the board, dated 1969 (with an accompanying report); to the Committee on Finance.

PETITIONS AND MEMORIALS

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

By the VICE PRESIDENT:

A petition, signed by Linda S. Green, and sundry other citizens, praying for a redress of grievances; to the Committee on Armed Services.

A petition, signed by Ed. J. R. Doan, and sundry other citizens of the State of Kentucky, remonstrating against the prohibition of prayer and Bible reading in the public schools; to the Committee on the Judiciary.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. MURPHY, from the Committee on Armed Services:

David Packard, of California, to be Deputy Secretary of Defense.

By Mr. ELLENDER from the Committee on Agriculture:

J. Phil Campbell, of Georgia, to be Under Secretary of Agriculture; and

Clarence D. Palmby, of Virginia, to be an Assistant Secretary of Agriculture.

BILLS AND JOINT RESOLUTION INTRODUCED

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

By Mr. FONG:

S. 478. A bill to amend title II of the Social Security Act to provide cost-of-living increases in the insurance benefits payable thereunder;

S. 479. A bill to amend title II of the Social Security Act to increase the amount of the insurance benefits payable to widows; and

S. 480. A bill to amend title II of the Social Security Act to increase the annual amount individuals are permitted to earn without suffering deductions from the insurance benefits payable to them under such title; to the Committee on Finance.

S. 481. A bill to amend the first Morill Act to permit sums received thereunder to be invested as the State legislatures may prescribe; to the Committee on Agriculture and Forestry.

S. 482. A bill to provide separate occupational tax for limited retail dealers in liquors; to the Committee on Finance.

By Mr. HARTKE:

S. 483. A bill for the relief of Kenrick Hamilton Vernon, Sylvia Louise Vernon, Francis McLaudie Vernon, Carrie Hellouise Vernon, Richard Seymour Bickham Vernon, Marion Rosalee Vernon, Marie Elizabeth Vernon, and Elvet Anthony Vernon; and

S. 484. A bill for the relief of Tommy Tung Ming Hall; to the Committee on the Judiciary.

By Mr. PERCY:

S. 485. A bill for the relief of Pietro Alfano, his wife, Maria Cristina Alfano, and their daughter, Susanna Alfano; to the Committee on the Judiciary.

By Mr. HARTKE:

S. 486. A bill for the relief of Leonardo Generale;

S. 487. A bill for the relief of Alfred Hudson David;

S. 488. A bill for the relief of Harold Albert, Lona Sarah, Karen Therese, and Bruce Alex Arnold;

S. 489. A bill for the relief of Milorad Segrt;

S. 490. A bill for the relief of Gyorgy Sebok; and

S. 491. A bill for the relief of Amaden and Cecilia Simoes; to the Committee on the Judiciary.

By Mr. HANSEN (for himself, Mr. FANNIN, Mr. BAKER, Mr. GOLDWATER, Mr. WILLIAMS of Delaware, and Mr. COOK):

S. 492. A bill to establish a Postal Corpora-

tion, and for other purposes; to the Committee on Post Office and Civil Service.

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

By Mr. HRUSKA:

S. 493. A bill for the relief of Dr. Wolf V. Heydebrand and his wife, Ruth Heydebrand; to the Committee on the Judiciary.

By Mr. TOWER:

S. 494. A bill to amend section 141(a) of title 13, United States Code, relating to census; to the Committee on Post Office and Civil Service.

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

By Mr. COTTON:

S. 495. A bill for the relief of Marie-Louise (Mary Louise) Pierce;

S. 496. A bill for the relief of Donald Schultze;

S. 497. A bill for the relief of the estate of Capt. John N. Laycock, U.S. Navy (retired);

S. 498. A bill for the relief of Anna Elsa Bayer; and

S. 499. A bill for the relief of Ludger J. Cossette; to the Committee on the Judiciary.

By Mr. METCALF (for himself and Mr. BAYH, Mr. BIBLE, Mr. BROOKE, Mr. BURDICK, Mr. CHURCH, Mr. EAGLETON, Mr. HARRIS, Mr. HART, Mr. HARTKE, Mr. HATFIELD, Mr. HUGHES, Mr. KENNEDY, Mr. MCCARTHY, Mr. MCGEE, Mr. MCGOVERN, Mr. MANSFIELD, Mr. MONDALE, Mr. MONTOYA, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. PEARSON, and Mr. YOUNG of Ohio):

S. 500. A bill to amend the Internal Revenue Code of 1954 so as to limit the amount of deductions attributable to the business of farming which may be used to offset nonfarm income; to the Committee on Finance.

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

By Mr. COTTON:

S. 501. A bill for the relief of Anna DeAngelis; to the Committee on the Judiciary.

By Mr. COTTON (for himself and Mr. MCINTYRE):

S. 502. A bill for the relief of the town of Weare, N.H.; to the Committee on the Judiciary.

By Mr. HATFIELD (for himself, Mr. COOK, Mr. DOLE, Mr. GOLDWATER, Mr. MCGOVERN, Mr. NELSON, Mr. PACKWOOD, Mr. PROUTY, and Mr. SCHWEIKER):

S. 503. A bill to provide for meeting the manpower needs of the Armed Forces of the United States through a completely voluntary system of enlistments, and to further improve, upgrade, and strengthen such Armed Forces, and for other purposes; to the Committee on Armed Services.

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

By Mr. EAGLETON:

S. 504. A bill for the relief of Dr. Virgilio P. Dumadag;

S. 505. A bill for the relief of Dr. Jose Nelson Ceballos;

S. 506. A bill for the relief of Drs. Suresh B. and Aruna S. Patel; and

S. 507. A bill for the relief of Dr. Jaime and Mrs. Judith Jaramillo; to the Committee on the Judiciary.

By Mr. HARRIS (for himself, Mr. BAYH, Mr. BROOKE, Mr. BYRD of West Virginia, Mr. CRANSTON, Mr. FULBRIGHT, Mr. GRAVEL, Mr. HART, Mr. HARTKE, Mr. HATFIELD, Mr. HUGHES, Mr. INOUYE, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MCCARTHY, Mr. MCGEE, Mr. MCGOVERN, Mr. METCALF, Mr. MONDALE, Mr. MONTOYA, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. PASTORE, Mr. PERCY, Mr. RANDOLPH, Mr. TYDINGS, Mr. YARBOROUGH, Mr. YOUNG of Ohio, and Mr. WILLIAMS of New Jersey):

S. 508. A bill to provide for the establishment of the National Foundation for the Social Sciences in order to promote research, education, training and scholarship in such sciences; to the Committee on Labor and Public Welfare.

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

By Mr. SCOTT:

S. 509. A bill for the relief of Sapat Mitrani;

S. 510. A bill for the relief of Stella Dribensky;

S. 511. A bill for the relief of Dr. Seung Chul Karl;

S. 512. A bill for the relief of Umberto D'Amario;

S. 513. A bill for the relief of Pasqualino Corrado;

S. 514. A bill for the relief of Salvatore Butto;

S. 515. A bill for the relief of Giustino Tucci;

S. 516. A bill for the relief of Dr. Rahim Karjoo and his wife, Shahin Dokht Hodjat Karjoo;

S. 517. A bill for the relief of Maria Adela Foos;

S. 518. A bill for the relief of Giacomo Fiorello;

S. 519. A bill for the relief of Rosa Coppolecchia;

S. 520. A bill for the relief of Comasia De Tommaso; and

S. 521. A bill for the relief of Edith Berkenfeld, executrix of the estate of Sidney Berkenfeld, for the benefit of Arlene Coats, a former partnership, consisting of the late Sidney Berkenfeld and Benjamin Prepon; to the Committee on the Judiciary.

By Mr. JACKSON:

S. 522. A bill relating to the Indian revolving loan fund and the Indian heirship land problem;

S. 523. A bill to provide for guarantee and insurance of loans to Indians and Indian organizations; and

S. 524. A bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the future regulation of surface mining operations, and for other purposes; to the Committee on Interior and Insular Affairs.

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

By Mr. SPARKMAN:

S. 525. A bill to amend the Internal Revenue Code of 1954 to permit individuals receiving civil service retirement annuities to elect to have income tax deducted and withheld from their annuity payments; to the Committee on Finance.

S. 526. A bill to amend the Civil Service Retirement Act, as amended, to provide that accumulated sick leave be credited to the retirement fund or that the individual be reimbursed; to the Committee on Post Office and Civil Service.

By Mr. SPARKMAN (by request):

S. 527. A bill to amend and extend laws relating to housing and urban development, and for other purposes; to the Committee on Banking and Currency.

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

By Mr. SPARKMAN (for himself and Mr. ALLEN):

S. 528. A bill to provide that the reservoir formed by the lock and dam referred to as the "Millers Ferry lock and dam" on the Alabama River, Ala., shall hereafter be known as the William "Bill" Dannelly Reservoir; to the Committee on Public Works.

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

By Mr. PROXMIRE:

S. 529. A bill for the relief of Wilhelm J. Brendel; to the Committee on the Judiciary.

By Mr. MOSS:

S. 530. A bill to amend title II of the Social Security Act to increase the annual amount individuals are permitted to earn without suffering deductions from the insurance benefits payable to them under such title; to the Committee on Finance.

S. 531. A bill to establish the Capitol Reef National Park in the State of Utah; and

S. 532. A bill to establish the Arches National Park in the State of Utah; to the Committee on Interior and Insular Affairs.

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

By Mr. CASE:

S. 533. A bill for the relief of Barbara Rogerson Marmor; to the Committee on the Judiciary.

By Mr. MURPHY:

S. 534. A bill for the relief of Cecil Henry Wyant; to the Committee on the Judiciary.

By Mr. SCOTT:

S. 535. A bill for the relief of Kwong Sui Chu;

S. 536. A bill for the relief of Heather Gwendolyn Boyd-Monk;

S. 537. A bill for the relief of Noriko Susan Duke (Nakano); and

S. 538. A bill for the relief of Natale Tomassini; to the Committee on the Judiciary.

By Mr. ANDERSON (for himself and Mrs. SMITH (by request):

S. 539. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; to the Committee on Aeronautical and Space Sciences.

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

By Mr. JACKSON:

S. 540. A bill for the relief of Yuda Galazan and Tamar Galazan; to the Committee on the Judiciary.

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

S. 541. A bill to provide for the termination of Federal supervision over the property of the Confederated Tribes of Colville Indians located in the State of Washington and the individual members thereof, and for other purposes; to the Committee on Interior and Insular Affairs.

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

By Mr. ANDERSON (for himself, Mr. FULBRIGHT and Mr. SCOTT):

S. 542. A bill to establish rates of compensation for certain positions within the Smithsonian Institution; to the Committee on Post Office and Civil Service.

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

By Mr. MCCLELLAN:

S. 543. A bill for the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes; to the Committee on the Judiciary.

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

By Mr. MUSKIE:

S. 544. A bill to amend the Federal Water Pollution Control Act, as amended, and for other purposes; to the Committee on Public Works.

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

By Mr. TYDINGS (for himself, Mr. ERVIN, and Mr. HRUSKA):

S. 545. A bill to amend section 9 of the

District of Columbia Bail Agency Act; to the Committee on the District of Columbia.

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

By Mr. TYDINGS:

S. 546. A bill to amend the Bail Reform Act of 1966 to authorize the conditional release or commitment to custody of certain persons charged with the commission of an offense punishable as a felony, and for other purposes; and

S. 547. A bill to amend section 3148 of title 18, United States Code in order to restrict the release of any person who is accused of a capital offense or who has been convicted of any offense in a court of the United States and is awaiting sentence or has filed an appeal or a petition for writ of certiorari; to the Committee on the Judiciary.

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

By Mr. McGEE:

S. 548. A bill for the relief of Hon Ming Au Yeung;

S. 549. A bill for the relief of Kwok Yuen Wong;

S. 550. A bill for the relief of Lai Chung;

S. 551. A bill for the relief of Ming Yeh Lee;

S. 552. A bill for the relief of Ah Shyh Wang;

S. 553. A bill for the relief of Chan Kwun Po;

S. 554. A bill for the relief of Ping Cheung Kan; and

S. 555. A bill for the relief of Yau Chan; to the Committee on the Judiciary.

By Mr. McGEE (for himself and Mr. HANSEN):

S. 556. A bill to provide for the apportionment of funds in payment of a judgement in favor of the Shoshone Tribe in consolidated docket Nos. 326–D, 326–E, 326–F, 326–G, 326–H, 366, and 367 before the Indian Claims Commission, and for other purposes; to the Committee on Interior and Insular Affairs.

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

By Mr. ALLOTT:

S. 557. A bill for the relief of Michael D. Manemann; and

S. 558. A bill for the relief of Dr. Leo Hsueh; to the Committee on the Judiciary.

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

S. 559. A bill to authorize the purchase, sale, exchange, mortgage, and long-term leasing of land by the Tulalip Tribes of Washington; to the Committee on Interior and Insular Affairs.

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

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

S. 560. A bill to provide for the establishment of the William Howard Taft National Historic Site; to the Committee on Interior and Insular Affairs.

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

By Mr. HANSEN:

S. 561. A bill to amend section 131 of title 23 of the United States Code; to the Committee on Public Works.

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

By Mr. McGOVERN (for himself and Mr. HART, Mr. McCARTHY, Mr. METCALF, and Mr. YOUNG of Ohio):

S. 562. A bill to assure to every American a full opportunity to have adequate employment, housing, and education, free from any discrimination on account of race, color, religion, or national origin, and for other purposes; to the Committee on Labor and Public Welfare.

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

By Mr. YOUNG of North Dakota:

S. 563. A bill for the relief of Lau Yiu Dak; to the Committee on the Judiciary.

By Mr. FONG:

S. 564. A bill for the relief of Mrs. Irene G. Queja;

S. 565. A bill for the relief of Francio B. Bonilla, Valerio B. Bonilla, Agapito B. Bonilla, and Mariano B. Bonilla; and

S. 566. A bill for the relief of Chao Tang Shan; to the Committee on the Judiciary.

By Mr. COOPER (for himself and Mr. COOK):

S. 567. A bill to provide for the appointment of additional district judges for the eastern and western districts of Kentucky; to the Committee on the Judiciary.

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

By Mr. JACKSON:

S.J. Res. 24. Joint resolution to provide for the administration and development of Pennsylvania Avenue as a national historic site; to the Committee on Interior and Insular Affairs.

S. 494—INTRODUCTION OF BILL TO REFORM THE DECENNIAL CENSUS

Mr. TOWER. Mr. President, next year, 1970, the Bureau of the Census will begin again its decennial task of sending out the census takers and questionnaires through the mail. They have been doing this same job, and generally admirably, since the first census in 1790. However, I, as have many other Members of the Congress, have been made cognizant of the many changes that the Bureau of the Census has taken upon itself to make in the number and content of questions asked during the survey.

There has been a great change from the questions actually asked in the 1960 survey to the questions proposed to be asked next year. In 1960, there were some 17 questions asked; in 1970, there will be 21 mandatory questions. Even more, on the 20-percent sample questionnaires to be answered by 16 million American households, there were 56 questions in 1960; there are to be 67 subjects in 1970. In view of these circumstances, this question can be legitimately raised: Has the decennial census become too comprehensive, too searching, or even too prying, into our private lives, both in terms of scope and content?

Over the past year, I, like many other Members of Congress, have received a considerable number of complaints from Americans of all walks of life concerning the current plans for the coming census. In addition to their strongly voiced objections over the number of questions that will be required to answer in the census, these concerned Americans contend that many of the questions slated to be asked in the census are far too personal in nature and constitute a serious violation of privacy. Furthermore, they contend that many of the questions are not really essential to the basic purpose of the census; namely, the enumeration of the population of the Nation every 10 years, as provided in the Constitution, for purposes of apportioning the House of Representatives.

With marked changes that have taken place in the character of our Nation over the years, I am certain that none of those critical of the Census Bureau's plans for the 1970 census would advocate that the Census Bureau be required by law to confine the scope of the decennial census to a simple population count. Nevertheless, it does appear that we have reached a point where some restraint must be exercised concerning the scope and content of the decennial census.

What the legislation that I introduce would do is require the Secretary of Commerce to review the questions which have been proposed by the Bureau of the Census and allow only those questions which he deemed essential to accomplishing the purposes of the census. It would, therefore, require that any question not essential, and I emphasize essential, would be deleted or made optional. In this way, we can maintain the purposes of the census without it becoming a burden on the population at large.

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

The bill (S. 494) to amend section 141(a) of title 13, United States Code, relating to the census, was received, read twice by its title, and referred to the Committee on Post Office and Civil Service.

S. 500—INTRODUCTION OF BILL—LIMITATION OF DEDUCTIONS ATTRIBUTABLE TO FARMING

Mr. METCALF. Mr. President, in the second session of the 90th Congress, I introduced S. 4059, a bill designed to remove the inequities between legitimate farm operators and taxpayers who are in the business of farming mainly because of the tax advantages that serve to put their nonfarm income in a lower tax bracket. It was my announced hope then that introduction of the bill before Congress adjourned last year would provide the impetus for an exchange of views among all interested business and farm groups in preparation for hearings early this session.

This legislation now has the support of all those who are sincerely interested in the working farmers of our Nation. For example, the principle of the bill has the full support of the National Farmers Union, the American Farm Bureau Federation, the National Grange, the National Farmers Organization, the Farmland Industries Cooperative, the National Association of Farmer Elected Committeemen, and the Mid-Continent Farmers Association—formerly known as the Missouri Farmers Association. Last year both the Treasury and Agriculture Departments submitted reports to the Senate Finance Committee, citing the need for legislation of this type.

Today, I am reintroducing this legislation with the knowledge that during the adjournment period, purposeful discussion has taken place as I both hoped and anticipated. In the Senate, I am joined by a bipartisan group of 23 other Senators as cosponsors. These cosponsors are Senators BAYH, BIBLE, BROOKE, BURDICK, CHURCH, EAGLETON, HARRIS,

HART, HARTKE, HATFIELD, HUGHES, KENNEDY, MCCARTHY, MCGEE, MCGOVERN, MANSFIELD, MONDALE, MONTOYA, MOSS, MUSKIE, NELSON, PEARSON, and YOUNG of Ohio. Last session, companion legislation was introduced in the House and that legislation is being reintroduced again tomorrow.

The bill that was introduced last September is basically the same bill that I am reintroducing today. However, the new bill does reflect the constructive suggestions that have been presented during the adjournment period. I shall take a few moments now to review the substance of the bill itself and then give some examples of the suggestions that have been incorporated into the bill as a result of discussion that took place during the adjournment period.

First, the bill again permits farm losses to be offset in full against nonfarm income up to $15,000 for those whose nonfarm income does not exceed that amount. This means that persons not only engaged in farming but also employed, perhaps on a part-time basis in a neighboring town, will be entirely unaffected by the limitation that is provided in this bill.

Second, for those with nonfarm income in excess of $15,000, the amount against which the farm losses may be offset is reduced dollar for dollar for income above $15,000. In other words, those with nonfarm income of $30,000 or more cannot generally offset farm losses against their nonfarm income.

An important exception to this rule is being retained in the new bill. Once again, the bill in no event prevents the deduction of farm losses to the extent they relate to taxes, interest, casualty losses, losses from drought, and losses from the sale of farm property. An exception is made for these deductions since they are in general deductions which would be allowed to anyone holding property without regard to whether it was being used in farming or because they represent deductions which are clearly beyond the control of the farmer; such as, losses from casualty and drought.

Even if farm losses should be denied under the provisions I have explained up to this point, they still will be available as offsets against farm income for the prior 3 years and the subsequent 5 years. In this case, however, they may not exceed the income from farming in those other years.

The limitation on the deduction of farm losses is not to apply to the taxpayer who is willing to follow with respect to his farming income, accounting rules which apply generally to other taxpayers; that is, using inventories in determining taxable income and treating as capital items—but subject to depreciation in most cases—all expenditures which are properly treated as capital items rather than treating them as expenses fully deductible in the current year.

This last provision merely provides an opportunity for those who would otherwise distort the farm economy to follow instead regularly established, generally applicable accounting rules. No incentive to shift to an accrual accounting system is provided by the bill for anyone who derives his income largely from farming, or even from nonfarm income if it does not exceed $15,000 a year. It is fully recognized that bona fide farmers have good reasons for not always following accrual accounting methods and there is no intent here, directly or implied, to make a change in this respect.

The dollar figure as to the exact amount of nonfarm income against which farm income may be offset represents an analysis of available statistics as well as discussion generated by the introduction of this legislation in the 90th Congress. Substantially all of the provisions of the bill I am introducing today represent the suggestions contained in the reports of the Treasury and Agriculture Departments of last year.

Mr. President, so that other Senators may compare the suggestions contained in those reports to the bill which I introduce today, I ask unanimous consent that the full text of those reports be printed at this point in the RECORD.

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

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., July 5, 1968.

HON. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request of November 2, 1967, for a report on S. 2613, a bill "To amend the Internal Revenue Code of 1954 to provide that farming losses incurred by persons who are not qualified farmers may not be used to offset nonfarm income"; to your request of February 19, 1968, for a report on Amendment No. 529, a technical amendment to S. 2613; to your request of May 9, 1968, for a report on S. 3443; and to your request of June 20, 1968, for a report on Amendment 853 to S. 3443. S. 3443 has purposes similar to S. 2613 but differs in some of the details.

These bills are designed to capture some of the taxes avoided by some individuals with sizeable income from sources other than agriculture, who operate farm enterprises at a loss and deduct farm losses from their income from other sources. It would accomplish this objective by providing that taxpayers engaged in the business of farming, but who did not have farming as their principal business activity as defined in the law, could deduct farm expenses only to the extent of their gross farm income.

The Department of Agriculture is certainly in agreement with the objectives of these bills. We believe that there are serious problems in the area of the tax treatment of farm income, and that these problems can be remedied. However, we feel that certain modifications in these bills would help to achieve their objectives more effectively, and at the same time would minimize other potential problems.

Perhaps the most important problem under these bills would be the effect on low-income farmers. Many of these farmers also hold nonfarm jobs, and off-farm income is often their most important source of livelihood. Under the proposed legislation, it would appear that these farmers would not be permitted to offset farm losses against income from their nonfarm jobs in years in which they lost money on the farm. Such a provision would have serious effects on present efforts to ameliorate rural poverty.

We believe the objectives of this bill could be accomplished more effectively if certain modifications were made. We recommend placing a reasonable ceiling on the amount of nonfarm income which could be offset by farm losses in any one year. If there were excess farm losses, they could be carried backward and forward to offset farm income, but no other income, of other years. Thus, no matter what the source of the nonfarm income, excess farm deductions arising from the special farm tax accounting rules would not be permitted to offset it. The ordinary farmer incurring a loss would be protected under this approach in two ways: First, by allowing a limited deduction for farm losses, an ordinary farmer who must take part-time or seasonal employment to supplement his income would not be deprived of his farm loss deductions. Second, the carryover and carryback provisions would be available to absorb large one-time losses. In other words, the provisions would, in operation, affect only taxpayers with relatively large amounts of nonfarm income, that is, individuals who do not have to depend on their farm income for an adequate living standard.

It would seem appropriate, however, to exclude from the definition of farm losses some kinds of farm expenses. One group of such expenses would include taxes and interest, which are generally deductible whether or not they are attributable to an income-producing activity. A second group would include casualty and abandonment losses and expenses and losses arising from drought. These events are generally not in the taxpayer's control and disallowance of the loss or expense could create an undue hardship for the taxpayer. These same losses and expenses are now excluded from the operation of Section 270, which excludes losses in connection with a hobby operation.

The special position of farm losses for tax purposes which this bill is designed to change arises from the use of cash accounting procedures by individuals and corporations with large incomes from nonfarm sources who also engage in farming. The cash accounting method does not properly match income and expenses for these firms and individuals. For example, the failure to use an inventory method where goods on hand at a year's end are of considerable value can significantly overstate losses. However, the present farm tax advantages do not apply to a taxpayer who adopts an accrual method of accounting and capitalizes expenses. Therefore, we recommend that the scope of this bill is limited to those taxpayers who elect to use the cash accounting procedures.

This Department is now studying the problem of corporation activity in agriculture, with the objective of obtaining better information on both its extent and its probable effects. We do not believe, however, that it is necessary to wait for the completion of this study to recommend modifications in the tax treatment of corporations engaged in farming. Simple equity would seem to us to dictate that corporations be covered under this proposed legislation in the same manner as are individual farmers and farms run by a partnership. To do otherwise would be to open up new possibilities for tax avoidance through changes in legal form of organization, and raise the danger of attendant problems of distortions in our economic organization due solely to attempts to claim tax advantages.

This Department is informed that the Treasury Department is making similar recommendations with respect to changes in the language of S. 2613. We strongly urge passage of legislation which eliminates existing "farm tax havens" for individuals and corporations with substantial nonfarm incomes.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

ORVILLE L. FREEMAN,
Secretary.

TREASURY DEPARTMENT,
Washington, D.C., July 11, 1968.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the Treasury Department's views on S. 2613, a bill "To amend the Internal Revenue Code of 1954 to provide that farming losses incurred by persons who are not bona fide farmers may not be used to offset non-farm income", as it would be amended by Amendment No. 529. I note that S. 3443, while differing in many respects, is designed to deal with the same subject and has been referred to your Committee.

The objective of S. 2613 is to eliminate the provisions which presently grant high bracket taxpayers substantial tax benefits from the operation of certain types of farms on a part-time basis. These taxpayers, whose primary economic activity is other than farming, carry on limited farming activities such as citrus farming or cattle raising. By electing the special farm accounting rules—which were developed to ease the bookkeeping chores for ordinary farmers—these high bracket taxpayers show farm "tax losses" which are not true economic losses. These "tax losses" are then deducted from their other income resulting in large tax savings. Moreover, these "tax losses" frequently represent the cost of creating a farm asset (i.e., the cost of raising a breeding herd) which will ultimately be sold and the proceeds (including the part representing a recoupment of the previously deducted expenses) taxed only at lower capital gains rates. Thus, deductions are set off against ordinary income, while the sale price of the resulting assets represents capital gain. The essence of the bill is to deny high bracket part-time farmers the ability to use the generous farm tax accounting rules to reduce taxes on their non-farm income.

When a taxpayer purchases and operates a farm for tax purposes, it inevitably leads to a distortion of the farm economy. The tax benefits allow an individual to operate a farm at an economic breakeven or even a loss and still realize a profit. For example, for a top bracket taxpayer, where a deduction is associated with eventual capital gains income, each $1.00 of deduction means an immediate tax savings of 70 cents to be offset in the future by only 25 cents of tax. This cannot help but result in a distortion of the farm economy, especially for the ordinary farmer who depends on his farm to produce the income needed to support him and his family.

This distortion may be evidenced in various ways: For one, the attractive farm tax benefits available to wealthy persons have caused them to bid up the price of farm land beyond that which would prevail in a normal farm economy. Furthermore, because of the present tax rules, the ordinary farmer must compete in the market place with these wealthy farm owners who may consider a farm profit—in the economic sense—unnecessary for their purposes. Statistics show a clear predominance of farm losses over farm gains among high-bracket taxpayers with income from other sources.

The Treasury Department supports the objective of S. 2613, but suggests certain modifications in its operation. There is attached a memorandum which, in more detail, describe the problem involved, the reasons for the Treasury's position and its recommended changes.

The Bureau of the Budget has advised the Treasury Department that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely yours,

STANLEY S. SURREY,
Assistant Secretary.

AN ANALYSIS OF S. 2613 AND THE FARM LOSS PROBLEM

The objective of S. 2613 is to remove certain unjustified tax benefits available to high bracket taxpayers whose primary economic activity is other than farming through the operation of cattle and other farming activities on a part-time basis. This memorandum describes the general tax problem involved; and then discusses the remedy offered by S. 2613.[1]

The Treasury Department supports the objectives of S. 2613, but suggests certain modifications in its operation.

1. GENERAL BACKGROUND

Method of accounting.—There are two principal methods of accounting used in reporting business income for tax purposes. In general, those businesses which do not involve the production or sale of merchandise may use the cash method. Under it, income is reported when received in cash or its equivalent, and expenses are deducted when paid in cash or its equivalent.

On the other hand, in businesses where the production or sale of merchandise is a significant factor, income can be properly reflected only if the costs of the merchandise are deducted in the accounting period in which the income from its sale is realized. This is accomplished by recording costs when incurred and sales when made, and including in inventory those costs attributable to unsold goods on hand at year's end. Deduction of the costs included in inventory must be deferred until the goods to which they relate are sold and is not permitted when the costs are incurred. Thus, under this method of accounting, income from sales of inventory and the costs of producing or purchasing such inventory are matched in the same accounting period thereby properly reflecting income.

Farmers, however, have been excepted from these general rules. Even in those cases where inventories are a material factor, they have historically been permitted to use the cash accounting method and ignore their year-end inventories of crops, cattle, etc. This has resulted in an inaccurate reflection of their annual income since expenditures are fully deducted in the year incurred, notwithstanding the fact that the assets produced by those expenditures (inventories) are not sold, and the income not reported, until a later year.

Capitalization of costs.—Farmers are also permitted another liberal tax accounting rule. In most businesses, the cost of construction an asset (including maintenance of the asset prior to its being used in the business) is a capital expenditure which may not be deducted as incurred but may be recovered only by depreciation over the useful life of the asset. In this manner, the cost of the asset is matched with the income earned by the asset. Farmers, however, have been permitted to deduct some admittedly capital costs as they are incurred. For example, a citrus grove may not bear a commercial crop until 6 or 7 years after it has been planted. Yet, the farmer may elect to deduct as incurred all costs of raising the grove to a producing state even though such expenditures are capital in nature. Similarly, the capital nature of expenditures associated with the raising of livestock held for breeding may be ignored and the expenditures may be deducted currently. These premature deductions frequently result in artificial tax losses.

The problem.—These liberal deviations from good accounting practices were permitted for farm operation in order to spare the ordinary farmer the bookkeeping chores associated with inventories and accrual accounting.

However, many high bracket taxpayers, whose primary economic activity is other than farming, carry on limited farming activities such as citrus farming or cattle raising. By electing the special farm accounting rules which allow premature deductions, many of these high bracket taxpayers show farm losses which are not true economic losses. These "tax losses" are then deducted from their other high bracket income resulting in large tax savings. Moreover, these "tax losses" which arise from deductions taken because of capital costs or inventory costs usually thus represent an investment in farm assets rather than funds actually lost. This investment quite often will ultimately be sold and taxed only at low capital gains rates. Thus, deductions are set off against ordinary income, while the sale price of the resulting assets represents capital gain. The gain is usually the entire sales price since the full cost of creating the asset has previously been deducted against ordinary income.

Examples.—Under the present rules, if the taxpayer has chosen not to capitalize raising costs and also does not use an inventory method of accounting, he may deduct as incurred all the expenses of raising a breeding herd. These include breeding fees, costs of feed, and other expenses attributable to the growth of the herd. During the development of the herd, there is relatively little income realized to offset these expenses with the result that "tax losses" are incurred which may be used to offset the taxpayer's non-farm income. When the herd has reached its optimum size, a taxpayer seeking the maximum tax savings will sell the entire herd. If he does, he may report the entire proceeds of the sale as capital gain.

The dollars and cents value of this tax treatment can readily be seen through a simple example. Assume that the expenses of raising the herd are $200,000. If the taxpayer is in the top tax bracket, the current deduction of these expenses will produce a tax savings of $140,000. On the sale of the herd, however, the entire sales price, including the $200,000 representing the recovery of these expenses, will be taxable only at the 25 percent capital gains rate. The capital gains tax on $200,000 is $50,000; or less than half the tax savings realized in the earlier years. Thus, the taxpayer in this situation would realize a $90,000 tax profit from a transaction which economically is merely a break-even.

In the typical situation, the taxpayer will then begin the entire cycle again by starting a new breeding herd which produces more losses and which is later sold at capital gains rates.

Similar advantages are available to one who develops citrus groves, fruit orchards, vineyards, and similar ventures. These assets require several years to mature; however, the development costs, such as the costs of water, fertilizer, cultivation, pruning, and spraying may be deducted as incurred and before the venture produces any income. When the operation has reached the stage where it is ready to begin producing on a profitable basis, the orchard, grove, or vineyard is frequently sold in a transaction which qualifies for the lower capital gains tax rates. Meanwhile, the expenses incurred in the years prior to the sale have been used to create "tax losses" which have been offset against high-bracket ordinary income from other occupations.

Effect of tax benefits on farm economy.—When a taxpayer purchases and operates a farm for tax purposes, it leads to a distortion of the farm economy. The tax benefits allow an individual to operate a farm at an economic breakeven or even loss and still realize a profit. For example, for a top bracket taxpayer, where a deduction is associated with

[1] The sponsor of S. 2613 has also offered Amendment No. 529. The proposed amendment is a minor technical change which does not affect the substance of the bill. The amendment has been considered in this analysis.

eventual capital gains income, each $1.00 of deduction means an immediate tax savings of 70 cents to be offset in the future by only 25 cents of tax. This cannot help but result in a distortion of the farm economy, especially for the ordinary farmer who depends on his farm to produce the income needed to support him and his family.

This distortion may be evidenced in various ways: For one, the attractive farm tax benefits available to wealthy persons have caused them to bid up the price of farm land beyond that which would prevail in a normal farm economy. Furthermore, because of the present tax rules, the ordinary farmer must compete in the market place with these wealthy farm owners who may consider a farm profit—in the economic sense—unnecessary for their purposes.

Scope of the problem.—Statistics show a clear predominance of farm losses over farm gains among high-bracket taxpayers with income from other sources. The simplest statistics are: In 1965, among taxpayers with less than $50,000 of adjusted gross income, total farm profits were $5.1 billion and total farm losses were $1.7 billion; about a five-to-two ratio of *profits* to losses. Among taxpayers with adjusted gross income between $50,000 and $500,000, profits and losses were in an approximate one-to-one ratio. However, among taxpayers with adjusted gross income over $500,000, total farm profits were $2 million and total farm losses were $14 million, a more than seven-to-one ratio in the other direction—that is, *losses* to profits.

Conclusion.—These data demonstrate the scope and seriousness of the problem. The fact is that our tax laws have spawned artificial tax profits and have distorted the farm economy. S. 2613 is one avenue to a solution to this problem. The Treasury Department supports its objectives and the general approach it takes. The bill does, however, present certain operational problems discussed below. Where appropriate, we have suggested an alternative to overcome the difficulty.

2. AN ANALYSIS OF S. 2613

The essence of the bill is to deny wealthy part-time farmers the ability to use the generous farm accounting rules to reduce taxes on their non-farm income. To accomplish this, the bill would add a new section to the Internal Revenue Code which, in the case of taxpayers who are not "bona fide farmers"[2] as defined in the bill, would disallow as an offset to other income in any taxable year, the excess of all deductions attributable to the business of farming over the aggregate gross income derived from the business of farming in that year.

A bona fide farmer is defined as an individual (A) whose principal business activity is the carrying on of farming operations or (B) who is engaged in the business of farming as the principal source of his livelihood or (C) who is the spouse of an individual who falls under (A) or (B). A corporation would be considered a bona fide farmer if 80 percent or more of its stock were owned by individuals who are also bona fide farmers.

Definitional problems.—The bill thus would limit the tax benefits of farm losses to a defined group. In the Treasury Department's opinion, this approach will lead to administrative difficulty because the meanings of the defining phrases such as "principal business activity" and "principal source of livelihood" are not susceptible of precise definition, and therefore, will inevitably lead to much controversy and perhaps litigation.

As an alternative, we suggest placing a ceiling on the amount of nonfarm income which could be offset by farm losses in any one year. If there were excess farm losses, they could be carried backward and forward to offset farm income, but no other income, of other years. If part of a taxpayer's income for a year consists of capital gains, his carryover of excess farm deductions would be reduced by the excluded half of his capital gains income. No matter what the source of the nonfarm income, excess farm deductions arising from the special farm tax accounting rules would not be permitted to offset it. On the other hand, the ordinary farmer incurring a loss would be protected under this approach in two ways: First, by allowing a limited deduction for farm losses, an ordinary farmer who must take part time or seasonal employment to supplement his income in a poor year in his farm operations would not be deprived of his farm loss deductions. Second, the carryover and carryback provisions would be available to absorb large one-time losses. In other words, the provision would, in operation, only affect taxpayers with relatively large amounts of non-farm income, that it, individuals who do not have to depend on their farm income for their livelihood.

Corporate farms.—In his floor statement Senator Metcalf, the bill's author, noted that corporations were moving into farming at an increasing rate. While he was disturbed by this trend, he did not propose to prohibit corporate farming in this bill. Instead, the purpose was to "eliminate the possibility of corporations getting Federal tax rewards for engaging in loss operations in the farming field." The bill would achieve this goal by denying corporations the right to offset non-farm income with farm losses unless 80 percent or more of the corporation's stock is held by bona fide farmers. Congressional Record, volume 113, part 23, page 30702.

The Treasury Department defers to the Department of Agriculture on the question of the desirability of corporate farming. However, whatever the decision on that matter, the corporate provisions in the bill do not appear to represent an effective approach to the issue. On the one hand they would deny the tax benefits of a farm loss on the basis of the make-up of the shareholders and not the nature of the corporation's activities. Thus, the farm loss abuse would still be available to a limited group of individuals who are able to arrange their farming and non-farming business so as to qualify as "farmers" based on their non-corporate activities although they would not be based on both their corporate and non-corporate activities. For example, if a taxpayer has two farming operations, but is primarily engaged in a non-farming business, he would not be entitled to deduct any farm losses (or, under the Treasury alternatives, only a limited amount). However, by transferring his non-farm business and one farm operation to a corporation and retaining the other farm business, he would qualify as a farmer since his only remaining business activity is farming. As a result, his corporation would be excused from the farm loss limitations. This result seems clearly inconsistent with the purpose of the bill.

On the other hand, as a discouragement to corporate farming, the provisions would affect only loss operations and not profitable ones, which likewise seems somewhat inconsistent. Thus, it does not appear that a proposal concerning "tax losses" is an appropriate vehicle for dealing with the general issues of corporate farming. It is therefore suggested that, in lieu of the corporate rules in the bill, corporations be covered in the same manner as individual farmers and farms run by a partnership.

Capital gains.—Under the bill, a taxpayer would be permitted to measure the amount of his allowable farm expense deductions for a taxable year by the full amount of any long-term capital gains for that year arising from sales of farm assets although, in fact, he receives a deduction equal to 50 percent of these gains in computing his income subject to tax. Thus, in this situation, the taxpayer will in effect receive a double deduction against his capital gain farm income. This is an important problem because of the special capital gain treatment allowed on the sale of farm assets such as draft and breeding livestock, and citrus groves. This problem could be solved by providing for an adjustment that would limit the measure of allowable farm deductions to the taxable one-half of capital gains.

Special treatment for certain losses and expenses.—On the other hand, it would seem appropriate to except some kinds of farm expenses from the disallowance provisions. One category of farm expenses would include taxes and interest which are generally deductible whether or not they are attributable to an income producing activity. A second category would include casualty and abandonment losses and expenses and losses arising from drought. These events are generally not in the taxpayer's control and disallowance of the loss or expense could create an undue hardship to the taxpayer since they may be catastrophic. These same expenses and losses are now excluded from the operation of section 270 which excludes losses in connection with a hobby operation.

Scope of the bill.—As noted at the outset, the farm loss problems at which the bill is aimed arise from the use of accounting methods which do not properly match income and expenses, such as the failure to use an inventory method where goods on hand at year end are a significant factor. Consequently, there would seem to be no reason to subject a taxpayer who adopts a proper method of accounting and capitalizes expenses to the restrictive rules of this bill. There is, in fact, a positive advantage in encouraging the adoption of sound accounting practices. Therefore, we recommend that the scope of this bill be limited to those taxpayers who, with respect to their farming operations, do not elect to use inventories and to capitalize all expenditures which should be capitalized under generally recognized tax accounting principles.

* * * * *

As indicated, these are not changes that go to the heart of the bill. We thoroughly agree with its objective and general approach. Our suggestions are generally to improve its efficiency.

Mr. METCALF. Mr. President, last year the Joint Committee on Internal Revenue Taxation analyzed available Internal Revenue Service studies on individual income tax returns and at my request prepared a table which provides a further insight into this problem. The most important and obvious fact that the table reveals is that there is a persistent rise in average net farm loss as adjusted gross income increases. In addition, the table shows that in seven of the nine adjusted gross income classes, there has been an increase in the last 2 years for which statistics were available in the number of returns which claim a net farm loss. For example, in 1964 there were 17,969 loss returns filed

[2] Taxpayers who were not bona fide farmers when a farming enterprise was acquired but who became bona fide farmers by the end of the second taxable year following the year of acquisition would qualify as such from the time of acquisition. There are also exceptions for a farming enterprise acquired from a decedent, acquired by foreclosure, or acquired in the ordinary course of carrying on the trade or business of buying or selling real property.

in the $15,000 to $20,000 class, but by 1966 the number of loss returns filed in that same class rose to 31,667. Turning to the $500,000 to $1 million class, the figure has risen from 145 loss returns filed in 1964 to 193 loss returns filed in 1966, while at the same time the average loss in that category rose from about $36,500 to a figure in excess of $39,000.

Mr. President, so that other Senators will have the benefit of the table prepared by the Joint Committee on Internal Revenue Taxation, I ask unanimous consent that the table be printed in the RECORD.

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

NET FARM LOSS, NUMBER OF RETURNS AND AVERAGE NET FARM LOSS, BY AGI CLASS, TAXABLE RETURNS, 1964, 1965, AND 1966

AGI classes (thousands)	1964			1965			1966		
	Number of returns	Net loss (thousands)	Average loss	Number of returns	Net loss (thousands)	Average loss	Number of returns	Net loss (thousands)	Average loss
$0 to $5	222,910	$236,049	$1,059	197,762	$203,526	$1,029	171,410	$167,024	$974
$5 to $10	314,346	340,867	1,084	319,741	334,943	1,048	324,312	349,196	1,077
$10 to $15	70,351	112,499	1,599	79,564	123,177	1,548	104,509	142,655	1,365
$15 to $20	17,969	48,817	2,717	23,843	60,292	2,529	31,667	35,370	2,380
$20 to $50	29,394	152,693	5,195	30,380	133,187	4,384	36,861	154,263	4,185
$50 to $100	6,865	63,526	9,254	7,424	76,852	10,352	8,863	76,402	8,620
$100 to $500 [1]	2,546	53,608	21,056	2,874	54,872	19,093	[1] 3,241	[1] 60,789	[1] 18,756
$500 to $1,000	145	5,295	36,517	170	6,625	38,971	193	7,566	39,202
$1,000 and over	76	4,500	59,211	103	7,630	74,078	88	3,555	40,398

[1] Greater detail available for 1966:

AGI classes (thousands)	Number of returns	Net loss (thousands)	Average loss
$100 to $200	2,350	$36,202	$15,448
$200 to $500	891	24,487	27,483

Mr. METCALF. Mr. President, on January 17, 1969, then Secretary of the Treasury Joseph W. Barr testified before the Joint Economic Committee. In listing the need for tax reform as a top priority subject for the 91st Congress, he made some observations which are pertinent to any discussion of my bill, and I quote:

The middle classes are likely to revolt against income taxes not because of the level or the amount of the taxes they must pay but because certain provisions of the tax laws unfairly lighten the burdens of others who can afford to pay. People are concerned and indeed angered about the high-income recipients who pay little or no Federal income taxes. For example, the extreme cases are 155 tax returns in 1967 with adjusted gross incomes above $200,000 on which no federal income taxes were paid, including 21 with incomes above 1 million dollars.

Judging from taxpayers' letters to the Treasury, I would say that many people are upset and impatient over the need for correcting these and other situations which demand our attention. In this connection, I should point out that the 10 percent surcharge has made many taxpayers more aware of the inequities in our present tax system and more demanding that reforms be adopted.

I believe public confidence in our income tax system is threatened and that tax reform should be a top priority subject for the new Administration and the 91st Congress.

As you know, we at Treasury have been working on tax reform proposals for more than two years, and they are now ready. They will be turned over to Secretary-Designate Kennedy and, upon request, to the Congress.

Mr. President, I for one would like to see those proposals and if all it takes is a simple request that they be made available, I now make the request that the new Secretary furnish me with those proposals.

In the January 13 issue of U.S. News & World Report, then Secretary of Agriculture Orville Freeman had this to say about tax loss farming and I now quote the pertinent excerpts from his interview:

I am worried about corporation farms—not because they are more efficient: The adequate-size family-farm operator is more efficient in most cases. My concern is that in this day of conglomerates—corporations that are getting into everything—there could be real problems if they move into agriculture. They already have contributed to bidding up land values. They can go in and farm and write off their losses as a tax deduction in a very profitable operation elsewhere. When this happens, dangerously unfair competition takes place.

Question. Do you favor a tax crackdown on corporations in agriculture?

Answer. Yes. I don't think people ought to be able to take advantage of special accounting procedures to write off losses in agriculture on another business enterprise.

The Dallas Morning News on November 20, 1968, published an excellent article by Walter B. Moore, editor of the Texas Almanac, entitled "Farming the Tax Law: Rich Make Money by Losing It."

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

Without objection, the article was ordered to be printed in the RECORD, as follows:

FARMING THE TAX LAW: RICH MAKE MONEY BY LOSING IT

(By Walter B. Moore)

Wealthy Americans are making money farming or ranching while losing it. They do this through provisions of present income tax laws. It's entirely legal. But the Treasury Department, Department of Agriculture, many members of Congress and others think laws should be changed.

Here's an example of how the law benefits those in the maximum income tax bracket. It's cited by the Treasury Department in a report in the Congressional Record of last Sept. 19.

The well-to-do investor whose main source of income is something else buys a cattle breeding herd. He chooses not to capitalize his cost of raising the cattle, amounting to $200,000, and not to use an inventory method of accounting.

His $200,000 expenses are deducted from his other income, saving $140,000 in income taxes. Then, when his cattle are sold, he pays the 25 percent capital gains tax. On the $200,000 portion, this totals $50,000 which is $90,000 less than the $140,000 he would have had to pay.

Citrus orchards offer similar tax-saving opportunities. Many urban businessmen have found it profitable to have income tax savings from ranching and farming, even though they aren't in quite as high a tax bracket.

Those who have to depend on farming or ranching for all or most of their living say this is hurting them. They say that movie stars and many other wealthy persons don't even have to see their cattle or citrus; they hire firms that specialize in managing the whole deal.

Last year Black Watch Farms, which helps clients raise cattle, reported profits exceeding $5 million on $15 million gross revenues. Harold L. Oppenheimer of Kansas City has written books, "Cowboy Arithmetic," and "Cowboy Economics," dealing with the topic. He coauthored "Cowboy Litigation" on tax and legal aspects of ranching.

Treasury officials have said "the attractive tax benefits to wealthy persons have enabled them to bid up prices of farm land beyond those which would prevail in a normal farm economy . . . the ordinary farmer must compete in the marketplace with these wealthy farm owners who may consider a farm profit—in the economic sense—unnecessary for their purposes."

Agriculture Secretary Orville Freeman advocates changing the tax laws to eliminate farm tax havens for corporations or individuals that have major nonfarm sources of income.

Here in Texas, studies by Texas A&M economists indicate that the productive value of land for farming and ranching today has almost no relationship to current inflated prices.

One agricultural worker recently told me he knew of no place in Texas now where land can be bought at a price that will yield adequate returns from farming.

Another sold Brazos bottomlands and put his funds in higher-yielding investments. A Hill Country editor told me landowners in his country are selling out to San Antonio businessmen and putting the money in stocks and bonds.

I should emphasize that city businessmen who farm or ranch often help rural areas. Their spending for supplies, labor and equipment benefits small towns and the people who live there. They can afford to try new things and often contribute to progress.

Everyone I know associated with agriculture agrees that this trend is a mixed blessing as well as a problem. Almost everyone also thinks something should be done about the tax law.

When Congress convenes next year, it will be asked to revise the tax laws. This has been tried before, but nothing happened.

Leader in efforts to change the laws has been Sen. Lee Metcalf, D-Mont. He introduced bills, then revised them at the suggestion of the Treasury and USDA. At the recent

session, these were SB 4059 and HR 19916, a companion bill in the House.

Basic provisions of the Metcalf proposals include these:

Nonfarm income up to $15,000 could be completely offset by farming or ranching losses in paying income taxes. This should protect the person who is primarily a farmer or ranchman but has a part-time job or other supplemental income.

Each $1 of nonfarm income between $15,001 and $30,000 would reduce the original tax deductions allowed by $1. This means that those with over $30,000 nonfarm income could not deduct losses from farming. (There are some exceptions for local taxes, etc.)

Advocates of these measures argue that they will not keep the city man from having a farm. They will merely prevent him from misusing tax provisions developed primarily to benefit the bona fide ranchman or farmer.

Some say that many of the problems of surpluses and inflation that face agriculture today are rooted in this absentee ownership and tax-loss farming.

It has been said that this hurts Texas producers more than all of the imports of agricultural products from abroad and that producer groups should spend more time trying to change the tax laws than trying to hike import barriers.

Farmer's Union, the National Grange and American Farm Bureau Federation will support some such legislation in the future, probably Metcalf's proposals. But many agricultural organizations have members who benefit from the tax setup and will oppose proposed changes.

Remember, also, that Congress now is urban minded. Rep. Jamie Whitten, D-Miss., recently said that only 47 out of 435 House members now have as much as 20 per cent of their constituency primarily engaged in agriculture. It is hard to pass agricultural legislation under such conditions, especially tax law changes that are opposed by businessmen who benefit from the status quo.

Mr. METCALF. Mr. President, on December 18 the vice president of Eastman Dillon, Union Securities and Co., W. A. Anderson, Jr., sent me a copy of a letter which he had sent to the chairman of the Senate Finance Committee and "to various interested parties in the Senate and the House of Representatives." In his letter, Mr. Anderson raised seven areas of objection to my bill. I answered that letter in detail, taking his objections one point at a time.

Mr. President, because this exchange of correspondence is pertinent to any further discussion of the bill, I ask unanimous consent that the exchange of letters between Mr. Anderson and myself be printed in the RECORD.

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

JANUARY 9, 1969.

Mr. W. A. ANDERSON, JR.,
Vice President, Corporate Finance, Eastman Dillon, Union Securities and Co., Houston, Tex.

DEAR MR. ANDERSON: This last December you sent me a copy of a letter you sent to Senator Russell Long and other members of the Senate and House of Representatives. In your letter you took exception to my bill, S. 4059, dealing with the problem of tax farming. You indicated that although you were personally in sympathy with some of the aspects of the legislation, you had come to the conclusion that the unfavorable effects of the legislation outweigh its advantages.

I have been through your letter quite carefully and after considering the points you raise see nothing to change my intention to reintroduce substantially the equivalent of S. 4059 in the 91st Congress. In large part I differ with your views because my concern lies primarily with the real, or the "dirt," farmer whereas in your case I would assume that your concern to an appreciable extent lies in developing new areas of investment for clients of firms like your own. I would like to comment, however, on the seven points that you raise in your letter which led you to the conclusion that a bill along the lines that I plan to introduce is not desirable.

The first point you make is that there would be a general substantial increase in the price level of farm commodities. In this regard you quote from Senator McGovern who views this as a favorable point. I would be inclined to agree that one initial effect of this bill would be to increase farm prices somewhat over a period of years to the extent that these prices presently are being kept artificially low by the infusion of extra funds into farm investments as a result of the special tax farming privileges. I do not see this as anything immediate but rather as an impact which would be felt only slowly over a period of years and even this would be likely to be offset in large part by the increased production which would occur as a result of these very price increases that you refer to. This, of course, is nothing more than the effect of the free enterprise system in operation which is what my bill would be restoring.

I think it is unlikely, however, that there will be appreciable price increases because the true American farmer has shown a phenomenal ability to expand production. In the long run this should offset any price rise tendencies due to the removal of the artificial tax subsidies for the "non-farmer" investor. This in reality means no more than the restoration of the normal allocation of resources. Substantial price rises in farm commodities relative to price rises elsewhere in the economy is something that the American people need not fear. The farmer's share of the gross national product, as a matter of fact, has been decreasing even taking into account the relatively greater growth in the other areas of the economy.

In connection with your point on price level rises you also suggest that the enactment of my bill may drive farm land prices down. I think my bill will have some effect in this direction because land prices will not be artificially bid up by non-farmers who wish to offset farm losses against their other substantial income. While it is true that farm land price decreases (or smaller increases than would otherwise occur) do decrease estate values for farmers, this is not a problem for the farmer who intends to continue farming. In fact it places him in a better position to expand a family farm into a larger, more economic, unit. I should also point out that one of the concerns of farmers is that when they die and leave their farms to their children their estate taxes are large because their land values are artificially inflated by the speculative efforts of the non-farmers. My bill will help remove this concern as well.

Your second point is that the loss of tax loss carryovers after 5 years makes it uneconomical for an investor to enter any type of farming that requires more than 5 years to realize a full commercial corporation income. You go on from this to suggest that this will create a monopoly or oligopoly in these areas of farming. There are several points that I should raise here. First of all, under my bill even the non-farmer can integrate his losses from farming with other income if he is willing to report his farm income on an accrual basis—the same basis his other income generally is reported on. I should point out that the true farmer, who has little or no non-farm income, is already faced with the problem that you describe and therefore this does no more than equate the two situations. He and the non-farmer can offset farm losses against farm income for longer than the 5-year carryover period if there are any long-run profits in the farm operations.

I also would be curious to know how significant the extension of this 5-year tax loss carryover provision is to you. My bill could be modified to provide a much longer period and I would be curious to know whether you would support the bill under those conditions.

The difficulty with the present situation is that nonfarmers presently have a substantial inducement to invest in farm properties because of the special advantage that they have in offsetting farm losses against their non-farm income. If any monopoly or oligopoly is to occur in farming operations it will occur because the big-monied interests from Wall Street take over the farming operations in America. It won't be because farm land prices are brought down and the small family farmer has an opportunity to expand his operations sufficiently to make for more economic farming operations.

The third point you raise has me somewhat puzzled. You indicate that the bill would have disastrous effects on farmers in general should there be a long period of general crop failure. It may be that you overlooked the provision in my bill (Sec. 277(a)(2) and Sec. 277(d)(3)) providing for the unlimited deduction of items such as those arising from casualties, drought, taxes, involuntary conversions, etc. This does as much as I can see could appropriately be done to guard against the hazards of farming. Of course, farming is always in trouble when there has been a long period of crop failures, with or without my bill. I do not pretend that it resolves all farm issues any more than does present law. This much should be pointed out, however. The true farmer who experiences long periods of general crop failures has no appreciable non-farm income against which to offset his losses. All my bill does in this regard is to see that the non-farmer is placed in a similar category.

Your fourth point is a curious one. You suggest that my bill will lead to the concentration of farming in corporations. My bill applies to corporations and individuals on the same basis. If you mean that it would remove disadvantages of the true farmer—corporate or non-corporate—relative to the non-farmer who merely makes investments in farming operations—whether in the corporate or non-corporate form—I agree with you. I should also point out to you that as far as the true farmer is concerned who has relatively small amounts of income, up to $15,000, for example, all of the advantages of existing law with respect to farming operations are retained. If this has any effect it seems to me it will encourage the non-corporate farmer the most. This is not to say that farming operations may not increasingly be carried on in corporate form since many farmers have seen fit to incorporate their operations over the past several years. Nevertheless, many of these are still relatively small farms.

Your fifth point is that my bill prohibits small farmers from entering any areas of farming where it takes more than 5 years to develop a commercial crop income. If by small farmer you mean what I describe as a true farmer, he has little if any opportunity to do so today since the farm losses he incurs do him no good unless he has other income, farm or non-farm, to offset against them. I should point out, however, in case you overlooked it that in the case of the true farmer with non-farm income up to $15,000 and somewhat above, he can offset farm losses against non-farm income. Therefore, the small farmer will remain in as good a position under my bill as he is today except that he will not be faced with the unfair competition of the non-farmer investor.

Again this gets back to the carry-forward period also. As I indicated previously I would be willing to consider a longer loss carry-over period if this is a major factor.

Your sixth point is that my bill would cause a general increase in the inflationary pressures in our economy. This looks to me like it is point number one set forth in a slightly different manner. As I pointed out before, food prices under my bill may go up slightly until the true farmer increases his production enough to offset these increases. On the other hand land prices, as you yourself admit, probably will decrease under my bill.

Your seventh and final point was that my bill would create a discriminatory treatment with respect to farm capital gains. I have read your letter on this point and I am not at all sure that you know how my bill works. Capital gains in the case of an individual are eligible for a 50 per cent reduction under present law in arriving at the taxable base. This same reduction continues under my bill. The 50 per cent referred to, therefore, is only the taxable portion. This may be offset against farm capital losses or farm ordinary losses, in that order. In addition, the capital loss offset will be available for non-farm capital losses where the $15,000 provision applies. As far as the true farmer is concerned this is his present treatment for capital gains. All I am trying to do is to place some of your non-farm clients in the same category as the true farmer in this respect.

I realize that my letter may not be very convincing to you because it is difficult to convince someone when the advantage to his clients lies on the other side. Nevertheless, I think it is clear that my bill is in the best interest of the American people taken as a whole and I can assure you that I shall do all in my power to press for its enactment.

Very truly yours,

_____.

EASTMAN DILLON, UNION SECURITIES & Co.,
Houston, Tex., December 18, 1968.

HON. LEE METCALF,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR METCALF: Enclosed is a copy of a letter which has been sent to Senator Long, concerning Senate Bill S. 4059 which you introduced on September 19, 1968. As I understand it, your bill was designed primarily to deny taxpayers certain incentives which have previously existed in our legislation with respect to farm taxation.

Although I personally am in sympathy with some of the aspects of the legislation, I have basically come to the conclusion that the unfavorable effects of the legislation far outweigh its advantages. As a result of this conviction, I have sent copies of the enclosed letter to various interested parties in the Senate and the House of Representatives. Since the legislation was introduced by you, I felt that you, of course, would also like to see a copy of the letter.

If you would like, I would be most happy to confer with you concerning this legislation at any time that might be convenient for you.

Very truly yours,

W. A. ANDERSON, JR.,
Vice President, Corporate Finance.

Enclosure.

EASTMAN DILLON, UNION SECURITIES & Co.,
Houston, Tex., December 18, 1968.

HON. RUSSELL B. LONG,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR LONG: As you may know, on November 1, 1967, Senator Lee Metcalf of Montana introduced a bill in the United States Senate (S. 2613) which he described as "A Bill to amend the Internal Revenue Code to prohibit persons who are not bona fide farmers from using losses incurred in their farming operations as an offset to income from other sources". The bill was referred to the Senate Finance Committee and a companion bill which was introduced in the House of Representatives was referred to the House Ways and Means Committee. You, as Chairman of the Senate Finance Committee, requested reports from the Treasury Department and the Agriculture Department concerning the bill. In their reports to the Senate Finance Committee, which were published in the July 17, 1968 Congressional Record, both the Treasury Department and the Agriculture Department supported the proposed legislation but requested certain modifications. As a result, Senator Metcalf introduced a new bill on September 19, 1968 to supersede S. 2613. The new bill is S. 4059 and I understand that a companion bill has also been introduced in the House of Representatives. The new bills incorporate the requested modifications of the Treasury and Agriculture Departments. When Congress adjourned, both bills died and will have to be reintroduced next year.

In essence, the proposed legislation changes the treatment of farm income in two major respects. First, any farming operations and tax accounting thereon, would be treated as a separate business whether operated by an individual, a partnership, or a corporation and tax losses resulting from farming could be applied only against farm income. As a result, a loss in one farm year would be carried back against the preceding three years' profits or carried forward against the next five years' profits. Any farm loss which could not be offset during that nine year period would be forfeited. Second, capital gains, reduced by 50%, resulting from the sale of farm assets would have to be used to offset ordinary income losses to the extent possible.

Upon initial examination of the bill, it would appear to accomplish the sponsors' objective, the elimination of certain tax incentives existing in our present tax laws. A close examination of the proposed legislation, however, will bring one to certain additional conclusions which appear to be far more harmful than the existence of these tax incentives. My own analysis of the proposed legislation has brought me to seven primary conclusions:

1. It would cause a general substantial increase in the price level of farm commodities.

2. The loss of tax loss carryovers after five years makes it uneconomical for an investor to enter any type of farming that requires more than five years to realize a full commercial crop income; therefore, it would tend to create a monopoly or oligopoly in those areas of farming.

3. It would have disastrous effects on farmers in general, should there be a long period of general crop failure.

4. It would create a greater concentration of farming in the hands of corporations.

5. It would prohibit small farmers from entering any areas of farming where it takes more than five years to develop a commercial crop income.

6. It would cause a general increase in the inflationary pressures in our economy.

7. It would create a discriminating treatment of farm capital gains.

In order to substantiate my above mentioned conclusions, it is necessary to begin with a discussion of the proposed treatment of losses resulting from farm operations. The basic reasons for this new legislation are pointed out by Assistant Secretary of the Treasury, Stanley S. Surrey, in his letter of July 11, 1968 to the Chairman of the Senate Finance Committee,

"The objective is to eliminate the provisions which presently grant high bracket taxpayers substantial tax benefits from the operation of certain types of farms on a part-time basis. These taxpayers, whose primary economic activity is other than farming, carry on limited farming activities such as citrus farming or cattle raising. By electing the special farm accounting rules—which were developed to ease the bookkeeping chores for ordinary farmers—these high bracket taxpayers show farm "tax losses" which are not true economic losses. These "tax losses" are then deducted from their other income, resulting in large tax savings. Moreover, these "tax losses" frequently represent the cost of creating a farm asset (i.e. the cost of raising a breeding herd) which will ultimately be sold and the proceeds (including the part representing a recoupment of the previously deducted expenses) taxed only at lower capital gains rates. Thus, deductions are set off against ordinary income, while the sale price of the resulting assets represents capital gain. The essence of the bill is to deny high bracket part-time farmers the ability to use the generous farm tax accounting rules to reduce taxes on their non-farm income.

"This cannot help but result in a distortion of the farm economy, especially for the ordinary farmer who depends on his farm to produce the income needed to support him and his family. This distortion may be evidenced in various ways: For one, the attractive farm tax benefits available to wealthy persons have caused them to bid up the price of farm land beyond that which would prevail in the normal farm economy. Furthermore, because of the present tax rules, the ordinary farmer must compete in the market place with these wealthy farm owners who may consider a farm profit—in the economic sense—unnecessary for their purposes. Statistics show a clear predominance of farm losses over farm gains among high bracket taxpayers with income from other sources."

The principal statistical evidence which has been presented by the proponents of the bill was developed by the Treasury Department and is as follows: "In 1965, among taxpayers with less than $50,000 of adjusted gross income, total farm profits were $5.1 billion and total farm losses were $1.7 billion, about a 5-to-2 ratio of profits to losses. Among taxpayers with adjusted gross income between $50,000 and $500,000, profits and losses were an approximately 1-to-1 ratio. However, among taxpayers with adjusted gross income of over $500,000 total farm profits were $2 million, and total farm losses were $14 million, a more than 7-to-1 ratio in the other direction, that, losses to profits." The Treasury's conclusion, therefore, is, "The fact is our tax laws spawned artificial tax profits and have distorted the farm economy."

A number of the supporters of the bill have made statements during the past year that the result of these incentives in the tax law has been a general increase in the price of farm land and a decrease in farm prices. On July 18, 1968, Vice President Humphrey stated in a farm policy statement:

"I shall fight for federal tax reform to remove artificial incentives for the movement of non-farmers into agriculture. These investors now enjoy an unfair tax write-off break which gives them an advantage over independent farmers. Family farmers are efficient enough to compete with anybody, providing the rules are fair. We have an obligation to see that they are. *Low farm prices* and inadequate income are the persistent symptoms of agriculture's problems."

A number of statements have been made by other supporters of the legislation confirming the Vice President's remarks. As an example, on March 19, 1968, Senator George McGovern addressed the National Farmers Union convention and stated, "Well-to-do urban residents who make a good deal more on tax avoidance than a farmer can make

from production amount to subsidized, unfair competitors for bona fide farmers. They are little concerned about the *price depressing* effect of their production."

If the proposed tax legislation were passed, the entire economics of farming would be changed since the tax treatment of farm losses would be different, and a large number of persons who are presently in farming would sell their farms and invest in other areas. In other words, since the rules of the game would have changed, a number of farm investments would become uneconomic and those farm units would be sold. The effect of this change in farm economics would be twofold; 1) farm commodity prices would go up, and 2) land prices would go down.

The elimination of a number of farm operations would decrease the supply of farm commodities in general, and as we shall see later, the reduction of competition in certain areas would have a drastic effect on those related farm commodity prices. As is obvious in any poor crop year, when the supply of farm commodities goes down, the prices go up. With the additional factor of population growth (and thereby demand growth), farm commodity prices would have to increase.

The necessity for a number of uneconomic farm investments to be sold, as a result of the proposed tax legislation, would decrease land prices. As we have seen from the speeches referred to above, many supporters of the bill feel that a decrease in land prices would be beneficial. However, a decrease in land prices would reduce the value of the small farmer's principal asset. The value of his land would decrease, too.

Furthermore, there are those supporters of the bill, such as Senator McGovern, who feel that more investment in farming by corporations would be detrimental because corporations are unfair competition for individual farmers. If this is the case, then those persons who are supporting the bill had better take another look since lower land prices and higher farm commodity prices should encourage corporations to expand their present farm operations. The overall effect of the bill, consequently, would be a general tendency for corporations to enter farming and for individual farmers, whether wealthy or not, to get out of farming.

The bill would create a monopoly or ologopoly situation in a number of areas of the farm community, and I believe this is why the bill is being so strongly supported by a number of special interest farm groups. The net effect of this legislation would be to prohibit the entrance of any new competition into any area of farming which takes more than five years to develop a commercial crop income. This is a fairly obvious conclusion since no one would be willing to make an investment in an area where it takes five, six, ten, or twelve years to develop a commercial crop income if it is not possible to recover the losses incurred during the time prior to the operation's generating revenues. In its report to you, the Treasury Department readily admits that there are certain crop areas in which a full crop income is not derived within the first five years of operation, "a citrus grove may not bear a commercial crop until six or seven years after it has been planted". Other types of farming in which a commercial crop may not be derived in five years are apples, peaches, pecans, vineyards, and even cattle, if a small farmer is trying to get into the cattle business by raising his own herd. No one could economically enter any of these areas of farming, should this tax legislation be imposed. If we look ahead to the increase in demand for food over the next 10 or 15 years, it is readily apparent that if the supply remains constant, prices will increase drastically. Already there are cries that food shortages will be one of the world's greatest problems of the future. Even today we hear housewives, supermarket operators, and consumers in general, charging that food prices are increasing at a much too rapid rate. It is awesome to think what this situation might be if there could be no additional vineyards, orchards, citrus growers, or even small cattle farms.

Senator McGovern indicated in his speech referred to earlier, that this legislation would give the small farmer a new lease on life and would help eliminate poverty in our country, whereas it appears the exact opposite may be the effect. Corporations will force the small farmers out of farming and prices will be higher and higher, which will create more poverty, not lessen it. In addition, the small farmer who does not have the capital to ride out long droughts or other adverse weather conditions may find himself out of business if he has two or three consecutive years of complete losses and only a modest income in other years to offset them. As a result, he may in fact be put out of business because at the end of five years he would have to start paying taxes on farm income when he hasn't received the benefit of all of his losses in bad crop years.

The second major provision of the bill, the unique treatment of capital gains, was proposed primarily by Assistant Secretary of the Treasury, Stanley S. Surrey. The provision as described above is that long-term net capital gains reduced by 50% would be offset to the extent possible by ordinary income tax losses. In effect, this means the gains which would normally be taxed at one-half the normal income tax rate or 25%, whichever is less, would be used to offset ordinary income tax rates no matter what the effective rate may be, even perhaps 70%. This is a change in overall tax policy which has never been implemented in any industry. It is a discrimination in farm taxation which does not exist in any other industry. This is a burden which should not be imposed on any individual industry but should be an overall policy decision from the standpoint of tax legislation.

Therefore, I believe the above discussion supports my initial conclusions which point out that the overall effect of this new proposed tax legislation would be in general much more detrimental than beneficial. As the Treasury points out in its report, total farm profits in 1965 were in excess of $5.1 billion but the losses reported were substantially less than that and in fact, among taxpayers with adjusted gross income of over $500,000, which is the income bracket the bill is reputedly to affect, total farm losses were only $14 million which, as a dollar amount, is a very insignificant figure in both our national and government economies. If the legislation were to result in higher prices, a greater concentration of farmlands in the hands of corporations, discrimination against small farmers in certain areas of farming, and greater inflationary pressures on the economy, it would seem that the advantage of denying certain tax incentives which allow farm losses to an extent of less than $2 billion for all farmers would hardly outweigh the risk involved in passing this legislation.

Consequently, I would like to make an appeal for an overall tax reform that would result in a tax legislation program which would be more equitable to the taxpayer in general. Certainly it should be far more beneficial than special purpose legislation which the Treasury supports because it would mean eliminating certain tax incentives for farm investors, and which special interest farm groups support because they would be in a much better competitive position with a monopoly in their particular area of the farming economy.

I feel we should all get behind an overall tax reform, equitable to all taxpayers, rather than take the risk involved in passing the type of legislation which is being proposed by Senator Metcalf.

Very truly yours,

W. A. ANDERSON, JR.
Vice President, Corporate Finance.

Mr. METCALF. Mr. President, this use of farming losses to offset other income has created a new breed of person, the "tax farmer," who is more interested in farming the Internal Revenue Code than he is in the land, and who is making it increasingly difficult for true farmers to earn a fair and adequate rate of return on their effort and investment. It never ceases to amaze me—the more efficient someone becomes in his nonfarm interest, the more money he makes—and the more money he makes, the more money he loses farming.

The intent of the bill is to eliminate the provisions of the tax laws which presently grant high-bracket taxpayers substantial tax benefits from the operation—usually indirectly—of limited types of farm operations on a part-time basis. The principal economic activity of these taxpayers is other than farming—often running a brokerage firm, law business, practicing medicine, or deriving income largely from the stage or motion picture productions. By electing the special farm accounting rules which, as the Treasury and Agriculture Departments have indicated, were developed to ease the bookkeeping chores for ordinary farmers, these high-bracket taxpayers show farm tax losses which are not true economic losses. These tax losses are then deducted against their other income with resulting large tax savings.

In addition, these tax losses frequently represent the costs of creating a farm asset—such as the cost of raising a breeding herd of cattle—which will ultimately be sold and the proceeds taxed at capital gains rate not in excess of 25 percent. As a result, deductions are offset against ordinary income, currently saving as much as 77 cents on a dollar, while the related income may eventually be taxed at 25 cents on the dollar or less.

While I am, of course, concerned with the tax equity problem here; namely, the problem wherein high-bracket taxpayers are able to avoid paying their fair share of the tax burden by using farm losses to offset or eliminate other income—of still greater importance is the fact that the influx of these "tax farmers" is squeezing small and other bona fide farmers out of farming operations. These tax farmers bid up prices of land and other farm assets through the use of their very considerable financial resources. An example of this process is the effect of prices of breeding stock and of the increasing popularity of devices such as "rent-a-cow." High-income "tax farmers" are able to pay these prices because they make their profit from the farm loss deductions, not from the economic return on farming as such.

It is ironic that tax provisions primarily developed for the benefit of bona fide farmers have, in fact, been misused by others so that they, in reality, have injured the bona fide farmers by the movement of the "tax farmers" into farming operations with the resultant bidding up of farm asset prices. Certainly this was not intended by the Congress.

I mentioned earlier in my remarks that I would list some of the suggestions that have been incorporated into the bill as a result of discussion that took place during the adjournment period. For example, the bill now provides that farmers at their election can treat as farm income income from operations which are directly related and carried on as an integral part of the taxpayer's farming operations. This provision resulted from an exchange of correspondence with the American Association of Nurserymen.

Mr. President, so that other Senators may read this exchange of correspondence, I ask unanimous consent that the letters be printed in the RECORD.

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

JANUARY 7, 1969.

MR. ROBERT F. LEDERER,
Executive Vice President, American Association of Nurserymen, Inc., Washington, D.C.

DEAR MR. LEDERER: I have studied the suggestion you made in your letter of 18 December with great interest.

I can see the difficulty with my bill from the nurserymen's point of view. I recognize that a nurseryman, although engaged in farming to the extent he grows nursery stock, also often is engaged in types of business which are closely related to this, such as garden centers and landscape operations which, nevertheless, would probably not be classified as farming.

In studying your problem I came to the conclusion, however, that this is a problem which may exist in several areas and not just in the case of nurserymen alone. For that reason the bill which I am introducing this year contains a new provision which appears in Sec. 277(e)(6) concerned with "related integrated business." Under this provision a taxpayer who is engaged in the business of farming and also in one or more other businesses which are directly related to his business of farming and which are conducted on an integrated basis with his business of farming may elect to treat all of these businesses as a single farming business. I believe that this meets the problem with which you were concerned and will also meet problems in other types of farming operations as well.

I wish to thank you for your constructive suggestion.

Very truly yours,

LEE METCALF,
Member of Congress.

AMERICAN ASSOCIATION OF NURSERYMEN, INC.,
Washington, D.C., December 18, 1968.

Re S. 4059 Farm Loss Tax Deductions

Hon. LEE METCALF,
U.S. Senate,
Washington, D.C.

DEAR SENATOR METCALF: It has recently come to our attention that Senate bill 4059, which you and 17 other Senators introduced on September 19, 1968 for the purpose of eliminating the tax benefits certain high-bracket tax-payers may gain through "tax loss farming," could have some unfortunate and unintended side-effects on members of the nursery industry. We would like to take this opportunity to discuss the problems with you and to suggest a specific solution.

GENERAL

By way of introduction, we note that S. 4059 would add a new section 277 to the Internal Revenue Code, allowing farm losses in full only against the first $15,000 in nonfarm income. If nonfarm income exceeds $15,000, the amount against which excess farm losses may be offset is reduced dollar for dollar for incomes above $15,000 and cut off after $30,000, except in case of certain "special deductions." Disallowed deductions could be carried back three years and forward five years.

TYPICAL NURSERY SITUATION

The difficulty with this bill, from the nurseryman's point of view, is that nowhere in the bill is any clear distinction drawn between income from farming and nonfarm income. Many nurserymen not only grow nursery stock, but sell it through their own retail garden centers, which are typically family-owned small business operations doing their best to compete with the nursery departments of the large chain and department stores. Typically, too, such nurserymen also carry on a small landscaping operation, usually with a primarily residential emphasis. These garden center and landscape operations usually serve chiefly as outets for stock grown by the nurseryman, supplemented by varieties purchased from elsewhere which for climatic or other reasons he cannot grow at all, or in sufficient quantity. He may also sell incidental garden supplies which the consumer expects in the interest of "one-stop" garden shopping. But ordinarily, all these activities are incidental to the sale of his own grown nursery stock.

With these complementing growing, retailing and landscaping activities, the nurseryman faces a substantial risk that in the absence of clear rules in the proposed bill, the Internal Revenue Service might treat as nonfarm income, not available to offset farm losses, the income nurserymen derive from their landscaping and garden center activities. This would especially seem a possibility when one considers that nowhere in the Code, nor in IRS regulations or case law, is there any indication as to what activities of nurserymen, if any, the IRS might consider as not constituting "farming."

To be sure, we have no reason to believe that nurserymen generally have chronic farm losses that would be lost under this bill. But you will appreciate that in any business as risky as farming, periodic losses are not uncommon, and not all of them are attributable to casualty losses or the other special cases contemplated in the bill.

Especially in the case of nursery stock, which may mature over a period of several years, it may be impossible to prove that specific crop losses are traceable to a drought or sudden casualty loss in any particular year, but the economic loss may be no less real. In other words, substantial farm losses are an occasional unpleasant fact of life for nurserymen. When they occur, they may be so drastic that an immediate but limited carry back is not enough, particularly if two or three bad years should come in a row. A carry forward is at best a distant hope. What is needed in such a disaster year is immediate relief. A reduction in current taxes on non-growing income, e.g., from a companion garden center or landscape operation, is the least that a nurseryman should expect. The pending bill would in some cases limit or block such relief.

SUGGESTED AMENDMENT

We understand, of course, that your intent in sponsoring S. 4059 is not to limit the legitimate deductions of nurserymen, but to prevent the tax dodges of so-called "tax farmers." With this basic purpose, we are in sympathy. Accordingly, while affirming our basic support for the bill, we respectfully suggest that the definitions of farming income should be clarified, so as clearly to include income from landscaping and related nursery activities. While this could be done in a variety of ways, we would suggest the addition of a sentence to the bill's present definition of "two or more businesses" (proposed Code Sec. 277(c)(7)), to make it read as follows (new matter italicized):

"(c) Definitions and special rules.—For purposes of this section—

* * * * *

"(7) Two or more businesses.—If a taxpayer is engaged in two or more businesses of farming, such businesses shall be treated as a single business. *If a taxpayer who is engaged in the business of nursery farming also engages in landscape, wholesale or retail nursery operations, or other nursery-related operations, such operations shall be treated as part of a single business of farming, unless conducted in such a manner as to make them separate businesses.*"

We hope that our suggested revision of S. 4059 will prove helpful. If we can be of any assistance, please feel free to call upon us.

Sincerely,

ROBERT F. LEDERER,
Executive Vice President.

Mr. METCALF. Mr. President, another example is in the area of what are called subchapter S corporations—that is, corporations that have elected to be treated somewhat similar to a partnership. The new bill provides the same treatment to these corporations and their shareholders as S. 4059 provided for partnerships and partners. By this I mean that each shareholder will be considered as having received his appropriate share of the farm income or loss and thereafter the bill will apply directly to the shareholder and not to the subchapter S corporation as such.

The new bill also provides that if two or more corporations are members of a controlled group of corporations and have deductions attributable to the business of farming in excess of their gross income from farming, then the $15,000 limitation shall be reduced proportionately for each such corporation.

I would like to point out that the principal effect both of the new bill which I reintroduce today and the one which I introduced last fall is the same. The effect will be to remove the inflation in farm asset prices which arises from the encouragement which our tax laws give people other than farmers to engage in specialized types of farming operations. The effect of this bill should be to restore a more normal relationship between farm property values and income to be derived from farming. This should also have the substantial, but side effect, of substantially increasing the equity of our tax laws.

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

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

The bill (S. 500) introduced by Mr. METCALF, for himself and other Senators, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 500

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 277. LIMITATION ON DEDUCTIONS ATTRIBUTABLE TO FARMING

"(a) GENERAL RULE.—In the case of a taxpayer engaged in the business of farming, the deductions attributable to such business

which, but for this section, would be allowable under this chapter for the taxable year shall not exceed the sum of—

"(1) the adjusted farm gross income for the taxable year, and

"(2) the higher of—

"(A) the amount of the special deductions (as defined in subsection (d)(3)) allowable for the taxable year, or

"(B) $15,000 ($7,500 in the case of a married individual filing a separate return), reduced by the amount by which the taxpayer's adjusted gross income (taxable income in the case of a corporation) for the taxable year attributable to all sources other than the business of farming (determined before the application of this section) exceeds $15,000 ($7,500 in the case of a married individual filing a separate return).

"(b) EXCEPTION FOR TAXPAYERS USING CERTAIN ACCOUNTING RULES.—

"(1) IN GENERAL.—Subsection (a) shall not apply to a taxpayer who has filed a statement, which is effective for the taxable year, that—

"(A) he is using, and will use, a method of accounting in computing taxable income from the business of farming, which uses inventories in determining income and deductions for the taxable year, and

"(B) he is charging, and will charge, to capital account all expenditures paid or incurred in the business of farming which are properly chargeable to capital account (including such expenditures which the taxpayer may, under this chapter or regulations prescribed thereunder, otherwise treat or elect to treat as expenditures which are not chargeable to capital account).

"(2) TIME, MANNER, AND EFFECT OF STATEMENT.—A statement under paragraph (1) for any taxable year shall be filed within the time prescribed by law (including extensions thereof) for filing the return for such taxable year, and shall be made and filed in such manner as the Secretary or his delegate shall prescribe by regulations. Such statement shall be binding on the taxpayer, and be effective, for such taxable year and for all subsequent taxable years and may not be revoked except with the consent of the Secretary or his delegate.

"(3) CHANGE OF METHOD OF ACCOUNTING, ETC.—If, in connection with a statement under paragraph (1), a taxpayer changes his method of accounting in computing taxable income or changes a method of treating expenditures chargeable to capital account, such change shall be treated as having been made with the consent of the Secretary or his delegate and, in the case of a change in method of accounting, shall be treated as a change not initiated by the taxpayer.

"(c) CARRYBACK AND CARRYOVER OF DISALLOWED FARM OPERATING LOSSES.—

"(1) IN GENERAL.—The disallowed farm operating loss for any taxable year (hereinafter referred to as the 'loss year') shall be—

"(A) a disallowed farm operating loss carryback to each of the 3 taxable years preceding the loss year, and

"(B) a disallowed farm operating loss carryover to each of the 5 taxable years following the loss year,

and (subject to the limitations contained in paragraph (2)) shall be allowed as a deduction for such years, under regulations prescribed by the Secretary or his delegate, in a manner consistent with the allowance of the net operating loss deduction under section 172.

"(2) LIMITATIONS.—

"(A) IN GENERAL.—The deduction under paragraph (1) for any taxable year for disallowed farm operating loss carrybacks and carryovers to such taxable year shall not exceed the taxpayers' net farm income for such taxable year.

"(B) CARRYBACKS.—The deduction under paragraph (1) for any taxable year for disallowed farm operating loss carrybacks to such taxable year shall not be allowable to the extent it would increase or produce a net operating loss (as defined in section 172 (c)) for such taxable year.

"(3) TREATMENT AS NET OPERATING LOSS CARRYBACK.—Except as provided in regulations prescribed by the Secretary or his delegate, a disallowed farm operating loss carryback shall, for purposes of this title, be treated in the same manner as a net operating loss carryback.

"(1) ADJUSTED FARM GROSS INCOME.—The term 'adjusted farm gross income' means, with respect to any taxable year, the gross income derived from the business of farming for such taxable year (including recognized gains derived from sales, exchanges, or involuntary conversions of farm property), reduced, in the case of a taxpayer other than a corporation, by an amount equal to 50 percent of the lower of—

"(A) the amount (if any) by which the recognized gains on sales, exchanges, or involuntary conversions of farm property which under section 1231(a) are treated as gains from sales or exchanges of capital assets held for more than 6 months exceed the recognized losses on sales, exchanges, or involuntary conversions of farm property which under section 1231(a) are treated as losses from sales or exchanges of capital assets held for more than 6 months, or

"(B) the amount (if any) by which the recognized gains described in section 1231(a) exceed the recognized losses described in such section.

"(2) NET FARM INCOME.—The term 'net farm income' means, with respect to any taxable year, the gross income derived from the business of farming for such taxable year (including recognized gains derived from sales, exchanges, or involuntary conversions of farm property, reduced by the sum of—

"(A) the deductions allowable under this chapter (other than by subsection (c) of this section) for such taxable year which are attributable to such business, and

"(B) in the case of a taxpayer other than a corporation, an amount equal to 50 percent of the amount described in subparagraph (A) or (B) of paragraph (1), whichever is lower.

"(3) SPECIAL DEDUCTIONS.—The term 'special deductions' means the deductions allowable under this chapter which are paid or incurred in the business of farming and which are attributable to—

"(A) taxes,

"(B) interest,

"(C) the abandonment or theft of farm property, or losses of farm property arising from fire, storm, or other casualty,

"(D) losses and expenses directly attributable to drought, and

"(E) recognized losses from sales, exchanges, and involuntary conversions of farm property.

"(4) FARM PROPERTY.—The term 'farm property' means property which is used in the business of farming and which is property used in the trade or business within the meaning of paragraph (1), (3), or (4) of section 1231(b) (determined without regard to the period for which held).

"(5) DISALLOWED FARM OPERATING LOSS.—The term 'disallowed farm operating loss' means, with respect to any taxable year, the amount disallowed as deductions under subsection (a) for such taxable year, reduced, in the case of a taxpayer other than a corporation, by an amount equal to 50 percent of the amount described in subparagraph (A) or (B) of paragraph (1), whichever is lower.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) BUSINESS OF FARMING.—A taxpayer shall be treated as engaged in the business of farming for any taxable year if—

"(A) any deduction is allowable under section 162 or 167 for any expense paid or incurred by the taxpayer with respect to farming, or with respect to any farm property held by the taxpayer, or

"(B) any deduction would (but for this paragraph) otherwise be allowable to the taxpayer under section 212 or 167 for any expense paid or incurred with respect to farming, or with respect to property held for the production of income which is used in farming.

For purposes of this paragraph, farming does not include the raising of timber. In the case of a taxpayer who is engaged in the business of farming for any taxable year by reason or subparagraph (B), property held for the production of income which is used in farming shall, for purposes of this chapter, be treated as property used in such business.

"(2) INCOME AND DEDUCTIONS.—The determination of whether any item of income is derived from the business of farming and whether any deduction is attributable to the business of farming shall be made under regulations prescribed by the Secretary or his delegate, but no deduction allowable under section 1202 (relating to deduction for capital gains) shall be attributable to such business.

"(3) CONTROLLED GROUP OF CORPORATIONS.—If two or more corporations which—

"(A) are component members of a controlled group of corporations (as defined in section 1563) on a December 31, and

"(B) have not filed a statement under subsection (b) which is effective for the taxable year which includes such December 31,

each have deductions attributable to the business of farming (before the application of subsection (a)) in excess of its gross income derived from such business for its taxable year which includes such December 31, then, in applying subsection (a) for such taxable year, the $15,000 amount specified in paragraph (2)(B) of such subsection shall be reduced for each such corporation to an amount which bears the same ratio to $15,000 as the excess of such deductions over such gross income at such corporation bears to the aggregate excess of such deductions over such gross income of all such corporations.

"(4) PARTNERSHIPS.—A business of farming carried on by a partnership shall be treated as carried on by the members of such partnership in proportion to their interest in such partnership. To the extent that income and deductions attributable to a business of farming are treated under the preceding sentence as income and deductions of members of a partnership, such income and deductions shall, for purposes of this chapter; not be taken into account by the partnership.

"(5) TWO OR MORE BUSINESSES.—If a taxpayer is engaged in two or more businesses of farming, such businesses shall be treated as a single business.

"(6) RELATED INTEGRATED BUSINESS.—If a taxpayer is engaged in the business of farming and is also engaged in one or more businesses which are directly related to his business of farming and are conducted on an integrated basis with his business of farming, the taxpayer may elect to treat all such businesses as a single business engaged in the business of farming. An election under this paragraph shall be made in such manner, at such time, and subject to such conditions as the Secretary or his delegate may prescribe by regulations.

"(7) SUBCHAPTER S CORPORATIONS AND THEIR SHAREHOLDERS.—

"For special treatment of electing small business corporations which do not file statements under subsection (b) and of the shareholders of such corporations, see section 1379.

"(f) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section."

SEC. 2. (a) The table of sections for part

IX of subchapter B of chapter 1 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"Sec. 277. Limitation on deductions attributable to farming."

(b) Section 172(h) of such Code is amended by adding at the end thereof the following new paragraph:

"(3) For limitations on deductions attributable to farming and special treatment of disallowed farm operating losses, see section 277."

(c) Section 381(c) of such Code is amended by adding at the end thereof the following new paragraph:

"(24) *Farm operating loss carryovers.*—The acquiring corporation shall take into account, under regulations prescribed by the Secretary or his delegate, the disallowed farm operating loss carryovers under section 277 of the distributor or transferor corporation."

(d)(1) Subchapter S of such Code is amended by adding at the end thereof the following new section:

"Sec. 1379. Electing small business corporations engaged in business of farming.

"(a) SEPARATE APPLICATION TO FARMING INCOME AND DEDUCTIONS.—Under regulations prescribed by the Secretary or his delegate, an electing small business corporation which is engaged in the business of farming during its taxable year (other than a corporation which has filed a statement under section 277(b) which is effective for such taxable year), and the shareholders of such corporation, shall apply the provisions of sections 1373 through 1378, separately with respect to—

"(1) income derived from the business of farming by such corporation and deductions attributable to such business, and

"(2) all other income and deductions of such corporation.

In computing the taxable income and undistributed taxable income, or net operating loss, of such corporation with respect to the business of farming, no deduction otherwise allowable under this chapter shall be disallowed to such corporation under section 277.

"(b) SHAREHOLDERS TREATED AS ENGAGED IN BUSINESS OF FARMING, ETC.—For purposes of section 277—

"(1) each shareholder of an electing small business corporation to which subsection (a) applies shall be treated as engaged in the business of farming,

"(2) the undistributed taxable income of such corporation which is included in the gross income of such shareholder under section 1373 and is attributable to income and deductions referred to in subsection (a)(1), and dividends received which are attributable to such income and deductions and are distributed out of earnings and profits of the taxable year as specified in section 316(a)(2), shall be treated as income derived from the business of farming by such shareholders, and

"(3) the deduction allowable (before the application of section 277) to such shareholder under section 1374 as his portion of such corporation's net operating loss attributable to income and deductions referred to in subsection (a)(1) shall be treated as a deduction attributable to the business of farming.

"(c) SPECIAL RULES OF SECTION 277(e) APPLICABLE.—For purposes of this section, the special rules set forth in section 277(e) shall apply."

(2) The table of sections for subchapter S of such Code is amended by adding at the end thereof the following new item:

"Sec. 1379. Electing small business corporations engaged in business of farming."

SEC. 3. The amendments made by this Act shall apply to taxable years beginning after the date of the enactment of this Act, except that for purposes of applying section 277(c) of the Internal Revenue Code of 1954 (as added by the first section of this Act) with respect to disallowed farm operating losses of any taxpayer for taxable years beginning after such date—

(1) such amendments shall also apply to the 3 taxable years of such taxpayer preceding the first taxable year beginning after such date, and

(2) in the case of a taxpayer to whom section 1379(b) of such Code (as added by section 2(d) of this Act) applies for any of his first 3 taxable years beginning after such date, section 1379 of such Code shall apply with respect to the electing small business corporation of which such taxpayer is a shareholder for the 3 taxable years preceding each such taxable year of such taxpayer, but only with respect to any such preceding taxable year for which the corporation was an electing small business corporation.

Mr. HARTKE. Mr. President, as a cosponsor of the distinguished Senator's bill, I would like to commend my distinguished colleague for the excellent work he has done in preparing this proposed legislation. The bill is directed to correction of an area of tax inequity which has prevailed too long in our economy and which has compounded, if not in fact created, a serious economic and social condition which the Congress cannot in conscience ignore.

Today, many taxpayers, corporate and individual, in high tax brackets obtain substantial tax benefits from the operation of certain types of farms on a part-time basis. By electing the special farm accounting rules that are available to the ordinary farmer to ease his bookkeeping chores, these high bracket taxpayers show farm tax losses which in no sense represent true economic losses, and which these taxpayers deduct from their business and other income in order to achieve substantial tax savings. Frequently these so-called tax losses represent the cost of creating a farm asset, as for example, the cost of raising a breeding herd. When the herd is subsequently sold, the profits from the sale will be taxed at the lower capital gains rates, including that portion of the sales proceeds which represent a recoupment of the previously deducted expenses.

The benefits that high-income taxpayers receive from this tax inequity are substantial. In 1965 for example, according to the Department of the Treasury, among taxpayers with less than $50,000 of adjusted gross income, total farm profits were $5.1 billion and total farm losses were $1.7 billion—a 5-to-2 ratio of profits to losses; while, on the other hand, among taxpayers with adjusted gross income in excess of $500,000, total farm profits were $2 million compared with total farm losses of $14 million, a 7-to-1 ratio in the opposite direction—that is losses to profits.

In these times of continuing and rising inflation, wealthy persons and corporations not only find farmland an investment which affords a hedge against inflation, but also offers a tax haven for reducing substantial tax liabilities. The resultant distortion of our farm economy is apparent: The price of land is no longer determined by economic conditions that prevail in a normal farm economy; the farmer who makes his living from his farm competes in the marketplace with wealthy farm owners who may consider a farm profit, in an economic sense, unnecessary and even undesirable.

The bill provides what I consider a reasoned and intelligent correction of this manifest inequity. Under it farm losses would be permitted to be offset against nonfarm income only up to $15,000 for those whose nonfarm incomes do not exceed that amount. Accordingly, persons engaged in farming while at the same time holding down a part-time job are not affected by this measure. For those with nonfarm income in excess of $15,000, the amount against which the farm losses may be offset is reduced dollar for dollar. Persons with nonfarm earnings over $30,000 cannot offset farm losses against their income.

To permit this inequity to continue can only serve the interests of a wealthy few. This inequity not only violates our concept of fundamental fairness in tax treatment so essential to public confidence in our tax structure, but also undermines our farm economy to the detriment of the small family farm and the small farmer. I am glad to add my voice in support and in cosponsorship of this measure to remove this inequity.

S. 522—INTRODUCTION OF BILL RELATING TO THE INDIAN REVOLVING LOAN FUND AND THE INDIAN HEIRSHIP LAND PROBLEM

Mr. JACKSON. Mr. President, I introduce for appropriate reference, a bill relating to the Indian revolving loan fund and the Indian heirship land problem.

The purpose of this legislation is to provide an increase of $35 million in the Indian revolving credit loan fund established by the act of June 18, 1934. In addition, the bill would provide for the consolidation of all existing Indian loan programs into a single revolving loan fund to be available to all Indian organizations. The Indian revolving credit loan fund is grossly inadequate to provide money to tribes and individual Indians for economic development and educational purposes where financing from private sources is not available on reasonable terms.

The second principal feature of this bill would be to provide a solution to the so-called Indian heirship land problem. Indians own approximately 12 million acres of land allotted to them by various laws enacted by the Congress. These lands have become highly fractionated in ownership through the death of the original owners, and in many instances those who have inherited the lands may receive only a few cents each year as income from the use of these properties. A very complicated administrative problem has thereby been created. This legislation, if enacted, would provide the Secretary of the Interior, as well as the tribes, with the tools necessary to return these fractionated lands to individual or tribal ownership and permit their use to obtain the highest possible economic return for the owners.

The Senate has passed legislation similar to the bill I introduce today for the past several Congresses, but these bills have not been enacted into law. I am very hopeful that the new administration will give strong support to this measure in order that we may solve a problem that has plagued our Indian citizens for many, many years.

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

The bill (S. 522) relating to the Indian revolving loan funds and the Indian heirship land problem, introduced by Mr. JACKSON, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

S. 523—INTRODUCTION OF BILL TO PROVIDE FOR GUARANTEE AND INSURANCE OF LOANS TO INDIANS AND INDIAN ORGANIZATIONS

Mr. JACKSON. Mr. President, I introduce, for appropriate reference, a bill to provide for guarantee and insurance of loans to Indians and Indian organizations.

The purpose of this legislation is to authorize a loan guarantee and insurance program to provide access to private money markets that would not otherwise be available to Indians, tribes, or Indian organizations. This proposal would authorize the Secretary of the Interior to guarantee not to exceed 90 percent of any loan made to a tribe or Indian organization or to an individual Indian. In lieu of such guarantee, it would authorize the Secretary to insure loans under an agreement whereby the lender will be reimbursed for losses up to 15 percent of the aggregate of loans made by it to such organizations or individual Indians, but not to exceed 90 percent of the loss on any one loan. The bill, among other things, would authorize an appropriation of $15 million to be established as an Indian loan guarantee and insurance fund.

Legislation identical to the bill I am introducing today was before the Committee on Interior and Insular Affairs in the 90th Congress. However, it was not possible to take action on the measure. I am very hopeful that we may have early hearings on this proposal and bring about its enactment in the 91st Congress so that the Indians throughout this country will be able to obtain the funds so essential to the development of their economic resources.

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

The bill (S. 523) to provide for guarantee and insurance of loans to Indians and Indian organizations, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

S. 524—INTRODUCTION OF BILL TO PROVIDE FOR A JOINT FEDERAL-STATE PROGRAM FOR THE REGULATION OF SURFACE MINING OPERATIONS

Mr. JACKSON. Mr. President, I introduce, for appropriate reference, a bill to provide for a joint Federal-State program for the regulation of surface mining operations, including the reclamation of surface-mined lands. This measure was drafted in the Department of the Interior and submitted by Secretary Stewart Udall prior to his leaving office.

The provisions of the measure I am introducing are identical to those in the Department's draft of legislation submitted to the Congress on March 13, 1968, and which I sponsored for myself and Senators Lausche, NELSON, ANDERSON, and HART as S. 3132, 90th Congress. This bill was appropriately referred to the Senate Interior Committee, and extensive public hearings were held on it and allied bills over a period of 3 full days, on April 30, May 1, and May 2, 1968. These hearings have been printed, and the information, views and opinions in them will be most helpful in consideration of the present measure.

Mr. President, S. 3132, 90th Congress, and this bill are a part of President Johnson's program for national renewal, as set forth in his message to Congress of March 8, 1968.

I ask unanimous consent that the text of the measure, the executive communication by which the draft of the bill was submitted, and an explanation of its principal provisions be set forth in full at this point in the RECORD.

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

The bill (S. 524) to provide for the cooperation between the Secretary of the Interior and the States with respect to the future regulation of surface mining operations, and for other purposes introduced by Mr. JACKSON, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 524

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Surface Mining Reclamation Act of 1969".

DEFINITIONS

SEC. 2. For the purpose of this Act, the term—

(a) "Secretary" means the Secretary of the Interior;

(b) "reclamation" means the reconditioning or restoration of an area of land or water, or both, that has been adversely affected by surface mining operations;

(c) "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States, or between a State and any other place outside thereof, or within the District of Columbia, or a possession of the United States, or between points in the same State but through a point outside thereof;

(d) "surface mine" means (1) an area of land from which minerals are extracted by surface mining methods, including auger mining, (2) private ways and roads appurtenant to such area, (3) land, excavations, workings, refuse banks, dumps, spoil banks, structures, facilities, equipment, machines, tools, or other property on the surface, resulting from, or used in, extracting minerals from their natural deposits by surface mining methods or the onsite processing of such minerals;

(e) "surface mined areas" means any area on which the operations of a surface mine are concluded after the effective date of a State plan or the regulations issued under section 8 of this Act, whichever is applicable;

(f) "person" means an individual, partnership, association, corporation, or other business organization;

(g) "State" includes a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and Guam; and

(h) "State plan" or "plan" means the whole or any portion or segment thereof.

CONGRESSIONAL FINDING

SEC. 3. The Congress finds and declares—

(a) That extraction of minerals by surface mining is a significant and essential industrial activity and contributes to the economic potential of the Nation;

(b) That there are surface mining operations in the Nation that burden and adversely affect commerce by destroying or diminishing the availability of land for commercial, industrial, recreational, agricultural, and forestry purposes, by causing erosion and landslides, by contributing to floods and the pollution of waters, by destroying fish and wildlife habitat and impairing natural beauty, by counteracting efforts to conserve soil, water, and other natural resources, by destroying or impairing the property of citizens, and by creating hazards dangerous to life and property;

(c) That regulation by the Secretary and cooperation by the States as contemplated by this Act are appropriate to prevent and eliminate such burdens and adverse effects;

(d) That, because of the diversity of terrain, climate, biologic, chemical, and other physical conditions in mining areas, the establishment on a nationwide basis of uniform regulations for surface mining operations and for the reclamation of surface mined areas is not feasible;

(e) That the initial responsibility for developing, authorizing, issuing, and enforcing regulations for surface mining operations and for the reclamation of surface mined areas should rest with the States; and

(f) That it is the purpose of this Act to provide a nationwide program to prevent or substantially reduce the adverse effects to the environment from surface mining, to assure that adequate measures will be taken to reclaim surface mined areas after operations are completed, and to assist the States in carrying out such a program.

MINES SUBJECT TO ACT

SEC. 4. After the effective date of this Act, each surface mine, the products of which enter commerce or the operations of which affect commerce, and the surface mined area thereof shall be subject to this Act.

FEDERAL AND STATE COOPERATION

SEC. 5. (a) In furtherance of the policy of this Act, the Secretary is authorized, whenever he determines that it would effectuate the purposes of this Act, to cooperate with appropriate State agencies in developing and administering State plans for the regulation of surface mines and the reclamation of surface mined areas, consistent with the provisions of section 7 of this Act, and to cooperate and consult with other Federal agencies in carrying out the provisions of this Act.

(b) In cooperating with appropriate State agencies under this Act, the Secretary may provide such agency (1) technical and financial assistance in planning and otherwise developing an adequate State plan for the regulation of surface mines and the reclamation of surface mined areas (2) technical assistance and training, including necessary curricular and instructional materials, and financial and other aid for administration and enforcement of such a plan; and (3) assistance in preparing and maintaining a continuing inventory of surface mined areas and active mining operations within the

State for the evaluation of current and future needs and the effectiveness of mining and reclamation regulatory measures.

(c) The amount of any grant the Secretary may make to any State to assist them in meeting the total cost of the cooperative program in each State shall not exceed 50 per centum of such cost: *Provided*, That such payment shall not be made for more than three years unless a State plan has been submitted and approved by the Secretary and thereafter such payment shall be contingent at all times upon the administration of the State program in a manner which the Secretary deems adequate to effectuate the purposes of this Act.

(d) The appropriate State agency with which the Secretary may cooperate under this Act shall be a single agency designated by the State to have responsibility for the administration and enforcement of a State plan approved under this Act: *Provided*, That the Secretary may, upon request of the Governor or other appropriate executive or legislative authority of the State, waive the single State agency provision hereof and approve another State administrative structure or arrangement if the Secretary determines that the objectives of this Act will be enhanced by the use of such other State structure or arrangement.

ADVISORY COMMITTEES

SEC. 6. (a) The Secretary may appoint advisory committees which shall include, among others, State representatives, persons qualified by experience or affiliation to present the viewpoint of operators of surface mines, and persons qualified by experience or affiliation to present the viewpoint of conservation and other interested groups, to advise him in carrying out the provisions of this Act. The Secretary shall designate the chairman of each committee.

(b) Advisory committee members, other than employees of Federal, State, or local governments, while performing committee business, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including travel-time. While so serving away from their homes or regular places of business, members may be paid travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons intermittently employed.

STATE PLAN

SEC. 7. (a) A State may, after public hearings, submit to the Secretary at any time a State plan or a proposal for a revision in a plan previously approved by the Secretary for the regulation of surface mines and the reclamation of surface mined areas located within the State. The Secretary shall, after giving appropriate Federal agencies a reasonable opportunity to review and comment thereon, approve a State plan or revision thereof if—

(1) He determines that, in his judgment, the plan includes laws and regulations which—

(A) promote an appropriate relationship between the extent of regulation and reclamation that is required and the need to preserve and protect the environment;

(B) provide that an adequate mining plan be filed with, and approved by, the State agency and a permit be obtained to insure, before surface mining operations are commenced or continued, that they will be conducted in a manner consistent with said mining plan;

(C) contain, in connection with surface mines and surface mined areas, criteria relating specifically to (i) the control of erosion, flooding, and pollution of water, (ii) the isolation of toxic materials, (iii) the prevention of air pollution by dust or burning refuse piles or otherwise, (iv) the reclamation of surface mined areas by revegetation, replacement of soil, or other means, (v) the maintenance of access through mined areas, (vi) the prevention of land or rockslides, (vii) the protection of fish and wildlife and their habitat, and (viii) the prevention of hazards to public health and safety;

(D) promote the reclamation of surface mined areas by requiring that reclamation work be planned in advance and completed within reasonably prescribed time limits;

(E) provide for evaluation of environmental changes in surface mined areas and in areas in which surface mines are operating in order to accumulate data for assessing the effectiveness of the requirements established;

(F) provide adequate measures for enforcement, including criminal and civil penalties for failure to comply with applicable State laws and regulations; periodic inspections of surface mines and reclamation work; periodic reports by mining operators on the methods and results of reclamation work; the posting of performance bonds adequate to insure the land is reclaimed; and the revocation of permits for failure to comply with the terms of the permits or of the provisions of the regulations or laws under which permits are issued; and

(2) The Secretary determines that, in his judgment, the plan includes—

(A) adequate provision for State funds and personnel to assure the effective administration and enforcement of the plan and, if needed, the establishment of training programs for operators, supervisors, and reclamation and enforcement officials in mining and reclamation practices and techniques;

(B) provision for the making of such reports to the Secretary as he may require; and

(C) authorization by State law and that it will be put into effect not later than sixty days after its approval by the Secretary.

(b) After approval of a plan, the Secretary, on the basis of such inspections, investigations, or examinations as he deems appropriate and reports submitted by the State, shall make a continuing evaluation of the effectiveness of the approved plan and the enforcement thereof. Whenever he determines, after notice to the State agency referred to in subsection (d) of section 5, and opportunity for a hearing:

(1) that the State, in administering the plan, has failed to comply substantially with it or to enforce it adequately, he shall notify the State thereof and if within a reasonable time the State has not taken adequate measures, in his judgment, to correct the situation, he may withdraw his approval of the plan and issue regulations for such State under section 8 of this Act; and

(2) that a revision of an approved plan is appropriate to effectuate the purposes of this Act, he shall notify the State thereof, and if within a reasonable time the State has not revised said plan and obtained the approval of the Secretary thereon, he may withdraw his approval of the plan and issue regulations for such State under section 8 of this Act.

FEDERAL REGULATION OF SURFACE MINES

SEC. 8. (a) If, at the expiration of two years after the effective date of this Act, a State fails to submit a State plan, or a State has submitted a plan which has been disapproved and has within such period failed to submit a revised plan for approval, the Secretary, in consultation with an advisory committee appointed pursuant to this Act, shall issue promptly regulations for the operation of surface mines and for the reclamation of surface mined areas in such State: *Provided*, That if the Secretary has reason to believe that a State will submit an acceptable plan within one additional year after the expiration of the two-year period, he may delay the issuance of Federal regulations for such one-year period of time. If a State has within two years after the effective date of this Act submitted a plan for approval and the two-year period provided in the first sentence of this section has expired before the Secretary has approved or disapproved the plan, the Secretary shall delay the issuance of Federal regulations pending the approval or disapproval of the plan. The Federal regulations issued by the Secretary for a particular State shall be consistent with the principles set forth in subsection (a)(1) of section 7 of this Act.

(b) The Secretary shall publish in the Federal Register the regulations which he proposes to issue for a particular State. Interested persons shall be afforded a period of not less than sixty days after the publication of such regulations within which to submit written data, views, or arguments. Except as provided in subsection (c) of this section, the Secretary may, after the expiration of such period and after consideration of all relevant matter presented, issue the regulations with such modifications, if any, as he deems appropriate.

(c) On or before the last day of a period fixed for the submission of written data, views, or arguments, any person who may be adversely affected by the regulations which the Secretary proposes to issue may file with the Secretary written objections thereto stating the grounds therefor and requesting a public hearing on such objections. The Secretary shall not issue regulations respecting which such objections have been filed until he has taken final action upon them as provided in subsection (d) of this section. As soon as practicable after the period of filing such objections has expired the Secretary shall publish in the Federal Register a notice specifying the provisions of the regulations to which such objections have been filed.

(d) If such objections requesting a public hearing are filed, the Secretary, after notice, shall hold a public hearing for the purpose of receiving evidence relevant and material to the issues raised by such objections. At the hearing any interested person may be heard. As soon as practicable after the completion of the hearing, the Secretary shall act upon such objections and make public his decision.

(e) The Secretary may from time to time revise such regulations in accordance with the procedures prescribed in subsections (a) through (d) of this section.

TERMINATION

SEC. 9. If a State submits a proposed State plan to the Secretary after Federal regulations have been issued pursuant to section 8 of this Act, and if the Secretary approves the plan, such Federal regulations shall cease to be effective within the State sixty days after the approval of the State plan by the Secretary. Such Federal regulations shall again become effective if the Secretary subsequently withdraws his approval of the plan pursuant to subsection (b) of section 7 of this Act.

INSPECTIONS AND INVESTIGATIONS

SEC. 10. (a) The Secretary is authorized to cause to be made such inspections and investigations of surface mines and surface mined areas as he shall deem appropriate to evaluate the administration of State plans, or to develop or enforce Federal regulations, and for such purposes authorized representatives of the Secretary shall have the right of entry to any surface mine or upon any surface mined area.

(b) The head of each Federal agency shall permit by agreement authorized representatives of the State or the Secretary to have the right of entry to any surface mine or upon any surface mined area located on lands under his jurisdiction, unless the Secretary of Defense finds that such entry would not be in the interest of the national security.

REGULATIONS

SEC. 11. The Secretary may issue such regulations as are deemed necessary to carry out the purposes of this Act.

INJUNCTIONS

SEC. 12. At the request of the Secretary, the Attorney General may institute a civil action in a district court of the United States for a restraining order or injunction or other appropriate remedy (a) to prevent a person from engaging in surface mining operations without a permit from the Secretary required under section 8 of this Act, or in violation of the terms and conditions of such permit or the Federal regulations issued under section 8 of the Act; (b) to prevent a person from placing in commerce the products of a surface mine produced in violation of an approved State plan; or (c) to enforce the right of entry under section 10 of this Act. The district courts of the United States in which such person resides or is doing business or is licensed or incorporated to do business shall have jurisdiction to issue such order or injunction or to provide other appropriate remedy.

PENALTIES

SEC. 13. (a) If any person shall fail to comply with any regulation issued under section 8 of this Act for a period of fifteen days after notice of such failure, such person shall be liable for a civil penalty of not more than $100 for each and every day of the continuance of such failure. The Secretary may assess and collect any such penalty, and upon application therefor may remit or mitigate any such penalty imposed.

(b) Any person who knowingly violates any regulation issued pursuant to section 8 of this Act shall, upon conviction, be punished by a fine not exceeding $2,500, or by imprisonment not exceeding one year, or by both.

(c) The penalties prescribed in this section shall be available to the Secretary in addition to any other remedies afforded to him under this Act in enforcing the regulations issued under section 8 of this Act.

RESEARCH

SEC. 14. The Secretary is authorized to conduct and promote the coordination and acceleration of research, studies, surveys, experiments, demonstrations, and training in carrying out the provisions of this Act. In carrying out the activities authorized by this section, the Secretary may enter into contracts with, and make grants to, institutions, agencies, organizations, and individuals, and collect and make available information thereon.

APPROPRIATIONS

SEC. 15. (a) There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out the provisions of this Act.

(b) All appropriations and donations made pursuant to this Act, and all permit fees or other charges paid pursuant to section 8 of this Act shall be credited to a special fund in the Treasury to be known as the Mined Lands Reclamation Fund. Such sums shall be available, without fiscal year limitation, for carrying out the provisions of this Act.

OTHER FEDERAL LAWS

SEC. 16. Nothing in this Act shall affect in any way the authority of the Secretary or heads of other Federal agencies under other provisions of law to include in any lease, license, permit, contract, or other instrument such conditions as may be appropriate to regulate surface mining operations and to reclaim surface mined areas on lands under their jurisdiction: *Provided*, That such conditions shall be at least equal to any law and regulation established under an approved State plan or to any regulation issued under section 8 of this Act for the State in which such lands are located. Each Federal agency shall cooperate with the Secretary and the States, to the greatest extent practicable, in carrying out the provisions of this Act.

The executive communication and explanation, submitted by Mr. JACKSON, are as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., January 13, 1969.

Hon. HUBERT H. HUMPHREY,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill, "To provide for the cooperation between the Secretary of the Interior and the States with respect to the future regulation of surface mining operations, and for other purposes." Also enclosed is a brief explanation of its major provisions.

We recommend that this bill be referred to the appropriate committee for consideration, and we recommend that it be enacted. It is identical to the proposal on this subject transmitted during the 90th Congress.

This very important proposal is based upon the findings and recommendations of the National Surface Mine Study and the Interior report entitled "Surface Mining and Our Environment", which was transmitted to the Congress on July 3, 1967.

The study revealed that 3.2 million acres of land have been affected by surface mining in the past. Furthermore, at the present time approximately 20,000 active surface mining operations are disturbing our land at a rate estimated to exceed 150,000 acres annually. In producing the minerals needed in our economy, it is estimated that by 1980 more than 5 million acres will have been affected by these operations.

While there are many mining companies with extensive current reclamation programs, data received from various sources indicate that, as recently as 1964, the amount of land being partially or completely reclaimed was approximately 30 percent of the area disturbed in that year. At the present time only 14 States have laws requiring the reclamation of surface mined lands, and unless measures are undertaken to insure reclamation of lands subject to surface mining in the future, our Nations' inventory of derelict lands will continue to grow. The study also showed that unreclaimed mined land is responsible in many instances for degradation of the environment through erosion, landslides, air and water pollution, loss of fish and wildlife habitat, and the creation of hazards to public health and safety.

In our report, we proposed that a national program be undertaken which would include both the prevention of future damage to the land from surface mining and the repair of lands damaged by such mining in the past.

It was recommended that priority be given to Federal, State, and local programs for the prevention of future damage.

We are recommending at this time only the enactment of a program to regulate future surface mining. We believe it is essential that the States and the Federal Government move forward now with that part of the program. While it is important and desirable to remedy past mistakes if possible, we believe that it is even more important to prevent future ones now.

The reclamation of previously mined areas is a very complex subject and presents many problems. We are looking into these problems and hope that we can propose a workable program in this area in the not too distant future.

Also, at the direction of the President we will be submitting to him by April 1, 1969, a report, based on studies now being conducted, on the appropriate measures to be taken to prevent and control adverse effects to the environment resulting from underground mines and underground mining operations and the washing, sizing, or concentrating of minerals.

By letter dated January 13, 1969, the Bureau of the Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely yours,

J. CORDELL MOORE,
Assistant Secretary of the Interior.

BRIEF EXPLANATION OF PRINCIPAL PROVISIONS OF MINED LANDS CONSERVATION ACT OF 1969

1. The proposal would establish a State-Federal program for the regulation of surface mining operations in the Nation. The purpose of the program is to prevent in the future the needless degradation to the environment and destruction of land values which have occurred in the past, and to assure that reasonable steps will be taken to reclaim mined areas after surface mining is completed.

The National Surface Mine Study authorized by Congress under the Appalachian Regional Development Act of 1965 found that surface mining throughout the Nation produces significant detrimental effects upon the land.

2. The proposal would apply to surface mines operating on the date of its enactment and thereafter and to areas on which surface mining operations cease after the date of enactment. It would apply to such operations wherever found in a State, including those conducted on Federal and Indian trust lands.

3. The proposal recognizes that because of the diversity of terrain, climate, and other factors from State to State and even within a single State, a uniform system of regulations is both impracticable and undesirable. It gives the States the initial opportunity to control the problem now.

4. The proposal would authorize the Secretary of the Interior to provide both technical and financial assistance to the States in developing and enforcing adequate State plans for the regulation of surface mines and the reclamation of surface mined areas. The financial assistance would be in the form of up to 50 percent grants to cover the Federal share of the State program.

5. The proposal would authorize the Secretary to establish a series of advisory committees, possibly on a regional basis, to assist him in carrying out his responsibilities under this legislation. The membership of the committees would include appropriate State and Federal people and various people from industry, conservation, or other organizations and individuals.

6. The proposal would encourage each State to submit for the approval of the Secretary an adequate and complete State plan for the regulation of surface mines and the reclamation of surface mined areas located in the State. While the plan may be submitted at any time, it must be submitted within 2 years after enactment if a State wants to forestall Federal regulation. The Secretary, however, may extend this time another year, if he believes that a State will submit an approval plan by then. In the process of adopting a State plan, the State must initiate public hearings to give interested persons and organizations an opportunity to comment thereon.

An approvable plan must—

(a) Promote an appropriate relationship between the extent of regulation and reclamation that is required and the need to preserve and protect the environment;

(b) Provide a system of permits and the filing of mining plans to enable the State to know how and what kind of operations will be commenced or continued;

(c) Provide means and measures for preventing or controlling the adverse effects of mining operations, such as air and water pollution, erosion, the prevention of slides, and the protection of fish and wildlife areas;

(d) Provide for the reclamation of surface mined areas, including the posting of an adequate performance ordinance bond which

will insure that the entire cost of the reclamation will be covered; and

(e) Provide adequate measures of enforcement, funds, and personnel.

Before approving a plan, the Secretary must be satisfied that it can be carried out under State law within 60 days after his approval. Also, the Secretary must submit it to other Federal agencies having affected land holdings within the State which the plan covers or having some other direct interest in surface mining operations therein for their review and comment. We expect that their review and comment would not delay approval for any appreciable time.

7. Once approved, the Secretary would, based on State reports and field investigations, etc., continue to evaluate its effectiveness and, most particularly, the adequacy of the State's enforcement. The latter is probably the "key" to assuring that the objectives of this legislation will be met. If he determines, after an opportunity for a hearing, that the State plan has not been adequately enforced, the Secretary will notify the State of the problem and make recommendations on how enforcement can be improved. If the State fails to take corrective steps, the Secretary is authorized to withdraw his approval of the plan and issue Federal regulations.

8. Technology and conditions will change. Also, it is possible that experience will show that all or a part of the plan is defective or difficult to administer adequately. The proposal recognizes these possibilities and provides a system for instituting revisions by each State and by the Secretary.

9. Two years after enactment of this proposal, the Secretary shall issue promptly Federal regulations for the operation of surface mines and the reclamation of surface mined areas for any State or portion thereof which has not submitted a plan, unless the Secretary gives a 1 year extension to submit it, or which has had a plan disapproved.

Only 14 States have laws regulating surface mining operations. Some existing State laws do not cover surface mining of all minerals. Thus, most State governments will need to enact State legislation to authorize such regulation or to amend existing regulation. Moreover, the development of State plans will necessitate time consuming study and consultation by State officials with mining industry representatives and other interested persons. Review of proposed State plans by the Federal Government will also be time consuming. It is anticipated, however, that in the case of some of the States which already have laws governing surface mining State plans might be submitted very soon after enactment.

10. In establishing Federal regulations for surface mining in a State, the Secretary is required to consult with an appropriate advisory committee. The regulations must be consistent with the appropriate criteria set forth for the State plan in this proposed legislation.

11. The proposal would provide for the publication of proposed Federal regulations in the Federal Register and for public hearing on request of interested parties.

12. The proposal would authorize a Mined Lands Reclamation Fund to carry out the provisions of this Act.

13. As we said earlier, the proposal would make the State plan applicable to Federal lands and to Indian trust lands. It, however, would not repeal, modify, or otherwise affect present or future Federal statutes or regulations relating to surface mining operations, except that, where there is an approved State plan or regulation issued under this legislation, the Federal lease, permit, etc., conditions must be at least equal to them.

14. The proposal would authorize the Secretary to carry out an accelerated program of research, studies, surveys, experiments, demonstrations, and training in aid of this legislation.

S. 527—INTRODUCTION OF BILL—HOUSING AND URBAN DEVELOPMENT AMENDMENTS OF 1969

Mr. SPARKMAN. Mr. President, I introduce, for appropriate reference, a bill to amend and extend laws relating to housing and urban development, and for other purposes; and ask that a section-by-section analysis of the bill be printed in the RECORD.

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

The bill (S. 527) to amend and extend laws relating to housing and urban development, and for other purposes, was received, read twice by its title, and referred to the Committee on Banking and Currency.

The section-by-section analysis of the bill, presented by Mr. SPARKMAN, is as follows:

SECTION-BY SECTION SUMMARY OF HOUSING AND URBAN DEVELOPMENT AMENDMENTS OF 1969

Sec. 1. This section provides for the Act to be cited as the "Housing and Urban Development Amendments of 1969".

Sec. 2. Rent Supplements: Existing Housing: This section would permit 5 percent of the total amount of the contracts for assistance payments authorized by appropriation Acts for the rent supplement program to be used with respect to existing housing. At present (except for a very limited percentage of rent supplement funds available to assist tenants in existing units financed under a Federal direct loan program for housing for the elderly) rent supplement funds may be used only in connection with properties which are newly constructed or rehabilitated.

Sec. 3. Housing Allowances: This section would introduce, on an experimental basis, a housing allowance program.

In areas which have adequate vacancy rates, it would permit payment of a housing allowance to eligible individuals and families. Eligibility to receive a housing allowance would be based on the same criteria used in the rent supplement program—income would have to be within a specified limit *and* the individual or family would have to be displaced by governmental action, or elderly, physically handicapped, occupying substandard housing, or an occupant or former occupant of a dwelling extensively damaged or destroyed as a result of a natural disaster. The maximum amount of the housing allowance which could be paid an eligible individual or family could not exceed the amount which would be paid on behalf of such individual or family if they occupied a dwelling unit in a rent supplement project in the area. However, receipt of the housing allowance would not be conditioned upon occupancy of any particular housing unit or payment of any percentage of family income as rent. The eligible family could use the housing allowance for any standard rental unit of its choice. Five percent of the funds authorized for use in the rent supplement program and the program for rental and cooperative housing for lower income families authorized by section 201 of the Housing and Urban Development Act of 1968 would be made available for payment of housing allowances.

Sec. 4. Special Assistance Authority: This section would defer the availability of $500 million in special assistance authority from July 1, 1969 to July 1, 1970.

Sec. 5. Fixed Annual Contribution: This section would clarify existing authority to fix the amount of the annual contribution to public housing projects at an amount in excess of the debt service requirements of the project so long as the fixed contribution does not exceed the maximum annual contribution authorized by section 10(b) of the United States Housing Act of 1937.

Sec. 6. Increased Authorization for Urban Renewal: This section would increase the aggregate amount of capital grants which may be made under the urban renewal program by $850 million on July 1, 1970.

Sec. 7. Increased Authorization for Model Cities: This section would authorize $1,250 million for supplementary grant funds for the model cities program for the fiscal year ending June 30, 1971.

Sec. 8. Fellowships for City Planning: This section would increase the authorization for fellowships for the graduate training of professional city planners and urban and housing technicians from $500,000 to $1,000,000 for fiscal year 1969. It would also authorize for that purpose such sums as may be necessary thereafter and make appropriations authorized available until expended.

Sec. 9. Sale of Land for Housing: This section would permit land which is excess real property within the meaning of the Federal Property and Administrative Services Act to be transferred to the Secretary of Housing and Urban Development at his request for sale by him at its fair value for use in the provision of sales, rental or cooperative housing to be occupied by families or individuals of low or moderate income. Land declared excess real property could be sold on such terms by the Secretary of Housing and Urban Development if the land is sold to (1) a public body which will use the land in connection with the development of a low-rent housing project assisted under the United States Housing Act of 1937, or under a State or local program found by the Secretary to have the same general purposes as the Federal program under such Act, or (2) a purchaser who will use the land in connection with the development of (i) rent supplement units, (ii) below market interest rate moderate income housing, or (iii) sales or rental housing, on behalf of which interest reduction payments are made under sections 235, or 236 of the National Housing Act.

S. 528—INTRODUCTION OF BILL—WILLIAM "BILL" DANNELLY RESERVOIR

Mr. SPARKMAN. Mr. President, on behalf of myself and my colleague, Senator ALLEN, I introduce a bill to designate the reservoir formed by the Millers Ferry lock and dam on the Alabama River in Wilcox County, Ala., as the William "Bill" Dannelly Reservoir.

The Millers Ferry lock and dam is one of a series of dams on the Alabama and Coosa Rivers which, when completed, will provide a 9-foot navigation channel through the length and breadth of Alabama extending from Rome, Ga., to the Gulf of Mexico, through the Port of Mobile. The development of this river system is the culmination of the efforts of many—at the local, State and National levels. One of those in the forefront of these efforts, at all three levels, was the late Probate Judge William "Bill" Dannelly of Camden, Wilcox County, Ala.

Judge Dannelly was born on January 6, 1911, at Camden. He was the son of the late Probate Judge Pat M. Dannelly and Donie Capell Dannelly, and on November 10, 1933, was married to Sallie Lyles Dannelly. Bill Dannelly was elected probate judge of Wilcox County in 1958, and he held this office and performed its duties with ability and distinction until his death on January 5 of this year.

Bill Dannelly was loved by all who knew him. He was a Mason, a Shriner, and an active member of the Camden Exchange Club. He was a faithful member of the Camden Methodist Church where he held the offices of steward, secretary, and treasurer. He served as a delegate to the Annual Conference of the Methodist Church for many years. His uncles, Rev. John Milton Dannelly and Rev. Ed Dannelly, both served as district superintendents of the Methodist Conference.

Judge Dannelly served for many years as a director of the Coosa-Alabama River Development Association. He knew of the great benefits that development of the Coosa-Alabama Waterway would bring to his native area. With the development of this river system assured, Bill Dannelly went to work to attract industrial development to the area. His efforts bore fruit, and an 80-million-dollar industrial plant of McMillan-Bloedel United was located along the river. In addition, Southern Industries Corp. announced the location of a plant in the county on the day of Judge Dannelly's funeral.

I knew Bill Dannelly as a friend and as a capable public servant. I was truly saddened by the news of his untimely death, as were all who knew him. We can take some comfort, however, in the knowledge that Bill Dannelly lived to see the results of his work as they began to take shape. It is fitting indeed that this great reservoir that will cover more than 20,000 acres in Wilcox County, Ala., be designated as a lasting memorial to this fine and great man.

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

The bill (S. 528) to provide that the reservoir formed by the lock and dam referred to as the "Millers Ferry lock and dam" on the Alabama River, Ala., shall hereafter be known as the William "Bill" Dannelly Reservior, introduced by Mr. SPARKMAN (for himself and Mr. ALLEN) was received, read twice by its title, and referred to the Committee on Public Works.

Mr. ALLEN. Mr. President, Judge William Dannelly of Camden, Ala., was a much beloved citizen and public official in Wilcox County, Ala. His untimely death earlier this month has saddened the people of his area and of the entire State of Alabama.

Judge Dannelly made many worthwhile contributions to the people of Alabama. He will long live in the minds and hearts of our people. He was a great Alabamian and a great American.

Since he was an outstanding citizen of the area in which is located the Millers Ferry lock and dam on the Alabama River in the State of Alabama the choice of the name Judge William Dannelly for the reservoir is most appropriate.

S. 530—INTRODUCTION OF BILL TO INCREASE THE ANNUAL AMOUNT INDIVIDUALS ARE PERMITTED TO EARN WITHOUT SUFFERING DEDUCTIONS UNDER SOCIAL SECURITY

Mr. MOSS. Mr. President, I feel very strongly that Congress should liberalize the amount of annual income which a citizen may earn and still receive full social security retirement benefits.

In the 90th Congress we increased the amount of outside earnings a recipient may earn, from $1,500 to $1,680—a small improvement, but by no means an adequate one. The bill I am introducing today would increase the annual outside earnings limit to $2,520—or about $210 a month. I would prefer to remove entirely the restriction of earnings, but in order to improve chances for legislative adoption, I have settled for $210 per month. This is very modest and should not encounter opposition.

At the present time, the retirement test has an adverse effect on incentives to work. It prevents many of our older people from offering their talents and experience to business and industry—and this is stifling and unfair to both.

The retirement test also runs counter to all of our national thinking and efforts at this time. We are trying to encourage all of our people, young and old, to be self-sufficient, and to this end we are training our youths who are unemployed or school dropouts in needed trades and skills, and we are retraining those who are unemployed because their skills have become obsolete. Yet we place such restrictions on the social security earnings limit of our older people that many of them simply cannot afford to take jobs which require even a small measure of their talents and skills.

We are also ignoring, it seems to me, the special difficulties of those on small fixed incomes at this time of spiraling prices. Many of our older people do not have enough to buy even the necessities of life at today's level of living costs, yet we are keeping them from supplementing their income enough to buy these necessities.

The bill I am introducing today would at least ameliorate these conditions. For example, a worker who has had maximum creditable earnings in each year through 1968 and reaches age 65 in January 1969, when he retires, would be eligible for a monthly benefit of $160.50 a month, or $1,926 a year; he could earn $4,000 a year and get $1,046 in social security benefits for that year. If he were married and his wife was 65 or older, their combined benefits would be $240.80 a month or $2,889.60 a year; he could earn $4,000 and get $2,009.60 in social security benefits for the year. In other words, the provisions of my bill would enable our elder citizens to increase their income without having any social security benefits withheld and thus they would have a more comfortable life.

Mr. President, I introduce for appropriate reference, a bill to amend title II of the Social Security Act to increase the amount individuals are permitted to earn without suffering deductions from the insurance benefits payable to them under such title.

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

The bill (S. 530) to amend title II of the Social Security Act to increase the annual amount individuals are permitted to earn without suffering deductions from the insurance benefits payable to them under such title, introduced by Mr. Moss, was received, read twice by its title, and referred to the Committee on Finance.

S. 531 AND S. 532—INTRODUCTION OF BILLS RELATING TO THE ESTABLISHMENT OF THE ARCHES AND CAPITOL REEF NATIONAL PARKS

Mr. MOSS. Mr. President, in view of the fact that on Monday, January 20, President Johnson signed Presidential *Proclamation No. 3888* extending the boundaries of Capitol Reef National Monument in Utah, and Presidential Proclamation No. 3887 extending the boundaries of Arches National Monument in Utah, I am today introducing two bills to designate these enlarged areas as national parks, as recommended by the President of the United States.

I am doing this for the purpose of putting the two proposals before Congress so that all aspects, both enlargement and change of designation of these areas may be fully explored, and we may decide what is in the best interests of Utah and its people, as well as the people in the Nation at large. I shall insist that hearings be held both in Washington, D.C., and in Utah.

I would point out that although the President has the authority by law to establish national monuments by Presidential proclamation, and to enlarge or modify them, only the Congress has authority to establish national parks. By introducing bills to designate these two areas as national parks, I make the expansions the responsibility of the Congress rather than the executive branch of the Government and the national parks will be created by statute, or the monuments can be continued, modified, or even abolished by statute.

I feel I should also point out that the action taken on Monday by President Johnson follows precedent. Capitol Reef was established as a national monument in the first place by President Franklin D. Roosevelt by Proclamation No. 2246 on August 2, 1937, and expanded by President Dwight D. Eisenhower by Proclamation No. 3249 on July 2, 1958.

Arches National Monument was established by President Herbert Hoover by Proclamation No. 1875 on April 12, 1929, and enlarged first by President Roosevelt by Proclamation No. 2312 on November 25, 1938, and again by President Eisenhower by Proclamation No. 3360 on July 22, 1960.

The type of Executive action taken by President Johnson on Monday is not new to Utah. Both Zion and Bryce Canyon National Parks were designated first as national monuments by Presidential proclamations, and were later made national parks by acts of Congress.

Bills to change Arches and Capitol Reef National Monuments as they were then constituted into national parks were hastily introduced by my senior colleague on Friday. His bills have been before previous Congresses, but they are irrelevant to the present situation because they deal with the restricted land area of each monument as it existed before the Presidential proclamations—and not with the monuments as they now exist. My bills are necessary to get the issue, as it now stands, before the Congress.

The question before the Congress is: What is the best purpose for which the

new expanded areas can be used? Included are the famous waterpocket fold—exposed and eroded rock layers laid down over more than 125 million years ago and now the most spectacular and readily understood monocline in the United States. In Arches are extraordinary examples of wind-eroded sandstone formations, as well as other features of geological, historic, and scientific interest.

The addition of these two monuments to the Nation's roster of national parks would boost to five the number of national parks in Utah—and make it the leader in number of national parks among the 50 States. This should most certainly boost Utah's tourist trade.

On the other hand, placing the new areas of the monuments in the national park system would limit their multiple use potential. I understand from the National Park Service that there is only one working mine in the additional area to be considered, and only a handful of other mining claims and mineral leases, and a very limited number of grazing permits. But the people of Utah should have an opportunity to testify as to whether these benefits are more important than those which would accrue from having our national monuments enlarged into national parks.

I did not institute nor recommend the enlargement of these two Utah national monuments. The first specific information I received was when the Utah congressional delegation was briefed by the Secretary of the Interior, Mr. Udall, on Friday morning, December 17. However, I have already consulted with and been assured by the distinguished Senator from Nevada (Mr. BIBLE), who is chairman of the Subcommittee on Parks and Recreation of the Senate Interior Committee, that we will hold hearings on my bills at an early date. Consequently, the people of Utah and the Nation will have every opportunity to express their views on what should be done with the land in question.

With the addition of 48,943 acres the new Arches National Park would total 82,953 acres. With the 215,056-acre addition, the proposed Capitol Reef National Park would total 254,229 acres. These are large areas of land even in a State as large as Utah. Both are worthy of national park status.

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

The bills (S. 531) to establish the Capitol Reef National Park in the State of Utah, and (S. 532) to establish the Arches National Park in the State of Utah, introduced by Mr. Moss, were received, read twice by their titles and referred to the Committee on Interior and Insular Affairs.

S. 539—INTRODUCTION OF BILL TO AUTHORIZE APPROPRIATIONS TO THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Mr. ANDERSON. Mr. President, on behalf of myself, and the senior Senator from Maine, by request, I introduce for appropriate reference, a bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes. I ask unanimous consent that the bill be printed in the RECORD together with a letter from the Acting Administrator, National Aeronautics and Space Administration, requesting the proposed legislation and a sectional analysis of the bill.

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

The bill (S. 539) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, introduced by Mr. ANDERSON (for himself and Mrs. SMITH), by request, was received, read twice by its title, referred to the Committee on Aeronautical and Space Sciences, and ordered to be printed in the RECORD, as follows:

S. 539

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration:

(a) For "Research and development," for the following programs:

(1) Apollo, $1,651,100,000;

(2) Space flight operations, $236,627,000;

(3) Advanced missions, $2,500,000;

(4) Physics and astronomy, $119,600,000;

(5) Lunar and planetary exploration, $146,800,000;

(6) Bioscience, $32,400,000;

(7) Space applications, $135,800,000;

(8) Launch vehicle procurement, $124,200,000;

(9) Sustaining university program, $9,000,000;

(10) Space vehicle systems, $30,000,000;

(11) Electronics systems, $35,000,000;

(12) Human factor systems, $23,600,000;

(13) Basic research, $21,400,000;

(14) Space power and electric propulsion systems, $39,900,000;

(15) Nuclear rockets, $36,500,000;

(16) Chemical propulsion, $25,100,000;

(17) Aeronautical vehicles, $78,900,000;

(18) Tracking and data acquisition, $298,000,000;

(19) Technology utilization, $5,000,000.

(b) For "Construction of facilities," including land acquisitions, as follows:

(1) Electronics Research Center, Cambridge, Massachusetts, $8,088,000;

(2) Goddard Space Flight Center, Greenbelt, Maryland, $670,000;

(3) John F. Kennedy Space Center, NASA, Kennedy Space Center, Florida, $12,500,000;

(4) Langley Research Center, Hampton, Virginia, $4,767,000;

(5) Manned Spacecraft Center, Houston, Texas, $1,750,000;

(6) Wallops Station, Wallops Island, Virginia, $500,000;

(7) Various locations, $26,425,000;

(8) Facility planning and design not otherwise provided for, $3,500,000.

(c) For "Research and program management," $650,900,000.

(d) Appropriations for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used for construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Astronautics of the House of Representatives and the Committee on Aeronautical and Space Sciences of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified in an appropriation Act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

(f) Appropriations made pursuant to subsection 1(c) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) No part of the funds appropriated pursuant to subsection 1(c) for maintenance, repairs, alterations, and minor construction shall be used for the construction of any new facility the estimated cost of which, including collateral equipment, exceeds $100,000.

SEC. 2. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1), (2), (3), (4), (5), (6), and (7) of subsection 1(b) may, in the discretion of the Administrator of the National Aeronautics and Space Administration, be varied upward 5 per centum to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 3. Not to exceed one-half of 1 per centum of the funds appropriated pursuant to subsection 1(a) hereof may be transferred to the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to subsection 1(b) hereof (other than funds appropriated pursuant to paragraph (8) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in subsection 1(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of thirty days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Repre-

sentatives and to the President of the Senate and to the Committee on Science and Astronautics of the House of Representatives and to the Committee on Aeronautical and Space Sciences of the Senate a written report containing a full and complete statement concerning (1) the nature of such construction, expansion, or modification, (2) the cost thereof including the cost of any real estate action pertaining thereto, and (3) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 4. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Astronautics or the Senate Committee on Aeronautical and Space Sciences,

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by sections 1(a) and 1(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

unless (A) a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 5. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 6. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1970."

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

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C., January 15, 1969.

HON. HUBERT H. HUMPHREY,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Herewith submitted is a draft of a bill, "To authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes," together with the sectional analysis thereof. It is submitted to the President of the Senate pursuant to Rule VII of the standing rules of the Senate.

Section 4 of the Act of June 15, 1959, 73 Stat. 73, 75, (42 U.S.C. 2460), provides that no appropriation may be made to the National Aeronautics and Space Administration unless previously authorized by legislation. It is the purpose of the enclosed bill to provide such requisite authorization in the amounts and for the purposes recommended by the President in the Budget of the United States Government for the fiscal year ending June 30, 1970. The bill would authorize appropriations to be made to the National Aeronautics and Space Administration in the sum of $3,760,527,000, as follows: (1) for "Research and development," $3,051,427,000; (2) for "Construction of facilities," $58,200,000; and (3) for "Research and program management," $650,900,000.

In addition to the amount that would be authorized under the draft bill, the President recommends that $117,473,000, which has been reserved from apportionment to NASA by the Bureau of the Budget pursuant to the Revenue and Expenditure Control Act of 1968 (Pub. L. 90-364, 82 Stat. 251) be applied to the NASA "Space flight operations" program in fiscal year 1970. Thus the President recommends for NASA a total program amount of $3,878,000,000, for the fiscal year 1970.

With respect to the draft bill herewith submitted, that bill is substantially the same as the National Aeronautics and Space Administration Authorization Act, 1969 (Pub. L. 90-373, 82 Stat. 280), except for the necessary changes in the dollar amounts involved, and the substantive and editorial changes hereinafter discussed.

Only one change has been made to the "Research and development" program line items; the "Apollo applications" line item has been amended to read "Space flight operations" in order to describe properly the authorization of appropriations for currently approved manned earth orbital missions of increasing duration and anticipated future manned space flight operations.

The "Construction of facilities" locational line items in section 1(b) differ from those enacted as part of the fiscal year 1969 Authorization Act only in that the locational line items for Ames Research Center, and Michoud Assembly Facility have been omitted, and line items for Electronics Research Center, Goddard Space Flight Center and Langley Research Center have been added, since no funds are being requested for the locations omitted and funds are being requested for those locations added. Because of these changes the line items under this appropriation have been increased from seven to eight.

In accordance with the President's Budget for the fiscal year 1970, the bill would change the title of the appropriation "Administrative operations" to "Research and program management" for the reason that the title "Administrative operations" is misleading insofar as it suggests that the appropriation is primarily an administrative overhead account. The new appropriation title "Research and program management" is more descriptive of the appropriation since it covers, for example, the direct expenses of operating NASA laboratories, research centers, development centers and launch centers; it covers the salaries of all NASA personnel responsible for carrying out the total NASA program (scientists, engineers and supporting technicians represent 70% of the total NASA civil service complement). Thus this appropriation provides funds for the Government's scientific, engineering and management manpower within NASA to plan, review and make major decisions on the work to be done at Government expense; and it provides funds to operate the NASA laboratories, established as the Government's technical interface for contract activities, which work with NASA's contractors in anticipating problems and in applying the results of NASA's in-house research work toward the solution of problems and the definition of improved concepts. This appropriation also provides funds for the maintenance and operation of the NASA capital plant. This is merely a change in title, and there is no substantive change in the scope or content of this appropriation. Because of this change in title, a conforming change to the preamble of the draft bill, which states its purpose, has also been made by substituting therein "research and program management" for "administrative operations."

The numbers of the paragraphs of subsection 1(b) to which reference is made in sections 2 and 3 have been changed due to the change in the number of locational line items included in subsection 1(b). No substantive changes are intended.

The bill would eliminate the prohibition on grants to nonprofit institutions barring Armed Forces recruiters (see section 1(h) of Pub. L. 90-373) and the prohibition on salary payments to NASA employees convicted as rioters (see section 5 of Pub. L. 90-373); however, if a NASA employee is so convicted he would continue to be subject to removal from his position pursuant to 5 U.S.C. 7313, applicable to all Government employees.

Finally, the last section of the draft bill, section 6, has been changed to provide that the bill, upon enactment, may be cited as the "National Aeronautics and Space Administration Authorization Act, 1970," rather than "1969."

The National Aeronautics and Space Administration recommends that the enclosed draft bill be enacted. The Bureau of the Budget advised on January 13, 1969, that there is no objection to the presentation of the draft bill to the Congress and that its enactment would be in accordance with the program of the President.

Sincerely yours,

T. O. PAINE,
Acting Administrator.

SECTIONAL ANALYSIS OF A BILL "TO AUTHORIZE APPROPRIATIONS TO THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION FOR RESEARCH AND DEVELOPMENT, CONSTRUCTION OF FACILITIES, AND RESEARCH AND PROGRAM MANAGEMENT, AND FOR OTHER PURPOSES"

SECTION 1

Subsections (a), (b), and (c) would authorize to be appropriated to the National Aeronautics and Space Administration funds, in the total amount of $3,760,527,000, as follows: (a) for "Research and development," a total of 19 program line items aggregating the sum of $3,051,427,000; (b) for "Construction of facilities," a total of 6 locational line items, together with one for various locations and one for facility planning and design, aggregating the sum of $58,200,000; and, (c) for "Research and program management," $650,900,000.

Subsection 1(d) would authorize the use of appropriations for "Research and development" for: (1) items of a capital nature (other than the acquisition of land) required for the performance of research and development contracts; and, (2) grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities. Title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution. Moreover, each such grant shall be made under such conditions as the Administrator shall find necessary to insure that the United States will receive therefrom benefit adequate to justify the making of that grant.

In either case no funds may be used for the construction of a facility the estimated cost of which, including collateral equipment, exceeds $250,000 unless the Administrator notifies the Speaker of the House, the President of the Senate and the specified committees of the Congress of the nature, location, and estimated cost of such facility. *Subsection 1(e)* would provide that, when so specified in an appropriation Act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) contracts for maintenance and operation of facilities and support services may be entered into under the "Research and program management" ap-

propriation for periods not in excess of twelve months beginning at any time during the fiscal year.

Subsection 1(f) would authorize the use of not to exceed $35,000 of "Research and program management" appropriation funds for scientific consultations or extraordinary expenses, including representation and official entertainment expenses, upon the authority of the Administrator, whose determination shall be final and conclusive.

Subsection 1(g) would provide that no funds appropriated pursuant to subsection 1(c) for maintenance, repair, alteration and minor construction may be used to construct any new facility the estimated cost of which, including collateral equipment, exceeds $100,000.

SECTION 2

Section 2 would authorize the 5 per centum upward variation of any of the sums authorized for the "Construction of facilities" line items (other than facility planning and design) when, in the discretion of the Administrator, this is needed to meet unusual cost variations. However, the total cost of all work authorized under these line items may not exceed the total sum authorized for "Construction of facilities" under subsection 1(b), paragraphs (1) through (7).

SECTION 3

Section 3 would provide that not more than one-half of 1 per centum of the funds appropriated for "Research and development" may be transferred to the "Construction of facilities" appropriation and, when so transferred, together with $10,000,000 of the funds appropriated for "Construction of facilities," shall be available for the construction of facilities and land acquisition at any location if (1) the Administrator determines that such action is necessary because of changes in the space program or new scientific or engineering developments, and (2) that deferral of such action until the next authorization Act is enacted would be inconsistent with the interest of the Nation in aeronautical and space activities. However, no such funds may be obligated until 30 days have passed after the Administrator or his designee has transmitted to the Speaker of the House, the President of the Senate and the specified committees of Congress a written report containing a description of the project, its cost, and the reason why such project is necessary in the national interest, or each such committee before the expiration of such 30-day period has notified the Administrator that no objection to the proposed action will be made.

SECTION 4

Section 4 would provide that, notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Astronautics or the Senate Committee on Aeronautical and Space Sciences;

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by subsections 1(a) and 1(c); and,

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

unless (A) a period of 30 days has passed after the receipt by the Speaker of the House, the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SECTION 5

Section 5 would express the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SECTION 6

Section 6 would provide that the Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1970".

S. 541—INTRODUCTION OF BILL TO PROVIDE FOR THE TERMINATION OF FEDERAL SUPERVISION OVER THE PROPERTY OF THE CONFEDERATED TRIBES OF COLVILLE INDIANS

Mr. JACKSON. Mr. President, I introduce for appropriate reference, a bill, for myself and Senator MAGNUSON, by request, to provide for the termination of Federal supervision over the property of the Confederated Tribes of Colville Indians located in the State of Washington and the individual members thereof, and for other purposes.

The purpose of this legislation is to afford the members of the Confederated Colville Tribes an opportunity to put into effect a program that would result in a discontinuance of Federal supervision and control over them and their property. By resolution dated December 13, 1968, the Colville Tribal Business Council requested that Senator MAGNUSON and I reintroduce this proposal which is identical to a bill, S. 282, passed by the Senate early in the 90th Congress. For many years the Colville Indians have expressed a desire to dispose of their Indian reservation and to take their place in American society without continued supervision by the Bureau of Indian Affairs.

The bill we introduce is the product of many hearings here in Washington, D.C., as well as in the State of Washington where the majority of the Colvilles reside. I am very hopeful that this proposal will receive the support and endorsement of the Department of the Interior and other agencies in the executive branch so that it may be enacted into law during the 91st Congress.

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

The bill (S. 541) to provide for the termination of Federal supervision over the property of the Confederated Tribes of Colville Indians located in the State of Washington and the individual members thereof, introduced by Mr. JACKSON (for himself and Mr. MAGNUSON) by request, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

S. 542—INTRODUCTION OF BILL TO ESTABLISH RATES OF COMPENSATION FOR CERTAIN POSITIONS WITHIN THE SMITHSONIAN INSTITUTION

Mr. ANDERSON. Mr. President, on behalf of myself, Mr. FULBRIGHT, and Mr. SCOTT, I introduce, for appropriate reference, a bill to establish rates of compensation for certain positions within the Smithsonian Institution. I ask unanimous consent that the bill be printed in the RECORD, together with a letter of transmittal and a justification of the proposed legislation.

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

The bill (S. 542) to establish rates of compensation for certain positions within the Smithsonian Institution, introduced by Mr. ANDERSON (for himself, Mr. FULBRIGHT, and Mr. SCOTT), was received, read twice by its title, referred to the Committee on Post Office and Civil Service, and ordered to be printed in the RECORD, as follows:

(S. 542)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 5, United States Code, is amended as follows:

(1) Section 5108(c) is amended by striking out "and" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting "; and" in place thereof, and by inserting the following new paragraph:

"(10) The Secretary of the Smithsonian Institution, subject to the standards and procedures prescribed by this chapter, may place a total of eight positions in the Smithsonian Institution in GS–16, 17, and 18."

(2) Section 5315 is amended by inserting the following new paragraph after paragraph (91):

"(92) Assistant Secretary, Smithsonian Institution."

The letter and justification, presented by Mr. ANDERSON, are as follows:

SMITHSONIAN INSTITUTION,
Washington, D.C., January 21, 1969.

HON. CLINTON P. ANDERSON,
Regent of the Smithsonian Institution,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ANDERSON: The enclosed draft bill "To establish rates of compensation for certain positions within the Smithsonian Institution" was approved by the Board of Regents on January 15, 1969.

It would be very much appreciated if you would introduce this legislation in behalf of the Smithsonian.

With all good wishes.

Sincerely yours,

S. DILLON RIPLEY,
Secretary.

PROPOSED LEGISLATION TO ESTABLISH RATES OF COMPENSATION FOR CERTAIN POSITIONS WITHIN THE SMITHSONIAN INSTITUTION

JUSTIFICATION

The Smithsonian Institution was established by Congress "for the increase and diffusion of knowledge among men." It is an independent corporate trustee with a unique relationship to the Government and particularly to the Legislative Branch. Six of the fourteen Members of the Smithsonian's Board of Regents are Members of Congress. The Vice President and the Chief Justice of the United States are ex officio Members of the Board.

The broadening of the diversified programs of the Smithsonian Institution by legislative enactments of the Congress in the past ten years is described in the paragraphs below. This history of legislative recognition of the public service role of the Smithsonian pro-

vides a basic justification for additional supergrade positions.

The Museum of History and Technology was completed in 1964 to exhibit the Nation's collections relating to American cultural, civil, and military history and the history of science and technology. The Museum maintains reference collections and interpretive exhibitions concerning all aspects of American life in times past. Its professional staff and other historians from all parts of the world perform research leading to the discovery and documentation of materials of historic significance.

In dedicating this Museum, the President stated:

"The gathering of knowledge is the supreme achievement of man.

"Four hundred years ago, Francis Bacon could immodestly declare: 'I have taken all knowledge to be my province.' Bacon would find this new Museum of History and Technology of the Smithsonian Institution to his taste, and to his aims.

"For I believe this new Museum will do that which causes us all to celebrate; it will excite a thirst for knowledge among all the people."

The National Collection of Fine Arts opened a magnificent gallery of American art for public exhibition in 1968.

The National Collection of Fine Arts, an original Bureau of the Smithsonian Institution, is dedicated to presenting American creative genius in the field of fine arts. It encourages and develops appreciation of American cultural achievement by programs of exhibitions, lectures, publications and research. The international stature of American art is enhanced by United States participation, organized by the National Collection of Fine Arts, in major international art exhibitions and through extensive circulation of American art abroad.

The Act approved on March 28, 1958, provided for the transfer of the original Patent Office Building to the Smithsonian and authorized the restoration and renovation of this historic building to house both the National Collection of Fine Arts and the National Portrait Gallery.

The Museum of Natural History is an international center for the natural sciences, maintaining the largest reference collection of anthropological, biological, and geological materials in the Nation. It continues a comprehensive program of original research on Man, plants, animals, rocks and minerals, and fossil organisms. The reference collections and the resident scientists provide an important focal point for cooperative research and educational activities among Federal agencies, universities and other scientific institutions. In recognition of its significant contributions to science and to the public, monumental additions to the existing museum building were completed in 1965 to provide 400,000 square feet of additional laboratory space for the expanding national collections.

The National Armed Forces Museum Advisory Board is a Presidentially-appointed body established in the Smithsonian Institution under the provisions of Public Law 87-186, 87th Congress, approved August 30, 1961, to provide advice and assistance to the Regents of the Institution on matters concerned with the portrayal of the contributions which the Armed Forces of the United States have made to American society and culture.

The Advisory Board has recommended to the Board of Regents that the Smithsonian Institution's facilities be expanded to include a National Armed Forces Museum Park and that the Institution seek to acquire lands in the Fort Foote area of Prince George's County as a site for the museum park. The Board also has recommended that the Institution arrange with the Department of the Interior for joint use of certain facilities of Fort Washington, Maryland, as elements of the museum park.

On October 6, 1967, at the request of the Smithsonian Regents, Senator Clinton P. Anderson (for himself and Senator J. W. Fulbright), introduced Senate Bill S. 2510 which would authorize the Board of Regents of the Institution to acquire the necessary lands. Similarly, on January 25, 1968, Representative Michael J. Kirwan introduced House Bill H.R. 14853, seeking similar authority. Congressional action on legislation to authorize development of this museum is expected to be considered by the 91st Congress.

The National Portrait Gallery functions as a museum for the study, research, and exhibition of portraiture and statuary depicting men and women who have made significant contributions to the history, development and culture of the people of the United States. This gallery, the only such institution in the United States, is of national importance as a repository of historical and biographical iconography. By an Act approved on April 27, 1962, the gallery was established in the Smithsonian Institution.

In a related action, the Act approved on March 28, 1958, provided for the transfer of the original Patent Office Building to the Smithsonian Institution and authorized the restoration of the building to house the National Portrait Gallery. In October 1968 the National Portrait Gallery was formally opened by the President for the enlightenment of the public and the scholars of the nation.

In 1965 the Smithsonian Institution received authority from the Congress to make use of certain foreign currencies held by the United States abroad in excess of its needs. More than forty institutions of higher learning in America have benefited from grants in such excess currencies abroad; more than 100 research projects had been completed or are active; many books, monographs in scholarly and professional journals, and studies have enriched the cultural and scientific scene not only in America but in the world at large. In its fourth year, the Smithsonian Foreign Currency Program has become a major source of support for American universities, museums, and research institutes carrying out such work overseas.

On June 23, 1965, the President approved the transfer to the Smithsonian Institution for use as a museum and art gallery the building located at Pennsylvania Avenue and 17th Street, N. W. This building was originally designed as an art gallery for W. W. Corcoran by James Renwick, who also designed the Smithsonian Institution Building. It was occupied by the Corcoran from 1869 to 1897 and was acquired by the United States in 1901.

In a letter addressed to the Secretary, the President said:

"No more appropriate purpose for the building could be proposed than to exhibit, in the restored gallery, examples of the ingenuity of our people and to present exhibits from other nations, whose citizens are so proud of their arts."

Restoration of the Renwick Gallery is well under way and is expected to be completed during 1969.

In accordance with the terms of a Joint Resolution approved August 13, 1965, the President as the presiding officer of the Smithsonian Institution issued a proclamation to announce the occasion of the celebration of the bicentennial of the birth of James Smithson and to designate September 17 and 18, 1965, as special days to honor James Smithson and the accomplishments of the Institution which bears his name.

In his remarks at the Bicentennial Celebration, President Johnson said:

"Yet James Smithson's life and legacy brought meaning to three ideas more powerful than anyone at that time ever dreamed.

"The first idea was that learning respects no geographic boundaries. The Institution bearing his name became the first agency in the United States to promote scientific and scholarly exchange with all nations in the world.

"The second idea was that partnership between Government and private enterprise can serve the greater good of both. The Smithsonian Institution started a new kind of venture in this country, chartered by act of Congress, maintained by both public funds and private contributions. It inspired a relationship which has grown and flowered in a thousand different ways.

"Finally, the Institution, financed by Smithson breathed life in the idea that the growth and the spread of learning must be the first work of a nation that seeks to be free.

* * * * *

"We must move ahead on every front and every level of learning. We can support Secretary Ripley's dream of creating a center here at the Smithsonian where great scholars from every nation will come and collaborate."

The Smithsonian Tropical Research Institute, located in the Panama Canal Zone, conducts and supports basic biological research, education, and conservation in the tropics. It performs these functions in several ways: by the scientific research of its own staff; through the maintenance of a natural biological reserve on Barro Colorado Island; through operation of research facilities, including both terrestrial and marine laboratories, open to visiting scientists and students; by directing and supporting the education and training of students at all levels from undergraduate to postdoctoral; and by providing technical and scientific information and counsel to other institutions, both private and Governmental.

Public Law 89-280, approved on October 20, 1965, increased the amount of the authorization for annual appropriations, essential to the administration of the laboratory and other educational and research facilities.

By an Act approved on July 18, 1966, Public Law 89-503, the Attorney General was authorized to transfer to the Smithsonian Institution title to objects of art formerly in the custody of the Attorney General, from the Von der Heydt collection.

The National Air Museum was established by Public Law 79-722 on August 12, 1946, to memorialize the national development of aviation; collect and display aeronautical equipment of historical interest and significance; serve as a repository for scientific equipment and data pertaining to the development of aviation; and provide educational material for the historical study of aviation.

By Act of July 19, 1966, the original law was amended to add the field of space flight and space history to the province of this Museum and to change the name to the National Air and Space Museum. The Act also authorized the appropriation of funds for the construction of the Museum.

This Museum is the Nation's center for exhibition, education, and research in the history and principles of air and space flight and represents an unparalleled resource for research in aviation and aerospace history; in flight science and technology; in the contributions of flight to the economy and culture of the United States; and in the pioneering efforts of early aviators and astronauts. It is continuously acquiring, preserving, and documenting historically and technologically important objects and records resulting from air and space research, development, and exploration. Drawing upon its collections, the Museum produces exhibits and displays portraying the past, present and

future of aeronautics and astronautics in America.

Funds have been appropriated for the preparation of plans and specifications for the Museum, for which a three-block site on the Mall has been reserved by Act of Congress.

The National Museum Act of 1966 recognized the cultural and educational importance of museums to the Nation's progress and the need to preserve and interpret the Nation's heritage for the enrichment of public life in U.S. communities. It authorized the Smithsonian Institution to undertake cooperative studies of museum problems and opportunities, engage in cooperative training programs for career museum employees, prepare and distribute significant museum publications, research and contribute to development of museum techniques and cooperate with Federal agencies concerned with museums.

On November 2, 1966, the President approved Public Law 89–734 which provides for compensation at Executive Salary Act levels for four administrative positions of the Smithsonian Institution. This Act fixes the compensation of the positions of Assistant Secretary (Science) and Assistant Secretary (History and Art) at the rate for Level IV of the Federal Executive Salary Schedule, and fixes the compensation of the positions of Director, U.S. National Museum, and Director, Smithsonian Astrophysical Observatory at Level V. These positions are now classified at the levels of comparable positions in Federal agencies.

By an Act approved on November 6, 1966, the Smithsonian Institution was authorized to negotiate agreements granting concessions at the National Zoological Park to nonprofit scientific, educational or historical organizations. The net proceeds of such organizations gained from these concessions are to be used exclusively for research and educational work and to provide "for the advancement of science and instruction and recreation of the people" in keeping with the statutory charter of the National Zoological Park.

By the Act of October 4, 1961, the Board of Regents was authorized to undertake a capital improvement program at the National Zoological Park. The improvement program will modernize the exhibition facilities, eliminate automobile traffic through the Park, and provide facilities for a program of zoological research. The redevelopment plan is now in its seventh year.

The Joseph H. Hirshhorn Museum and Sculpture Garden will be the permanent home of the collection of art donated to the Smithsonian Institution for the benefit of the people of the United States. This museum will be used for the exhibition, study, and preservation of a unique collection of art, including 7,000 paintings, drawings, and sculptures. The gift consists of American paintings from the latter part of the 19th century to the present and American and European sculpture of the 19th and 20th centuries.

By the Act approved on November 7, 1966, the Congress authorized the use of a prominent part of The Mall in Washington, between 7th Street and 9th Street, Independence Avenue and Madison Drive, as the permanent site for the Hirshhorn Museum and Sculpture Garden. The same Act authorized the construction of the museum and sculpture garden.

On accepting the Hirshhorn collection, the President said:

"Washington is a city of powerful institutions—the seat of government for the strongest Nation on earth, the place where democratic ideals are translated into reality. It must also be a place of beauty and learning. Its buildings and thoroughfares, its schools, concert halls, and museums should reflect a people whose commitment is to the best that is within them to dream.

"History will record that Joseph H. Hirshhorn has now joined the select company of James Smithson, Charles Freer, and Andrew Mellon, whose earlier contributions to the Smithsonian Institution have so enriched the cultural life of the Nation and its Capital City."

Funds were appropriated in the fiscal year 1968 for the preparation of plans and specifications for the Museum and Garden. Public Law 90–425 approved on July 26, 1968, provided an appropriation for the first phase of construction of the museum and also provided contract authorization to complete construction.

Josiah K. Lilly died in May, 1966, leaving a substantial estate. Included in the estate of Josiah K. Lilly was a unique and valuable numismatic collection of approximately 6,125 gold coins. This collection has been described as the greatest gold coin collection ever assembled by one person or ever likely to be assembled again. It contains superb examples of coinage of practically all nations from ancient to modern times. The collection includes the following principal categories of coins:

"United States Colonial, Territorial and Confederate items, including examples of every gold coin minted by the United States with the exception of one $3.00 gold piece, of which only one exists. About 1200 individual items.

"Central and South American coinage comprising about 1200 items.

"Coinage with European origin from the age of Pericles in Greece through the Roman Empire; the British sovereigns, and examples of coinage of other European countries, comprising about 3500 items."

Chinese and oriental coinage consisting of about 300 items.

Following Mr. Lilly's death in May 1966, it was suggested that acquisition of the gold coins by the Smithsonian would be most appropriate in view of the national character of its complex of museums, its dedication to the history and scholarship of numismatics, and the millions of citizens who come to its educational and cultural exhibits each year. It was determined that the only feasible means of preserving this unique collection for the Nation was the enactment of legislation by the Congress to permit the Smithsonian to acquire the collection through a reduction of the estate's Federal estate tax liability in the amount of the fair market value of the collection.

Private Law 90–250 provides such a credit to the Lilly estate against its obligation for Federal estate tax and for delivery of the collection to the Smithsonian. The collection was received on June 13, 1968.

The addition of the Lilly collection to the Smithsonian's numismatic displays makes the national collection second to none in the world. The collection will be of the greatest interest and educational value to the millions of citizens who visit the Mall now and in the future. It will also be preserved as an invaluable and irreplaceable part of the scholarly resources which contain the clues to the unsolved mysteries in the history of man in society.

Enactment of legislation to establish a National Memorial to Woodrow Wilson represents the culmination of an effort which began when Congress, by a Joint Resolution in 1961, established a Commission to recommend a permanent memorial to Woodrow Wilson in the District of Columbia.

Since 1965, President Johnson has supported the efforts of the Smithsonian Institution and of other interested scholarly organizations, universities, and public agencies to establish in the Nation's Capital an International Center for Scholars. At the Smithson Bicentennial celebration in September of 1965, the President stated: "We must move ahead on every front and every level of learning. We can support Secretary Ripley's dream of creating a center here at the Smithsonian where great scholars from every nation will come and collaborate."

Encouraged by this support, the Secretary of the Smithsonian Institution joined with the Secretary of State, the president of Princeton University, and a number of others in testifying before the Woodrow Wilson Memorial Commission and urging that such a Center should be the Nation's memorial to Woodrow Wilson.

In 1968, at the request of the President, the Smithsonian Institution submitted legislation to establish within the Smithsonian Institution the Woodrow Wilson International Center for Scholars as a living national memorial to the 28th President of the United States. It provides for the appointment of scholars from the United States and abroad, for fellowships to such scholars, for the operation of the Center, and for the preparation of plans for the development of necessary buildings and other facilities. The legislation authorizes the establishment and administration of the Center as a suitable memorial to the spirit of Woodrow Wilson, symbolizing and strengthening the fruitful relations between the world of learning and the world of public affairs. The authorizing legislation, Public Law 90–637, was approved on October 24, 1968.

The Act of July 4, 1966, which established the American Revolution Bicentennial Commission, included among the ex officio members of the Commission the Secretary of the Smithsonian Institution. Poised on the middle of the Mall, the Smithsonian has great opportunities to develop programs pointing toward the bicentennial in 1976. We also have invaluable assets for this celebration in our departments of history, in our collections of historic objects, and in our traditional concerns with improving the Nation's cultural and social life. We must do all we can to utilize these assets for the benefit of all but especially for our young people in these troubled times.

These additional major commitments and programs require a concomitant growth in executive talent and senior scholars for effective management and performance. The challenge to maintain a standard of excellence can be met only by attracting and retaining men and women of the highest intellectual and executive ability. In the search for such talent, the Smithsonian must be able to offer salaries which are competitive with Federal agencies and are commensurate with program responsibilities.

The number of supergrade positions subject to legal limitation has not increased commensurately with program requirements. Ten years ago we had four such positions, today we have but five. In contrast, our needs for professional positions in the physical and natural sciences have been recognized by the Civil Service Commission and today there are 18 nonquota positions in grades GS–16 and GS–17.

It is apparent that legislative authorization of additional supergrades for the Institution is necessary. Ample precedent may be found in legislation that authorized additional supergrades to meet special circumstances in the General Accounting Office, Federal Bureau of Investigation, the administrative office of the U.S. Courts, the Immigration and Naturalization Service, the Department of Defense, the National Aeronautics and Space Administration, the Bureau of Prisons, the Department of Justice, the Railroad Retirement Board, and the Smithsonian Institution.

The Act approved on November 2, 1966, provided that two positions of Assistant Secretary of the Institution be included at Level IV of the executive schedule and that two other positions, Director of the U.S. National Museum and Director of the Smithsonian Astrophysical Observatory be included in Level V of the executive schedule.

This legislation was sponsored by the Board of Regents with the approval of the Civil Service Commission.

The Board of Regents has again reviewed the urgent need for additional supergrade positions and in its last meeting resolved that the Institution should seek further legislative authorization.

The proposed bill would amend Section 5108(c) of Title 5 of the U.S. Code to provide that the Secretary of the Smithsonian Institution may place a total of eight positions in grades GS–16, GS–17, and GS–18. The bill would also amend Section 5315 to provide for one executive salary Level IV position for an Assistant Secretary of the Smithsonian Institution.

We would welcome the opportunity to discuss the merits of the enclosed legislation.

Assistant Secretary (Public Service), Executive Level IV.
Director of Libraries, GS–16.
Director of Exhibits, GS–16.
General counsel, GS–16.
Assistant for Administration and Management, GS–16.
Director of the Center for the Study of Man, GS–18.
Director of American Studies, GS–18.
Director of Information Systems, GS–16.
Cultural anthropologist, GS–16.

S. 543—INTRODUCTION OF COPYRIGHT REVISION BILL

Mr. McCLELLAN. Mr. President, as chairman of the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, I introduce, for appropriate reference, a bill for the general revision of the copyright law, title 17 of the United States Code, and for other purposes.

The bill which I am introducing today contains two titles. Title I provides for the general revision of the copyright law. Other than for necessary technical amendments, relating principally to the effective dates of certain provisions, this bill is identical to S. 597 of the 90th Congress, which I introduced at the request of the Librarian of Congress. Extensive hearings on this legislation have been held by the Subcommittee on Patents, Trademarks, and Copyrights. The purpose of introducing the same text is that the subcommittee may resume its consideration of this subject at the point where it was suspended with the adjournment of the 90th Congress. The text of certain sections of the bill, notably those relating to the copyright liability of operators of coin-operated phonorecords and cable television systems, has been, for all practical purposes, rendered moot by events subsequent to the original introduction of S. 597.

Title II of this bill provides for the establishment of a National Commission on New Technological Uses of Copyrighted Materials. This title is identical to the provisions of S. 2216, which was passed by the Senate on October 12, 1967. The House of Representatives took no action on this bill primarily because of the lack of progress in the Senate on the copyright revision bill. The purpose of the Commission is to study and compile information on the use of copyrighted works in various information storage and retrieval systems and through various forms of machine reproduction and to recommend any necessary changes in our copyright laws or procedures.

I have previously stated that the subcommittee will undertake to report a copyright revision bill at the earliest feasible date in this session. The public hearings on this legislation were concluded during the 90th Congress. Any comments or proposed amendments not previously communicated to the subcommittee, should be submitted at the earliest possible time.

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

The bill (S. 543) for the general revision of the copyright law, title 17 of the United States Code, and for other purposes, introduced by Mr. McCLELLAN, was received, read twice by its title, and referred to the Committee on the Judiciary.

S. 556—INTRODUCTION OF BILL—METHOD OF DISTRIBUTION OF AWARD TO THE SHOSHONE INDIAN TRIBE

Mr. McGEE. Mr. President, on behalf of myself and my Wyoming colleague, Mr. HANSEN, I introduce, for appropriate reference, a bill to set forth the method of distribution of an award to the Shoshone Indian Tribe by the Indian Claims Commission. This award was rendered by the Claims Commission in favor of the Shoshone Indian Tribe which at the present time consists of three principal components—the Wind River Tribe of Wyoming, the Fort Hall Shoshone-Bannocks and the Northwestern Band of Shoshones.

The award itself did not specify the manner in which the judgment would be divided among the several tribes, and unfortunately, the tribes themselves have not been able to reach any agreement in this regard. It is obvious that if this award is to be properly distributed and the proceeds made available to those who are entitled to the benefits, it will be necessary that congressional authority be enacted.

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

The bill (S. 556) to provide for the apportionment of funds in payment of a judgment in favor of the Shoshone Tribe in consolidated Docket Nos. 326–D, 326–E, 326–F, 326–G, 326–H, 366, and 367 before the Indian Claims Commission, and for other purposes, introduced by Mr. McGEE (for himself and Mr. HANSEN), was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

S. 544—INTRODUCTION OF THE WATER QUALITY IMPROVEMENT ACT OF 1969

Mr. MUSKIE. Mr. President, on January 16, 1969, the Department of the Interior transmitted water pollution legislation to the Congress.

In essence this legislation is similar to the Water Quality Improvement Act of 1968, but the Department has proposed certain modifications. The sections of this bill which relate to sewage from vessels, oil pollution, and research are similar to S. 7, the Water Quality Improvement Act of 1969, which I introduced with 24 other Senators last week.

Additionally, this bill contains a revised method for financing construction of municipal waste treatment works. Under this proposal a $50 million revolving fund would be established in the Treasury which would buy tax-exempt municipal waste treatment bonds and re-sell securities in an amount sufficient to cover both the Federal and local share of a project's cost. The municipality would retire its share of these securities on an annual basis at the tax-exempt interest rate.

The Federal share of a project's cost and any additional interest costs associated with the difference between the taxable rate of Federal bonds and the tax-exempt rate of municipal bonds would be repaid by annual appropriations.

Mr. President, I anticipate that additional legislation on financing waste treatment works will be introduced later this session. The Subcommittee on Air and Water Pollution will hold hearings on this bill as well as other proposals, including those the new administration may wish to present. In the interim, other sections of the bill which I am introducing today will be considered during the hearings on S. 7, which will be held on February 3, 4, and 5.

I ask unanimous consent that the text of this bill and the covering letter from Assistant Secretary Max N. Edwards be included in the RECORD at this point.

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

The bill (S. 544) to amend the Federal Water Pollution Control Act, as amended, and for other purposes, introduced by Mr. MUSKIE, was received, read twice by its title, referred to the Committee on Public Works, and ordered to be printed in the RECORD, as follows:

S. 544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Water Quality Improvement Act of 1969."

SEC. 2. Section 8 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466e), is amended—

(1) by inserting in subsection (a) after the words "grants to" a comma and the words "or enter into contracts with,";

(2) by inserting after the word "grant" in clauses (1), (3), (4), and (5) of subsection (b) the words "or contract"; and after the word "grantee" in clause (3) of subsection (b) the words "or contractee";

(3) by inserting after the word "appropriated" wherever it appears in the second and third sentences of subsection (c) the words "for grants under subsection (b) of this section";

(4) by amending subsection (d) to read as follows:

"(d) For the purpose of making grants there is authorized to be appropriated $700,000,000 for the fiscal year ending June 30, 1969. For the purposes of making grants and payments under this section, there is authorized to be appropriated $1,000,000,000 for the fiscal year ending June 30, 1970, and $1,250,000,000 for the fiscal year ending June 30, 1971. At least 50 per centum of the first $100,000,000 so appropriated for each fiscal year beginning on or after July 1, 1965, shall be used for grants for the construction of treatment works servicing municipalities of

one hundred and twenty-five thousand population or under. There is authorized to be appropriated such sums as may be necessary to make payments after June 30,1971, on contracts entered into under subsection (f) of this section. Sums appropriated to carry out this section shall remain available until expended.";

(5) by redesignating subsections (f) and (g) as (g) and (h);

(6) by inserting after "subsection (b) of this section" in the first sentence of redesignated subsection (g) a comma and the following: "or the amount contracted for under subsection (f) of this section," and by striking out in such sentence "the amount of such grant" and inserting in lieu thereof "such amount";

(7) by inserting after "grants" in redesignated subsection (h) the following: "or contracts"; and

(8) by inserting a new subsection after subsection (e) to read as follows:

"(f)(1) For the purpose of this subsection, the term 'contracting party' means a State, municipality, or intermunicipal or interstate agency.

"(2) For the purpose of providing an additional method of financing treatment works under this section, there is hereby established within the Treasury of the United States the Water Quality Improvement Revolving Fund (hereinafter referred to as the "Fund"). There is authorized to be appropriated to the Fund $50,000,000 to purchase obligations under paragraph (4) of this subsection. All sums received by the Secretary (A) from a contracting party in connection with the purchase of such obligations, and (B) sums received in connection with the sale of such obligations under this subsection shall be deposited into the Fund. All sums covered into the Fund pursuant to this paragraph shall remain available until expended to carry out the provisions of this subsection.

"(3) From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the Fund into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations made available to the Fund, less the average undisbursed cash balance in the Fund during such year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding Treasury obligations with remaining periods to maturity comparable to the average maturity of obligations purchased by the Fund. Such interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines that moneys in the Fund exceed the present and any reasonably prospective future requirements of the Fund, such excess may be transferred to the general fund of the Treasury.

"(4) The Secretary may enter into contracts, in accordance with the provisions of this subsection, with any contracting party (A) to purchase the obligations issued by such party to finance the cost of constructing treatment works, including the Federal share thereof, and (B) to make principal and interest payments on the obligations purchased by him, within limits to be established in appropriation Acts for fiscal years 1970 and 1971, over a period of not to exceed forty years to cover the Federal share of the construction costs of such treatment works. Obligations purchased by the Secretary under this paragraph shall have a maximum repayment period of not to exceed forty years and shall bear interest at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of such obligations, adjusted to the nearest one-eighth of 1 per centum, less not to exceed 1 per centum per annum as determined by the Secretary. No obligation shall be purchased unless the Secretary determines that there is reasonable assurance of repayment and that the amount of the obligation together with other funds available is adequate to assure completion of the project. Any contract entered into by the Secretary with a contracting party shall require that all revenue bond obligations issued by such party covering the Federal and non-Federal share of such works under such contract shall be sold to the Secretary.

"(5) The Federal share for treatment works with respect to which a contract is entered into under paragraph (4) of this subsection shall be the same percentage as would be the case if a grant were being made for such works under subsections (b) and (g) of this section.

"(6) In order to be eligible for a contract under paragraph (4) of this subsection, each contracting party shall meet the applicable requirements of subsection (b) of this section, the first sentence of subsection (c) of this section, and the provisions of this subsection. Each contract shall include such additional terms and conditions as the Secretary deems appropriate.

"(7) The Secretary is authorized to sell, with the approval of the Secretary of the Treasury, the obligations purchased under paragraph (4) of this subsection with agreements for the guarantee thereof, or the obligations may be held in the Fund and collected in accordance with their terms. The Secretary is authorized to make payments to cover the difference in interest between the rates at which such obligations are purchased and the rates at which they are sold under this subsection. The interest on any obligation sold by the Secretary shall not be tax exempt for income purposes under any Federal law. Any such guarantee agreement executed by the Secretary hereunder shall be an obligation supported by the full faith and credit of the United States, and shall be incontestable except for fraud or material misrepresentation of which the holder has actual knowledge. In connection with obligations guaranteed under this subsection, the Secretary may take liens running to the United States notwithstanding the fact that the notes evidencing such obligations may be held by lenders other than the United States. Notes evidencing such obligations shall be freely assignable, but the Secretary shall not be bound by any such assignment until notice thereof is given to, and acknowledged by, him. The Secretary is authorized to make agreements with respect to servicing obligations held or guaranteed by him under this subsection and purchasing such guaranteed obligations on such terms and conditions as he may prescribe.

"(8) The Secretary may issue notes to the Secretary of the Treasury when necessary to obtain funds to make timely payments in the event of default under any guaranty, or to meet his responsibilities under any purchase agreement, made pursuant to this subsection. The form, denomination, maturities, and other terms and conditions of such notes shall be prescribed by the Secretary with the approval of the Secretary of the Treasury. Each note shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities adjusted to the nearest one-eighth of 1 per centum. The Secretary of the Treasury is authorized and directed to purchase any notes of the Secretary issued hereunder and for that purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which such securities may be issued under such Act are extended to include the purchase of notes issued by the Secretary. All redemptions, purchase, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States.

"(9) The total sum actually appropriated to the Fund to purchase any obligation under paragraph (4) of this subsection and the Federal principal sum of obligations purchased under said paragraph and the amount actually appropriated for grants under subsection (b) of this section, for fiscal years 1970 and 1971 shall not exceed the sums authorized to be appropriated for such years under subsection (d) of this section. Fifty percent of the principal sum available for contracts under this subsection for each fiscal year beginning after June 30, 1969, shall be allotted by the Secretary in accordance with the ratio that the population of each State bears to the population of all the States. Fifty percent of such principal sum shall be allotted by the Secretary to any State meeting on June 30 of the preceding fiscal year the requirements of subsection (b)(7) of this section for a 50 per centum Federal share in accordance with the ratio that the population of each such State bears to the population of all the States meeting said requirements. Sums allotted to a State which are not obligated within six months following the end of the fiscal year for which they were allotted shall be reallotted in the same manner, except that sums allotted to a State in fiscal year 1970 shall be available for obligation therein for eighteen months from the effective date of this subsection.

"(10) In entering into any contract under this subsection, first priority in each State shall be given for treatment works (A) included in waste treatment systems servicing an area of fifty thousand people or more, (B) contributing to the development of a regional collection and treatment system, or (C) financed by a system of charges designed to cover, to the extent practicable, construction costs of such works and operating and maintenance costs."

SEC. 3. Sections 17 and 18 of the Federal Water Pollution Control Act, as amended, are hereby repealed. Section 19 of the Federal Water Pollution Control Act, as amended, is redesignated as section 20. Sections 11 through 16 of the Federal Water Pollution Control Act, as amended, are redesignated as sections 14 through 19. After section 10 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466g), there are hereby inserted three new sections to read as follows:

"CONTROL OF SEWAGE FROM VESSELS

"SEC. 11. (a) For the purpose of this section, the term—

"(1) 'new vessel' includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters of the United States, the construction of which is initiated after promulgation of standards and regulations under this section;

"(2) 'existing vessel' includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters of the United States, the construction of which is initiated before promulgation of standards and regulations under this section;

"(3) 'public vessel' means a vessel owned or bareboat chartered and operated by the United States, by a State or political subdivision thereof, or by a foreign nation or by a political subdivision thereof, except where such vessel is engaged in commercial activities;

"(4) 'United States' includes the Commonwealth of Puerto Rico, the Virgin Islands,

Guam, American Samoa, and the Trust Territory of the Pacific Islands;

"(5) 'marine sanitation device' means any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage;

"(6) 'sewage' means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes;

"(7) 'manufacturer' means any person engaged in the manufacturing, assembling, or importation of marine sanitation devices or of vessels having installed on board such devices;

"(8) 'person' means an individual, partnership, firm, corporation, or association, but does not include an individual on board a public vessel;

"(9) 'discharge' means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

"(b)(1) As soon as possible after the enactment of this section, the Secretary, after consultation with the Secretary of the department in which the Coast Guard is operating, and after giving appropriate consideration to the economic costs involved, and within the limits of available technology, shall promulgate Federal standards of performance for marine sanitation devices (hereinafter referred to as 'standards') which shall be designed to prevent the discharge of untreated or inadequately treated sewage into or upon the navigable waters of the United States from new vessels and existing vessels, except vessels not equipped at any time with installed toilet facilities. Such standards shall be consistent with maritime safety and the marine and navigation laws and regulations and shall be coordinated with the regulations issued under this subsection by the Secretary of the department in which the Coast Guard is operating. The Secretary of the department in which the Coast Guard is operating shall promulgate regulations, which are consistent with standards promulgated under this subsection and with maritime safety and the marine and navigation laws and regulations, governing the design, construction, installation, and operation of any marine sanitation device on board such vessels.

"(2) Any existing vessel equipped with a device or devices installed pursuant to the requirements of a State or foreign nation statute or regulation or recommended levels of control set forth in the Handbook on Sanitation and Vessel Construction (Public Health Service, 1965) prior to the promulgation of the initial standards and regulations required by this section shall be deemed in compliance with this section until such time as the device or devices are replaced or are found not to be in compliance with such State or foreign nation statute, regulation, or recommended level.

"(c)(1) Initial standards and regulations under this section shall become effective for new vessels two years after promulgation; but not earlier than December 31, 1971, and for existing vessels five years after promulgation. Revisions of standards and regulations shall be effective upon promulgation, unless another effective date is specified.

"(2) The Secretary and the Secretary of the department in which the Coast Guard is operating with regard to their respective regulatory authority established by this section, may distinguish among classes, types, and sizes of vessels as well as between new and existing vessels, and may waive applicability of standards and regulations as necessary or appropriate for such classes, types, and sizes of vessels, and, upon application, for individual vessels.

"(d) The provisions of this section and the standards and regulations promulgated thereunder apply to vessels owned and operated by the United States unless the Secretary of Defense finds that compliance would not be in the interest of national security. With respect to vessels owned and operated by the Department of Defense, regulations under subsection (b) and certifications under subsection (g)(2) of this section shall be promulgated and issued by the Secretary of Defense and not by the Secretary of the department in which the Coast Guard is operating.

"(e) Before the standards and regulations under this section are promulgated, the Secretary and the Secretary of the department in which the Coast Guard is operating shall consult with the Secretary of State; the Secretary of Health, Education, and Welfare; the Secretary of Defense; the Secretary of the Treasury; the Secretary of Commerce; other interested Federal agencies; and the States and industries interested; and otherwise comply with the requirements of section 553 of title 5 of the United States Code.

"(f) After the effective date of the initial standards and regulations promulgated under this section, no State or political subdivision thereof shall adopt or enforce any statute or regulation of such State or political subdivision with respect to the design, manufacture, or installation of any marine sanitation device on any vessel subject to the provisions of this section, except that nothing in this section shall be construed to affect or modify the authority or jurisdiction of any State to prohibit discharges of sewage whether treated or not from a vessel within all or part of the waters of such State.

"(g)(1) No manufacturer of a marine sanitation device shall sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States for sale or resale any marine sanitation device manufactured after the effective date of the standards and regulations promulgated under this section unless such device is in all material respects substantially the same as a test device certified under this subsection.

"(2) Upon application of the manufacturer, the Secretary of the department in which the Coast Guard is operating shall so certify a marine sanitation device if he determines, in accordance with the provisions of this paragraph, that it meets the appropriate standards and regulations promulgated under this section. The Secretary of the department in which the Coast Guard is operating shall test or require such testing of the device in accordance with procedures set forth by the Secretary as to standards of performance and for such other purposes as may be appropriate. The Secretary, upon notification of the results of such tests, shall determine if such results are in accordance with the appropriate performance standards promulgated under this section and shall notify the Secretary of the department in which the Coast Guard is operating of his determination. Upon receipt of such notification the Secretary of the department in which the Coast Guard is operating, if he determines that the device is satisfactory from the standpoint of safety and any other requirements of maritime law or regulation, and after consideration of the design, installation, operation, material, or other appropriate factors, shall certify the device. Any device manufactured by such manufacturer which is in all material respects substantially the same as the certified test device shall be deemed to be in conformity with the appropriate standards and regulations established under this section.

"(3) Every manufacturer shall establish and maintain such records, make such reports, and provide such information as the Secretary or the Secretary of the department in which the Coast Guard is operating may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this section and regulations issued thereunder and shall, upon request of an officer or employee duly designated by the Secretary or the Secretary of the department in which the Coast Guard is operating, permit such officer or employee at reasonable times to have access to and copy such records. All information reported to, or otherwise obtained by, the Secretary or the Secretary of the department in which the Coast Guard is operating or their representatives pursuant to this subsection which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this section.

"(h) After the effective date of standards and regulations promulgated under this section, it shall be unlawful—

"(1) for the manufacturer of any vessel subject to such standards and regulations to manufacture for sale, to sell or offer for sale, or to distribute for sale or resale any such vessel unless it is equipped with a marine sanitation device which is in all material respects substantially the same as the appropriate test device certified pursuant to this section;

"(2) for any person, prior to the sale or delivery of a vessel subject to such standards and regulations to the ultimate purchaser, wrongfully to remove or render inoperative any certified marine sanitation device or element of design of such device installed in such vessel;

"(3) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under this section; and

"(4) for a vessel subject to such standards and regulations to discharge sewage into or upon the navigable waters of the United States, except with the use of a marine sanitation device certified pursuant to this section.

"(i) The district courts of the United States shall have jurisdiction to restrain violations of subsection (h)(1) through (3) of this section. Actions to restrain such violations shall be brought by, and in, the name of the United States. In case of contumacy or refusal to obey a subpoena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear to give testimony or to appear and produce documents, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(j) Any person who violates clauses (1) or (2) of subsection (h) of this section shall be liable to a civil penalty of not more than $5,000 for each violation. Any person who violates clause (4) of subsection (h) of this section shall be liable to a civil penalty of not more than $2,000 for each violation. Each violation shall be a separate offense. The Secretary of the department in which the Coast Guard is operating may assess and compromise any such penalty. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by said Secretary.

"(k) The provisions of this section shall be enforced by the Secretary of the department in which the Coast Guard is operating and he may utilize by agreement with or without reimbursement law enforcement officers or other personnel and facilities of the

Secretary, other Federal agencies, or the States to carry out the provisions of this section.

"(l) Anyone authorized by the Secretary of the department in which the Coast Guard is operating to enforce the provisions of this section may, except as to public vessels, (1) board and inspect any vessel upon the navigable waters of the United States, (2) with or without a warrant arrest any person who violates the provisions of this section or any regulation issued thereunder in his presence or view, and (3) execute any warrant or other process issued by an officer or court of competent jurisdiction.

"(m) In the case of Guam, actions arising under this section may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions.

"CONTROL OF POLLUTION BY OIL AND OTHER MATTER

"Definitions

"SEC. 12. (a) For the purposes of this section, the term—

"(1) 'oil' means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, and oil refuse, but does not include oil mixed with other matter;

"(2) 'matter' means any substance of any description or origin, other than sewage, oil, and dredged spoil which is discharged in substantial quantities, but does not include by-product material, source material, and special nuclear material as defined in the Atomic Energy Act of 1954 (42 U.S.C. 2013).

"(3) 'sewage' means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes;

"(4) 'discharge' means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping;

"(5) 'remove or removal' refers to the taking of reasonable and appropriate measures to mitigate the potential damage of the discharge of oil or matter to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches;

"(6) 'vessel' includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water;

"(7) 'public vessel' means a vessel owned or bareboat chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation or political subdivision thereof, except where such vessel is engaged in commercial activities;

"(8) 'United States' includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

"(9) 'owner or operator' means any person owning, operating, or chartering by demise, a vessel;

"(10) 'person' includes an individual, firm, corporation, association, or a partnership, except individuals on board public vessels; and

"(11) 'contiguous zone' means the entire zone established or to be established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone.

"Notice

"(b) Any person who discharges or permits or causes or contributes to the discharge of oil or matter in substantial quantities from any source into or upon the navigable waters of the United States or adjoining shorelines or beaches, or into or upon the waters of the contiguous zone because such oil or matter threatens to pollute or contribute to the pollution of the territory or the territorial sea of the United States, shall immediately notify the appropriate delegate of the President of such discharge. Any such person who knowingly fails to notify immediately such delegate of any such discharge of oil or matter into or upon such waters, shorelines, or beaches, shall, upon conviction, be fined not more than $5,000, or imprisoned for not more than one year, or both.

"Control of oil discharged from vessels; civil penalty

"(c)(1) Except in case of an emergency imperiling life, or an act of war or sabotage, or an unavoidable accident, collision, or stranding, or except as otherwise permitted by regulations issued by the Secretary under this section, or except where otherwise not prohibited in the contiguous zone under the provisions of Article IV of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, any owner or operator who, either directly or through any person, whether or not his servant or agent, concerned in the operation, navigation, or management of the vessel, discharges or permits the discharge of oil from a vessel into or upon the navigable waters of the United States or adjoining shorelines and beaches of the United States, or into or upon the waters of the contiguous zone because such oil threatens to pollute or contribute to the pollution of the territory or the territorial sea of the United States, shall be subject to the penalties provided in this subsection.

"(2) Any owner or operator who, or any vessel, other than a public vessel, which discharges oil in violation of paragraph (1) of this subsection shall be assessed a civil penalty by the Secretary of not more than $10,000 for each offense. Each violation is a separate offense. Any such civil penalty may be compromised by the Secretary. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the owner or operator of the vessel charged, the effect on the owner or operator's ability to continue in business, and the gravity of the violation, shall be considered by the Secretary. The district director of customs at the port or place of departure from the United States shall withhold at the request of the Secretary the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel subject to the foregoing penalty. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary. Such penalty shall constitute a maritime lien on such vessel which may be recovered by action in rem in the district court of the United States for any district within which such vessel may be found.

"Removal of discharged oil or matter by the United States

"(d) Whenever advice is received of any discharge of oil or matter into or upon any waters, shorelines, or beaches, the United States may remove or arrange for the removal thereof in accordance with the regulations prescribed under subsection (g) of this section when, in the judgment of the Secretary, such oil or matter presents an actual or threatened pollution hazard to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife, or to public or private shorelines and beaches in the United States, unless other adequate arrangements for removal of such oil or matter have been made as required by subsections (e)(1) or (f)(1) of this section.

"Removal of discharged oil or matter by owner or operator of a vessel

"(e)(1) The owner or operator of any vessel who, either directly or through any person, whether or not his servant or agent, concerned in the operation, navigation, or management of the vessel, willfully or negligently discharges or permits or causes or contributes to the discharge of oil or matter into or upon the navigable waters of the United States or adjoining shorelines or beaches or into or upon the waters of the contiguous zone because oil or matter threatens to pollute or contribute to the pollution of the territory or the territorial sea of the United States, shall immediately remove such oil or matter from such waters, shorelines, and beaches. If the United States removes the oil or matter, such owner or operator, and, as appropriate, the vessel shall be liable to the United States for the full amount of the costs reasonably incurred under this subsection for the removal of such oil or matter, except that such aggregate liability for the cost of removal shall not exceed $15,000,000 or $450 per gross registered ton of such offending vessel, whichever is the lesser amount. The district director of customs at the port or place of departure from the United States shall withhold at the request of the Secretary the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of a vessel, other than a public vessel, liable for such costs until such costs are paid or until a bond or other surety satisfactory to the Secretary is posted. Such costs shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States for any district within which such vessel may be found.

"(2) In any action instituted by the United States under paragraph (1) of this subsection, evidence of a discharge of oil or matter from a vessel shall constitute a prima facie case of liability to the United States on the part of the owner or operator thereof and the burden of rebutting such prima facie case shall be upon such owner or operator. The United States shall also have cause of action under paragraph (1) of this subsection against any owner or operator of a vessel whose willful act or negligence is found to have caused or contributed to the discharge of oil or matter from a vessel involved in a collision or other casualty. The burden of rebutting the prima facie case of liability which the United States shall have against a vessel or the owner or operator thereof from which the oil or matter is discharged shall in no way affect any rights which such owner or operator may have against any other vessel or owner or operator or other persons whose willful act or negligence may in any way have caused or contributed to such discharge.

"Removal of oil and matter discharged from onshore or offshore facilities

"(f)(1) Any person subject to the jurisdiction of the United States who owns or operates an onshore or offshore facility of any kind, other than a facility owned or operated by the United States, or a State or a political subdivision thereof who either directly or through any other person, whether or not his servant or agent, concerned in the operation or management of such facility, willfully or negligently discharges or permits or causes or contributes to the discharge of oil or matter into or upon the navigable waters of the United States or adjoining shorelines or beaches, or into or upon the waters of the contiguous zone, or into or upon the waters beyond such zone, shall immediately remove such oil or matter from such waters, shorelines, and beaches. If the United States removes the oil or matter, such person shall be liable to the United States for the full amount of the costs reasonably incurred for the removal of such oil or matter, except that such aggregate liability for the cost of removal of such oil or matter shall not exceed $15,000,000.

"(2) In any action instituted by the United States under this subsection, evidence of a discharge of oil or matter from an onshore or offshore facility of any kind, other than a vessel, shall constitute a prima facie case of liability to the United States on the part of any person who owns or operates such facility and the burden of rebutting such prima facie case shall be upon such person.

"Regulations governing the removal of discharged oil or matter by anyone

"(g) Within 60 days after the effective date of this section and from time to time thereafter—

"(1) The Secretary shall issue regulations, in consultation with the Secretary of the department in which the Coast Guard is operating and consistent with maritime safety and with marine and navigation laws, establishing criteria in removing discharged oil and matter, including criteria relative to the methods and means of removal, from waters, shorelines, and beaches; and

"(2) The Secretary of the department in which the Coast Guard is operating shall issue regulations, in consultation with the Secretary, establishing procedures, methods, and equipment (A) to implement the regulations of the Secretary relative to removing discharged oil and matter, and (B) to prevent discharges of oil and matter from vessels.

"General provisions

"(h)(1) There is hereby authorized to be appropriated to a revolving fund to be established in the Treasury not to exceed $15,000,000 to carry out the provisions of subsection (d) of this section. Any funds received by the United States under this section shall also be deposited in said fund for such purposes, except that such funds shall be available to reimburse a State or political subdivision thereof that assists in the removal of any discharged oil or matter. All sums appropriated to, or deposited in, said fund shall remain available until expended.

"(2) For the purpose of insuring the efficient and economic removal of any discharged oil or matter under subsection (d) of this section, the President shall, within ninety days after the effective date of this section and from time to time thereafter, delegate to the Secretary, the Secretary of the department in which the Coast Guard is operating, the Secretary of Defense, and the heads of such other agencies as may be appropriate, all or part of the responsibility under subsection (d) of this section for removing discharged oil or matter, in accordance with any national contingency plan or revision thereof, approved by the President, establishing procedures to be followed in removing such oil or matter. Any moneys in the fund established by this subsection shall be available to such Federal agencies to effectuate such removal. Each such agency, in order to avoid duplication of effort, shall, whenever practicable, utilize with or without reimbursement the personnel, services, and facilities of other Federal agencies and of State agencies.

"(3) After regulations are promulgated under subsection (g) of this section, the removal of any discharged oil or matter by anyone under this section shall be carried out in accordance with such regulations.

"(4) The Secretary, in consultation with the Secretary of the department in which the Coast Guard is operating and consistent with maritime safety and with marine and navigation laws and regulations, may issue regulations authorizing the discharge of oil or matter from a vessel in quantities, under conditions, and at times and locations deemed appropriate by him, after taking into consideration various factors such as the effect of such discharge on applicable water quality standards, recreation, and fish and wildlife.

"(5) The provisions of subsection (c) of this section and the regulations issued under subsection (g) of this section shall be enforced by the Secretary of the department in which the Coast Guard is operating. The Secretary of the department in which the Coast Guard is operating may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or State agency in carrying out these provisions and regulations.

"(6) Anyone authorized by the Secretary of the department in which the Coast Guard is operating to enforce the provisions of this section may, except as to public vessels, (A) board and inspect any vessel upon the navigable waters of the United States or the waters of the contiguous zone, (B) with or without a warrant arrest any person who violates the provisions of this section or any regulation issued thereunder in his presence or view, and (C) execute any warrant or other process issued by an officer or court of competent jurisdiction.

"(7) In the case of Guam, actions arising under this section may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions.

"(8) Nothing in this section shall be construed as authorizing the Secretary or the Secretary of the department in which the Coast Guard is operating to regulate the operations or construction of any onshore or offshore facility, or as affecting or modifying any other existing authority of either Secretary relative to such facilities under this Act or any other provision of law.

"Study by Secretary of Transportation

"(i) The Secretary of Transportation, in consultation with the Secretaries of Interior, State, Treasury, Commerce, and other interested Federal agencies, shall conduct a study of the need for, and the desirability of, establishing a system of requiring vessels using the navigable waters of the United States and the waters of the contiguous zone to give evidence that such vessels have adequate financial capability within appropriate limitations to reimburse the United States in accordance with the provisions of this section for the removal of discharged oil and to pay damage claims covering private, real, or personal property damaged or destroyed by such discharged oil. In carrying out this study, the Secretary of Transportation shall seek detailed information relative to the economic effects of such a system on the merchant marine industry, and the advice and recommendations of representatives of the merchant marine, oil, and insurance industries, labor, and other national and international organizations relative to the need for, and desirability of, such a system. The Secretary of Transportation shall submit a report thereon, together with recommendations thereon, to the Congress, through the President, by July 1, 1970.

"AREA ACID AND OTHER MINE WATER POLLUTION CONTROL DEMONSTRATIONS

"SEC. 13. (a) The Secretary, in cooperation with other Federal agencies, is authorized to enter into agreements with any State or interstate agency to carry out one or more projects to demonstrate methods for the elimination or control, within all or part of a watershed, of acid or other mine water pollution resulting from active or abandoned mines. Such projects shall demonstrate the engineering and economic feasibility and practicality of various abatement techniques which will contribute substantially to effective and practical methods of acid or other mine water pollution elimination or control.

"(b) The Secretary, in selecting watersheds for the purposes of this section, shall (1) require such feasibility studies as he deems appropriate, (2) give preference to areas which have the greatest present or potential value for public use for recreation, fish and wildlife, water supply, and other public uses, and (3) be satisfied that the project area will not be affected adversely by the influx of acid or other mine water pollution from nearby sources.

"(c) Federal participation in such projects shall be subject to the conditions—

"(1) that the State or interstate agency shall pay not less than 25 per centum of the actual project costs which payment may be in any form, including, but not limited to, land or interests therein that is needed for the project, personal property, or services, the value of which shall be determined by the Secretary; and

"(2) that the State or interstate agency shall provide legal and practical protection to the project area to insure against any activities which will cause future acid or other mine water pollution.

"(d) There is authorized to be appropriated $15,000,000 to carry out the provisions of this section, which sum shall be available until expended. No more than 25 per centum of the total funds appropriated under this section in any one year shall be granted to any one State."

SEC. 4. Redesignated section 14 of the Federal Water Pollution Control Act, as amended, is amended to read as follows:

"COOPERATION BY ALL FEDERAL AGENCIES IN THE CONTROL OF POLLUTION

"SEC. 14. (a) Each Federal agency having jurisdiction over any real property or facility of any kind shall, within available appropriations and consistent with the interests of the United States, cooperate with the Secretary and the appropriate State water pollution control agency to insure compliance with applicable water quality standards and the purposes of this Act in the administration of such property or facility. In his summary of any conference pursuant to section 10(d)(4) of this Act, the Secretary shall include references to any discharges allegedly contributing to pollution from any such Federal property or facility, and shall transmit a copy of such summary to the head of the Federal agency having jurisdiction of such property or facility. Notice of any hearing pursuant to section 10(f) of this Act involving any pollution alleged to be affected by any such discharges shall also be given to the Federal agency having jurisdiction over the property or facility involved, and the findings and recommendations of the Hearing Board conducting such hearing shall include references to any such discharges which are contributing to the pollution found by such Board.

"(b) Whenever an application is filed with any Federal department or agency to authorize or assist by license, lease, or permit any activity which discharges or may discharge matter of any kind into any waters, such agency or department shall receive from the Secretary a report and recommendations, prepared in consultation with the appropriate State or interstate water pollution control agency or agencies, for the purpose of insuring compliance by such activity with applicable water quality standards in effect for such waters. Upon receipt of such report and recommendations, such department or agency shall prescribe such measures as it deems appropriate, in accordance with the procedures established by such agency to consider such applications, to insure compliance at all times with the applicable water quality standards. Nothing in this subsection shall be construed as affecting the authority of the Secretary or any State or interstate agency in requiring the compliance of such

standards under this Act or any other provision of law."

SEC. 5. Section 5 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466c), is amended—

(a) by redesignating subsections (g) and (h) as (k) and (l);

(b) by inserting after subsection (f) two new subsections to read as follows:

"(h) The Secretary is authorized to enter into contracts with, or make grants to, public or private agencies and organizations and individuals for the purpose of developing and demonstrating new or improved methods for the prevention, removal, and control of natural or manmade pollution in lakes, including the undesirable effects of nutrients and vegetation.

"(i) In carrying out the provisions of subsections (a) through (j) of this section relating to the conduct by the Secretary of demonstration projects and the development of field laboratories and research facilities, the Secretary may acquire land and interests therein by purchase, with appropriated or donated funds, by donation, or by exchange for acquired or public lands under his jurisdiction which he classifies as suitable for disposition. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal, the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.";

(c) by changing in redesignated subsection (1)(4) the words "and June 30, 1969," to "June 30, 1969, and June 30, 1970,"; and

(d) by amending the first sentence of redesignated subsection (m) to read as follows:

"(m) There is authorized to be appropriated to carry out this section, other than subsection (l), not to exceed $65,000,000 for the fiscal year ending June 30, 1969, and such sums as may be necessary for the fiscal years ending June 30, 1970, and June 30, 1971."

SEC. 6. Section 6(e) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466c–1), is amended to read as follows:

"(e) For the purposes of this section there are authorized to be appropriated—

"(1) for the fiscal year ending June 30, 1969, the sum of $20,000,000 annually and for the fiscal years ending June 30, 1970 and June 30, 1971, such sums as may be necessary for the purposes set forth in subsections (a) and (b) of this section, including contracts pursuant to such subsections for such purposes;

"(2) for the fiscal year ending June 30, 1969, the sum of $20,000,000 annually and for the fiscal years ending June 30, 1970, and June 30, 1971, such sums as may be necessary for the purpose set forth in clause (2) of subsection (a); and

"(3) for the fiscal year ending June 30, 1969, the sum of $20,000,000 annually and for the fiscal year ending June 30, 1970, and June 30, 1971, such sums as may be necessary for the purpose set forth in subsection (b)."

SEC. 7. Redesignated section 17 of the Federal Water Pollution Control Act, as amended, is amended by deleting the following: "the Oil Pollution Act, 1924, or".

SEC. 8. The Oil Pollution Act, 1924 (43 Stat. 604), as amended (80 Stat. 1246–1252), is hereby repealed.

The letter presented by Mr. MUSKIE is as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., January 16, 1969.

Hon. HUBERT H. HUMPHREY,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill, "To amend the Federal Water Pollution Control Act, as amended, and for other purposes."

We recommend that this draft bill be referred to the appropriate committee for consideration and that it be enacted.

Last year, the Administration proposed legislation providing a new and additional method of financing the construction of waste treatment works to meet the nations' water pollution control needs; an improved and strengthened authority to prevent oil spills and to clean up discharged oil and other polluting substances; and a program of controlling sewage from vessels. The legislation, however, failed final passage in the last hours of the 90th Congress. With the new Congress, we now have an opportunity to finish the legislative work started and nearly completed last year. I hope that it can be done quickly as the need in all of these areas is great. In addition, legislation is needed to extend the Department's water pollution research authorities which expire June 30, 1969.

Let me highlight some of the features of the enclosed proposal that differ materially from the version considered by both Houses last year.

FINANCING OF WASTE TREATMENT WORKS

The enclosed proposal provides a new and additional method of financing the construction of waste treatment works during fiscal years 1970 and 1971.

As the Congress will recall, last year these financing provisions were embroiled in a considerable discussion over the question of whether bonds issued to cover the cost of construction of treatment works by local public bodies should be taxable or tax exempt. We proposed a principal and interest payment to cover the Federal share, plus an interest subsidy. We required that the entire bond issue be taxable. This proposal met strong opposition from various public officials at the State and local level.

Both the House and Senate versions of S. 3206 in the 90th Congress included a provision which authorize the issuance of long-term contracts to finance the Federal share of the treatment works with no payment of the interest on any obligations issued by the State or local public body. State or local public bodies could, under that proposal, issue tax-exempt bonds.

The problem with that approach is that the States and local public bodies would in reality be receiving a substantially lesser grant because they would have to make the interest payments on the obligations issued to finance the Federal share. We estimated last year that a 50 percent Federal share grant would, in fact, be reduced in value to about 30 percent. Others have suggested that this value would be even lower. Thus, we believe that the approach followed in S. 3206 is undesirable from the standpoint of the States and local government.

We want to avoid this undesirable consequence and the taxable vs. nontaxable issue, while providing, at the same time, a reasonable means of achieving the goal of meeting the Federal financial commitment for fiscal years 1970 and 1971. We believe that the enclosed proposal accomplishes this.

Under this proposal, Interior would enter into contracts to purchase the obligations of the contracting party issued to finance the contracting party's share and the Federal share of the costs of waste treatment works constructed with Federal assistance. Although bonds do not achieve tax-exempt status until the exemption is actually exercised by a taxpayer, we would recognize the status of the community bonds as being eligible for tax exemption. The purchased obligations would then become assets of the Federal Government. The Federal Government would guarantee them and sell them as taxable obligations. Under this approach, no precedent would be created requiring municipalities to issue taxable bonds for the Federal share.

This legislation would provide authority for the Secretary to make principal and interest payments on the Federal share and to make up the difference between the interest costs on the guaranteed taxable bonds sold and the interest received from localities which would be at a rate comparable to the rate on tax-exempt obligations.

The proposal would authorize a $50 million revolving fund which would enable the Secretary to purchase the localities' obligations and hold them for brief periods, pending sale to private investors.

The Department plans to begin discussions shortly with representatives of the investment banking community in order to determine the most effective mechanism for marketing these guaranteed obligations.

Before entering into any contracts, the total principal sum available for the principal share of contracts will be established in appropriation acts for fiscal years 1970 through 1971. Fifty percent of the principal sum available for contracts will be allotted to the States by the same formula as funds appropriated for grants in excess of the first $100 million are allotted—that is, by population. This sum will be available to the States for obligation for the fiscal year it was allotted plus 6 months. In fiscal year 1969, however, this sum will be available for obligation for 18 months from the date of enactment of this legilsation.

The remaining fifty percent of the principal sum would be allotted to States having treatment works eligible under section 8(b)(7) of the Act for fifty percent grants—that is, States that pay at least twenty-five percent of the costs of treatment works and establish enforceable water quality standards for the waters in which such works discharge. We believe that this approach will encourage more States to establish an aid program for their communities.

At present, twenty jurisdictions could benefit from this approach. We believe more will follow this year. These States now cannot pay the full Federal share and spread their Federal allotments over as many projects as States which do not provide financial aid to municipalities. The States to date that have provided State aid programs are, in many cases, the ones having the greatest backlog of needed treatment works.

In entering into contracts under this section, priority will be given in each State to treatment works serving 50,000 people or more, or contributing to a regional collection and treatment system, or having an adequate charge system. The objective, of course, is to funnel more of the Federal money to areas in each State where the pollution problems are greater—the more populous areas.

The proposal would not in any way affect the present reimbursement provisions found in section 8(c) of the Act.

Also, it would not authorize the use of contract financing to pay for treatment works constructed since June 1966 with little or no Federal grant assistance under this Act. The rationale is that the objective of the contract approach is to build new and needed treatment works. It is not designed as a method of financing works already constructed or under construction. The States must look to the existing reimbursement features of the Act for these payments.

We fervently hope that this approach effectively resolves the very difficult problems raised last year and will be fully supported by the States and local communities.

OIL AND OTHER MATTER POLLUTION CONTROL

The House version of S. 3206 did not provide authority for the Secretary of the Interior to clean up discharges of oil or other matter from onshore or offshore installations and to recover the cost thereof from the owners or operators of these installations. The enclosed proposal would provide such

cleanup authority. The reasons for doing so are quite simple.

As a spill occurs in an inland waterway or even within the contiguous zone or territorial sea, the damage can be just as great whether it occurs from a vessel or another type of facility. The source of the oil release makes no difference. All that the public knows is that there has been a spill and it is damaging property and resources. They will want it removed. They will not understand why we can remove oil discharged from a vessel but not oil discharged from a tank farm or oil rig.

Three examples illustrate the problem:

1. Last November, a 12-mile long concentrated sludge moved down the Allegheny River in Pennsylvania closing water supply systems, power plants and industries, and leaving over 1 million fish dead. The source was from a 30-year old sludge treatment lagoon at Bruin, Pennsylvania, plant of the American International Refining Company, according to State Health Department officials. The company was fixing a leak when the lagoon embankment collapsed, dumping about 3,000 gallons of oil sludge and refining chemicals into Bear Creek, a tributary of the Allegheny (see November 7, 1968, edition of *Engineering News*).

2. Last October, about 10,000 gallons of #2 diesel fuel was discharged from a fueling hose cut by a passing train at the Thorndaly yards of the Penn-Central Railroad, near Downington, Pennsylvania, and flowed into a ditch leading to Beaver Creek and then into Brandywine Creek. Downington uses Beaver Creek as its raw water source and their water treatment plant had to shut down on October 27 because of the ingress of oil.

3. The other day a break in a 22-inch high pressure pipeline carrying crude oil resulted in a discharge of oil estimated to be as great as 700,000 gallons at Lima, Ohio. The oil flowed over the surface of streets into sewers and was carried down to the sewage treatment plant. The sewage treatment plant caught fire and was badly damaged. There were numerous explosions in the sewer system. The oil flowing through both the storm and sanitary sewage systems flowed into the Ottowa Creek in the Lake Erie drainage basin. The nearest downstream municipal water intake is some 60 miles with an estimated travel time of about 7 days under existing weather conditions. A variety of booms were erected across the creek and the oil is being vacuumed from the water surface and placed in temporary storage pits.

No Federal agency, including this Department, has adequate authority to clean up discharges of oil and other matter from these types of facilities. It should be emphasized that we are only talking about the cleanup or removal of discharged oil and matter and we are *not* attempting by this legislation to provide criminal or civil penalties or any regulatory scheme which would be applicable to onshore or offshore facilities. The 1899 Refuse Act (33 U.S.C. 407) now prohibits the discharge of refuse matter into United States waters from vessels and onshore and offshore facilities.

The enclosed proposal does not provide criminal penalties for violation of the prohibitions against oil discharges from vessels. Rather it provides civil penalties against the vessel of up to $10,000 where a discharge of oil occurs in violation of the general prohibition against discharges from vessels. The exceptions to the general prohibition would, of course, apply here. Some of the exceptions are: Act of God, war, or sabotage, or unavoidable accidents, collisions, or strandings, or cases of emergency imperiling life. Another exception is where the Secretary by regulation issued permits to discharge oil under controlled conditions. Where the discharge occurs under one of these exceptions there will be no penalty, but the discharger still has the obligation under the section to notify the Secretary or his delegate of the discharge and to clean it up where the discharge is due to negligence or a willful act.

The civil penalty would be assessed by the Secretary and is not dependent on any finding of negligence or willfullness because of the exceptions. The provision is patterned after similar penalty provisions in the Natural Gas Pipeline Safety Act of 1968.

The proposal would require that, where an oil discharge or matter discharge occurs, anyone in charge of the vessel or facility from which the oil is discharged has an obligation to tell us so that steps may be taken to correct the situation. Early warning of the discharge is probably the most important factor in the handling of these discharges. The earlier the warning, the more chance we have to insure that the discharge can be contained in order to prevent or minimize the potential damage to our natural resources, shorelines, beaches, and other public and private facilities.

Once word is received of the discharge, the United States may take immediate steps to undertake cleanup action. This does not mean, however, that the discharger is relieved of the responsibility to clean up the discharge. He still has the duty to act quickly.

In addition, the proposed legislation increases the liability limit found in S. 3206 for vessels from $10 million or $67 per gross registered ton, whichever is the lesser, to $15 million or $450 per gross registered ton, whichever is the lesser. Our experience in removing discharged oil indicates quite clearly that the actual costs of cleanup are substantially more than $67 per gross registered ton.

The $67 figure was recommended by industry on the basis of the 1957 Brussels Convention relative to the Limitation of the Liability of the Owners of Seagoing Ships. The United States, however, has never ratified or adhered to that Convention.

The SS Ocean Eagle discharged at Puerto Rico some 3,000,000 gallons of oil in two releases, 1,000,000 gallons and 2,000,000. A substantial, but unmeasured portion of the second release was blown out to sea and did not require cleanup. Cleanup costs for the incident are in excess of $1,500,000.

A very recent spill of oil in San Diego Bay was "cleaned up" using dispersants. Eighty-six thousand gallons of dispersants were applied to the 86,000 gallons of No. 6 fuel oil spilled. Dispersant cost plus application costs appear to be near $5.00 per gallon.

Dispersant manufacturers recommend applications of dispersant to oils at a ratio of 1 part dispersant to about 5 parts oil under ideal conditions. This recommended ratio may be as low as 1:10 for light petroleum fractions and in practice may approach 1:1 for weathered crude oils and heavy fuel oils. Dispersant prices are in the range of $4–5.00 per gallon and the cost of application will raise the cost to $5.00 or more per gallon. Under ideal conditions, the cost of dispersing oil would be in the range of $1.00 per gallon or $250 per ton of oil discharged.

Since a gross registered ton equals approximately 450 gallons of oil, the cost would be, under ideal conditions, $450 per gross registered ton of the vessel. Under critical conditions, the costs would be higher; in the case of the San Diego Bay spill, the costs would be $2,250 per gross registered ton.

The insurance industry, when testifying on last year's legislation that provided for absolute liability in the case of cleanup, supported a limitation of $10 to $15 million. The costs of the Torrey Canyon cleanup were in excess of $15 million and the measures were considered less than adequate. The enclosed proposal, like the House version of last year, makes the owner and operator liable only where there is negligence or willful misconduct in discharging the oil.

In our view, if the United States acts to remove discharged oil or matter because of a negligent or willful act on the part of an owner or operator or his agent, the United States should be able to recover most, if not all, of its costs. We should not establish the precedent of subsidizing an industry for its negligence or willful misconduct.

The definition of "matter" has been revised in order to avoid the problem of waiting for the Secretary to determine if the discharge presented "an imminent and substantial hazard" before taking action to remove it, and to exclude certain material now covered by the Atomic Energy Act. In the latter case, the AEC advises that it has adequate authority to require its licensees to take measures to prevent damage from discharges of these materials.

CONTROL OF POLLUTION FROM FEDERALLY LICENSED, LEASED, OR PERMITTED ACTIVITIES

The Water Quality Act of 1965 provides one method of insuring compliance with water quality standards, namely an abatement action when there is a discharge that reduces the quality of water below the standards. It is a remedy that will be pursued where pollution exists by this Department and by the States. But it is an after-the-fact remedy. It is not the preventive medicine that should be practiced. Where we have other effective means to insure compliance, we should use them and, if necessary, strengthen them.

One very effective means is the Federal lease, license, and permit. This is true in the case of all pollutants. The review process attendant to the issuance of a Federal lease, license, or permit by any agency affords an excellent opportunity to examine prior to the development of the project the impact on the environment and to prevent or minimize any damage to the environment that might occur from the project.

The licensing agency can require the installation of the pollution control measures which are then found to be necessary to protect water quality and water uses before the project is constructed and before it is operated. The licensee then is required by the licensing agency to comply on a continuing basis with the conditions of his license.

The proposal would require that the Federal agency which is considering a lease, license, or permit application, obtain the advice of the Secretary of the Interior to determine if the applicable water quality standards will be met. The Secretary would consult with the interested state water pollution control agencies and seek their comments which would be transmitted to the licensing agency. The licensing, etc., agency would then, upon receipt of the recommendations from the Secretary, include in the license such conditions as the agency considers appropriate to insure compliance. This does not give the Secretary a veto over the issuance of the license, etc. Rather, it provides a mechanism for insuring that the pollution problem will be combated prior to the construction and operation of the proposed project. In appropriate cases, the Secretary, as well as the States, could intervene in any proceeding relative to the water quality standards issue, if necessary.

This proposal will carry out our recommendations in my statement before the Senate Committee on Public Works of November 6, 1968, relative to the problem of thermal pollution.

RESEARCH, STUDIES, AND DEMONSTRATIONS

The proposal would extend the research, etc., provisions of the Act an additional 2 years to June 30, 1971, at the level of appropriations for fiscal year 1969. The appropriation authorization for these sections terminates on June 30, 1969.

The proposal adds specific authority to acquire lands in connection with demonstration programs under section 5 of the Act and in connection with the development of our research facilities and laboratories. This authority existed when the program was administered by the Surgeon General because that agency has general authority in this area. It, however, could not be transferred to Interior. We expect that there will be instances where limited acquisitions will be needed for the program.

VESSEL POLLUTION

The vessel pollution provisions would make it unlawful to discharge sewage into the navigable waters of the United States without a device certified by the Secretary of Transportation and meeting standards of the Secretary of the Interior. Such a device could be a holding tank in cases where provisions were available to either discharge into shore facilities or in the open sea. The proposal makes it clear that State authority or jurisdiction to prohibit all discharges of sewage whether treated or not from a vessel within all or part of waters under their jurisdiction is not affected by this legislation. In some cases, water quality standards prohibit such discharges.

COMMENTS ON THE WASTE TREATMENT PROGRAM

In anticipation of a substantial increase in our ability to approach the authorized appropriation levels for waste treatment works, we have carefully reviewed our present authority to insure that such works are constructed and operated in a manner that fulfills the mandates expressed in the Federal Water Pollution Control Act, as amended.

With the advent of substantial approval of water quality standards submitted by the States under the Water Quality Act of 1965, we have been able to more clearly define our water quality objectives and are in a position to utilize waste treatment construction grants more effectively to realize this goal.

Section 8(a) of the present Act authorizes us to make grants subject to a number of limitations. Section 8(b)(1) requires that a grant cannot be made "unless such project is included in a comprehensive program developed pursuant to this Act" which includes the comprehensive programs developed under sections 3 and 7(f) of the Act. These programs, among other things, provide for regional collection and treatment systems. Besides taking full advantage of economies of scale which result from such systems, we believe this practice is dictated by section 8(b)(1) of the Act in the making of construction grants. We cannot afford a proliferation of small inefficient systems that increase costs to all levels of government and achieve less than optimum water quality. Nor can we afford treatment systems that are not consistent with foreseeable growth patterns and needs and plans developed to meet those needs.

Section 8(b) of the Act requires that a project for which a Federal grant is sought must, among other things, be in conformity with the state water pollution plan approved under section 7 and be certified by the State as entitled to a priority over other eligible projects on the basis of financial and pollution control needs. The Act provides that the state plan set forth the criteria used by the State in determining the priority of projects. The Department is greatly concerned that heretofore adequate attention has not been given by some States to developing criteria that will achieve the objectives of the Act. We are now reviewing each of the State's criteria to be sure that they are, in fact, achieving this objective. If they are not, we will advise the States and request that they revise their criteria. Failure to do so could result in state plan disapprovals.

In addition, section 8(c) requires that the Secretary give consideration "to the public benefits to be derived by the construction and the propriety of Federal aid in such construction, the relation of the ultimate cost of constructing and maintaining the works to the public interest and the public necessity for the works, and the adequacy of the provisions made or proposed by the applicant for such Federal financial aid for assuring proper operation and maintenance of the treatment works after the completion of the construction thereof." This provision requires that projects be carefully reviewed in light of these considerations to determine whether they should be approved for a Federal grant. We wil not hesitate to refuse a grant if the project fails to meet one or more of these considerations.

The requirement for assuring proper operation and maintenance of the treatment works stated in sections 8(b)(4) and 8(c) is also important. We believe the State and the applicant should be able to demonstrate that a sufficient number of operators will be provided and that operator personnel will be adequately trained, and, preferably, certified; that equipment will be adequately maintained; and that laboratory and surveillance facilities are adequate to assure that the treatment plant will perform according to design specifications.

In summary, we believe that the construction grant program must be administered to achieve the objectives of applicable water quality standards; implementation of comprehensive State, local, regional, and national pollution control programs, including, where applicable, areawide collection and treatment systems; consistency with appropriate planning for the comprehensive development of the area served; adequate operation and maintenance after construction; and concentration of Federal funds to construct treatment works in those areas with the most serious pollution. Administrative procedures and instructions of the Department for the review and approval of construction grants are being sharpened to insure that these objectives are fully met in practice.

We strongly urge the early enactment of this proposal, hopefully before July 1, 1969, so that we can have a full two years to carry it out.

By letter dated January 16, 1969, the Bureau of the Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely yours,

MAX N. EDWARDS,
Assistant Secretary of the Interior.

S. 545, S. 546, AND S. 547—INTRODUCTION OF BILLS RELATING TO IMPROVEMENT OF THE FEDERAL BAIL SYSTEM

Mr. TYDINGS. Mr. President, I am introducing today three bills which I believe will contribute significantly to the improvement of the Federal bail system, especially as it relates to the District of Columbia.

One measure will remove the existing statutory limit on funds which may be authorized for the District of Columbia Bail Agency. The Bail Agency has been doing a good job of fulfilling its functions within the limits possible under its present budget, but its activities could be beneficially expanded and improved if an increase in budgeting is permitted.

The other two measures are amendments to the Bail Reform Act of 1966, which are designed to deal with the problem of recidivism on bail. I testified today before the Senate Subcommittee on Constitutional Rights with respect to this problem and with respect to the recommendations for the reform of the Bail Act made by the Judicial Council Committee to Study the Operation of the Bail Reform Act in the District of Columbia. In the course of this testimony I detailed the circumstances giving rise to the need for legislation and outlined the measures I am now introducing. Rather than reiterate my prior remarks, Mr. President, I would like to insert my testimony in the RECORD.

Mr. President, I ask unanimous consent that the bills I am introducing and my testimony before the Subcommittee on Constitutional Rights be printed in the RECORD at this point.

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

The bills, introduced by Mr. TYDINGS, were received, read twice by their titles, appropriately referred, and ordered to be printed in the RECORD, as follows:

By Mr. TYDINGS (for himself, Mr. ERVIN, and Mr. HRUSKA):

S. 545. A bill to amend section 9 of the District of Columbia Bail Agency Act; to the Committee on the District of Columbia:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 9 of the District of Columbia Bail Agency Act (80 Stat. 329; D.C. Code, sec. 23-908) is amended to read as follows:

"For the purpose of carrying out the provisions of this chapter, there are authorized to be appropriated to the District of Columbia such sums as may be necessary, which shall be disbursed by the Commissioners of the District of Columbia."

By Mr. TYDINGS:

S. 546. A bill to amend the Bail Reform Act of 1966 to authorize the conditional release or commitment to custody of certain persons charged with the commission of an offense punishable as a felony, and for other purposes:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 207 of Title 18, United States Code, is amended by inserting immediately after section 3146 the following new section:

"§ 3146A. Conditional release or commitment to custody in certain felony cases

"(a) At the time of a person's appearance before a judicial officer for release in accordance with the provisions of section 3146 of this title or at any time after the person's release pursuant to section 3146 of this title, the Government may request a special evidentiary hearing for the purpose of imposing the conditions of release or commitment to custody provided for by subsection (e) of this section. The Government's application for such a hearing shall be granted only if (a) the person is charged with the commission of a felony involving the infliction of or threat to inflict serious bodily harm on another while released pending trial of a prior felony charge or pending appeal from a conviction of a felony; or (b) the person is charged with the commission of a felony involving the infliction of or threat to inflict serious bodily harm on another and the Government, by affidavit, alleges that, if released, the person will inflict serious bodily harm on

another or pose, because of his prior pattern of behavior, a substantial danger to other persons or to the community; or (c) the person is charged with the commission of the offense of armed robbery or an offense punishable under the provisions of chapter 103 of this title. If the Government's application is granted, the person shall be committed to custody until after the special hearing and appellate review thereof have been concluded.

"(b) If the judicial officer grants the Government's motion for a special evidentiary hearing, such hearing shall be held within two days, unless the person or his attorney requests a delay of the hearing.

"(c) Upon granting the Government's motion, the judicial officer shall notify the person and his attorney of the time and place of the hearing. If the person is without funds to provide for the assistance of counsel for the hearing, the judicial officer shall appoint counsel to represent the person at the expense of the United States.

"(d) In conducting a hearing under this section, the judicial officer shall receive and consider all relevant evidence and testimony which may be offered. The person shall have the right to present evidence, and present and cross-examine witnesses. No testimony of the person at this hearing shall be admissible in any other judicial proceeding, nor shall the person waive his privilege against self incrimination in any future judicial proceeding by testifying at this hearing.

"(e) If the judicial officer conducting the hearing under this section determines that there is clear and convincing evidence that the person if released will seek to intimidate witnesses, or otherwise unlawfully interfere with the administration of justice, or cause the death of, or inflict serious bodily harm upon, another, or participate in the planning or commission of the offense of armed robbery or any offense punishable under the provisions of chapter 103 of this title, the judicial officer shall impose upon the person any condition or combination of conditions of release set forth in section 3146(a) of this title which will reasonably protect against the dangers set forth in this subsection. If the judicial officer finds that a conditional release of the person under section 3146 of this title would not provide the necessary protection against the dangers set forth in this subsection, the judicial officer shall order the person committed to custody for a period not to exceed thirty days prior to his trial. The judicial officer shall state on the record his reasons for imposing any order of commitment to custody or the conditions of release.

"(f) Any person committed to custody or conditionally released under subsection (e) of this section shall have the right of appeal as provided in section 3147 of this title and any other rights to judicial review as provided by law.

"(g) The judicial officer who conducts the special evidentiary hearing provided for in this section shall not sit in any trial of the person for the offense which was the basis for the hearing.

"(h) Any person committed to custody under subsection (e) of this section shall have his case placed on an expedited trial calendar and the handling of motions and other preliminary matters pertaining to the case shall also be expedited. Continuances shall be granted only upon a showing of extraordinary cause. If a continuance is granted upon motion of the defense or if the trial of the person has begun but not been completed before the expiration of thirty days after the order of commitment to custody of the person, the person shall remain subject to the commitment order until the conclusion of the trial.

"(i) Any hearing under the provisions of this section shall be taken down by a court reporter or recorded by suitable sound recording equipment. A copy of the record of such a hearing shall be made available at the expense of the United States to a person who was the subject of the hearing and who makes affidavit that he is unable to pay or give security therefor, and the expense of such copy shall be paid by the Director of the Administrative Office of the United States Courts.

By Mr. TYDINGS:

S. 547. A bill to amend section 3148 of title 18, United States Code in order to restrict the release of any person who is accused of a capital offense or who has been convicted of any offense in a court of the United States and is awaiting sentence or has filed an appeal or a petition for writ of certiorari; to the Committee on the Judiciary:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3148 of title 18 is amended to read as follows:

(a) A person who is charged with an offense punishable by death shall be treated in accordance with the provisions of section 3146 unless the court or judge has reason to believe that the person will not flee or pose a danger to any other person or to the community. If such a risk of flight or danger is believed to exist, the person may be committed to custody. The provisions of section 3147 shall not apply to persons so committed to custody: *Provided,* That other rights to judicial review of conditions of release or orders of commitment to custody shall not be affected.

(b) A person who has been convicted of an offense and is either awaiting sentence or has filed an appeal or a petition for a writ of certiorari shall be committed to custody unless the court or judge finds (1) that the person, because of his ties to the community, his demeanor in court, and his conduct in the community while awaiting disposition of his case, is not likely to flee or pose a danger to any other person or to the community or participate in the planning or commission of an offense punishable by the laws of the United States, the District of Columbia or the State wherein release pending appeal is sought, and (2) that the appeal or petition for a writ of certiorari is not frivolous or taken for the purposes of delay but raises or seeks to raise a substantial question of law or fact likely to result; in a reversal and/or an order for new trial. Upon such findings, the court or judge shall treat the convicted person in accordance with the provisions of section 3146. The provisions of section 3147 shall not apply to persons committed to custody in accordance with this subsection: *Provided,* That other rights to judicial review of conditions of release or orders of commitment to custody shall not be affected.

The statement, presented by Mr. TYDINGS, is as follows:

STATEMENT OF SENATOR JOSEPH D. TYDINGS ON BAIL REFORM BEFORE THE CONSTITUTIONAL RIGHTS SUBCOMMITTEE, JANUARY 22, 1969

Mr. Chairman, I appreciate this opportunity to appear before the Subcommittee on Constitutional Rights to discuss some means of reducing the incidence of recidivism by persons released under the provisions of the Bail Reform Act. Criminal activity by persons on bail is of critical concern to me, as I know it is to you, and I hope that these hearings will lead to legislation to curb it.

Recidivism during bail is an especially acute problem in the District of Columbia. This is a result both of the extraordinary backlog of cases in the D.C. courts and of the extraordinary type of criminal who is tried in the Federal courts here.

Undoubtedly, the most effective means of reducing crime committed by persons released pending trial would be to reduce drastically the amount of time between arrest and trial. The President's Commission on Crime in the District of Columbia found that sixty-eight (68) percent of crime on bail is committed more than thirty days after initial release. Swift trials should therefore reduce recidivism on bail. Moreover, the deterrent effect of the criminal law would be greatly enhanced by bringing the trial into closer proximity with the criminal act and making the sentence seem more society's response to the defendant's criminal conduct and less the result of a long, drawn-out game.

In the last fiscal year some progress was made in speeding up the administration of criminal justice in the District of Columbia. Even with the increased workload after the April disorders, the United States District Court for the District of Columbia managed to slightly reduce its criminal backlog during fiscal 1968. But almost forty (40) percent of the cases pending in the district court at the end of fiscal 1968 had been on the calendar for six months or more and twenty-one (21) percent had been pending for over a year. The 1374 criminal cases pending in the district court at the end of fiscal 1968 gave that court the heaviest criminal docket in the entire federal system, with more criminal cases than were pending in all the district courts for seven of the other ten federal circuits.

The District Court of the District of Columbia is confronted with a type of criminal unknown, or at least little known, in almost every other federal district court. The broad criminal jurisdiction of the district court here, encompassing a jurisdiction left to the states in all other federal districts, gave the district court here jurisdiction over 61% of all the homicides, 27% of all assaults, 32% of all sex offenses, 47% of all robberies, and 47% of all burglaries tried in the entire federal system in 1967. The peculiar character of the criminal workload in the District, I believe, calls for special consideration as your Subcommittee re-evaluates the Bail Reform Act.

A few statistics might be of assistance in outlining the magnitude of the bail recidivism problem. The Judicial Council Committee to Study the Operation of the Bail Reform Act in the District of Columbia—the Hart Committee—found a 9% recidivism rate on pre-trial bail in the District for the first six months of 1967; the rate for the first six months of 1968 was 7.2%. These rates are bad enough, but when one looks only at the robbery suspects, an even more shocking picture is revealed. A police department study of all persons indicted for robbery and released on bail between July 1, 1966, and June 30, 1967, revealed that of the 130 persons so released, forty-five (45), or 34.6% were indicted for at least one additional felony committed while on bail. Among them, the forty-five were indicted for seventy-six (76) other offenses committed after the initial release. Further, of the 130 persons released, twenty-four (24), or 18.4%, had two or more bonds during the period studied.

A random inspection of the docket of the General Sessions Court of the District of Columbia reveals a similar pattern. All too typical is the history of one defendant whose record I shall brief for you as it stood at the time of a December 1968, appearance at the General Sessions Court. The string of charges then outstanding dated back to May, 1967, when he was indicted for robbery in the federal district court and released on bail. He was thereafter charged with robbery on no less than four occasions, three of them involving the use of arms. In each instance he was again released on bail. The defendant is currently out on bond, and only one of this collection of charges has been disposed of. Particular cases such as this, perhaps even more that the broad, general statistics,

evidence the need for change in the criminal justice system and the pre-trial release procedures in the District of Columbia.

Before I indicate the direction this change should take, let me suggest to you a course which may receive some support during these hearings, but a course which change must not be permitted to take—I speak of return to the old money bail system.

The Bail Reform Act of 1966, a project for which you are to be highly commended, Mr. Chairman, marked a significant advance in the administration of justice. The archaic system of money bail served only to separate the wealthy from the impoverished. To the extent that it sought to deal with the potential for further criminal activity, it did so through the subterfuge of sums set beyond the ability of the accused to pay out of his own resources. But such high bail was by no means a sure restraint of the potential recidivist. It merely put the release decision in the hands of the bondsman, who was not concerned with whether the defendant was likely to engage in further criminal activity, but only with whether he was a good risk to appear and not forfeit bond. Hence, as I learned too well in my years as a United States attorney, the most hardened and habitual offender—especially the person involved in the rackets or organized crime—could and would obtain release under the bail money system. Whatever the operational deficiencies of the current system with respect to recidivism, they will not be remedied by a return to money bail.

The logic of this conclusion is sustained and reinforced by the available statistics. Again I refer you to the Report of the Hart Committee, which indicates that the recidivism rate on pre-trial bail in the years immediately preceding the Bail Reform Act of 1966 was 7.5%, a rate higher than that for the most recent six month period reported.

I have anticipated the suggestion of return to a money bail system for two reasons. The first is a suggestion I have heard that the present recidivism rate is somehow a result of the reforms of 1966. I think it is evident, especially in light of the figures which show a comparable rate before the reform, that this is simply not true. The second reason is what I believe to be attempts by some judges to use the money bail condition for release as an effective means of detaining some persons whom they think to be dangerous. This is a misuse of the provisions of the present act, which are prescribed only to deter the accused's flight from prosecution, and not to protect the community from dangerous persons.

We must see in these attempts to restrain individual defendants evidence that the judges so acting believe that there is a need for change in the Bail Reform Act and for some form of preventive detention.

Our task in this area is made less difficult because of the efforts of the Hart Committee. That Committee, as you know, has made an extensive examination of the problem, and has, in its Report, made a number of proposals for corrective reform. These proposals are already before this Subcommittee and I am confident that you will find them to be excellent. The bulk of the Hart Committee recommendations are administrative and procedural in character. I will restrict my remarks, however, to the Committee's legislative proposals.

Additional one year penalty for persons convicted of crimes committed while released on bail: This is a sound proposal. The certainty of additional punishment should impress upon the accused person the gravity of the conditions of his release and society's demand that he refrain from criminal activity while released pending trial. It must be recognized, of course, that the additional penalty would be imposed only upon conviction of an offense committed while on bail. No additional penalty is imposed for the bailed offense.

Revocation of Bail for violation of conditions or indictment for offense allegedly committed while on bail, with expedited trials: If a person free on personal recognizance or on conditions pending trial is indicted by a grand jury or if a competent judicial officer finds that there is probable cause to believe that the person has committed another offense while released pending trial, that person's release should be revoked and he should be tried for either of the offenses as expeditiously as possible. And the ABA Tentative Draft on Pre-Trial Release states: "The spectacle of the bailed defendant securing release on the second charge is difficult to justify." As suggested by the ABA draft, I would also subject the released person to revocation of his release or at least to the imposition of additional conditions or release, if he violates the conditions of release initially imposed upon him. I believe the revocation provisions should be modeled on section 5.6, 5.7, and 5.8 of the ABA Tentative Draft.

Bail during a civil emergency: The Hart Committee also recommended that, during the duration of a civil disorder, release under the Bail Reform Act should be denied to persons charged with certain riot connected offenses. In effect, for a limited class of offenses, the Bail Reform Act would be suspended for the duration of the disorder. At the conclusion of the emergency, the provisions of the Act would again be operable to allow the release of the alleged offenders.

The Hart Committee's recommendations in this area are designed to stifle riot connected activity during a disorder. Last year during the first days of the disorders which followed Dr. King's assassination, many of the offenders released after arrest for acts of violence in the riot areas promptly returned to the area of disturbance to engage in new riot connected activity.

I endorse the concept of suspending the Bail Reform Act during times of riot and widespread disorder. But if we are to assure that the suspension of the Act will not be used as an excuse for dragnet devices which could easily inflame rather than calm the troubled area, any suspension procedures must be strictly limited as to (1) the type of emergency which will call for suspension of the Act, (2) the length of the suspension of the Act and (3) the charges for which it may be suspended.

Release of dangerous accused persons subject to conditions: The Hart Committee's principal recommendation would authorize the courts of the District of Columbia to consider dangerousness to the community in setting nonfinancial conditions of release for persons charged with crime. If we are to endorse this provision and make it effective, we must recognize that it will call for even more rigorous supervisory efforts by the District of Columbia Bail Agency. Even under their present workload, the Agency has serious difficulties in meeting the demands upon it. More staff to better supervise those under conditional release is an obvious need even under the present Act. One obstacle to better Bail Agency operation is the $130,000 authorization limitation in the statute, and I shall introduce legislation today to lift this limitation.

Conditioning release on the grounds other than the accused's potential flight to avoid prosecution would mark a significant departure from the present Bail Reform Act and from the letter of every bail statute extending back to the First Judiciary Act. However, the high incidence of recidivism among those released pending trial in the District of Columbia, especially among bank robbers, demands at least this shift in bail philosophy. The Hart Committee's recommendation to allow the committing magistrate to consider dangerousness is supported by the ABA's Tentative Draft on Pre-Trial Release, and by the Report of the President's Commission on Crime in the District of Columbia.

I believe, however, that a broader measure is necessary. What we must have is legislation, carefully drafted to insure the constitutional rights of the accused, which will permit preventive detention of certain defendants who pose so great a menace to society or to individuals within the society that mere conditions upon their release are not a sufficient safeguard. I have prepared such legislation for introduction today.

I would hope, Mr. Chairman, that this Subcommittee would use this proposal as a working paper for changing the pre-trial release procedures. Lurking in the background, of course, is the constitutional prohibition against excessive bail. But, as the ABA Tentative Draft on Pre-Trial Release states, "so-called preventive detention should be dealt with openly and on its own merits, not masked behind manipulations of bail amounts." I drafted the legislation to restrict the use of preventive detention and to make the restraint of "dangerous" individuals a visible process. Moreover, my proposal is much less restrictive than the English practice under the provisions of the Criminal Justice Act of 1967, an outline of which is attached as an Appendix.

The bill I will offer is in the form of a new section to the Bail Reform Act, and is based on a careful analysis of the recommendations of the President's Commission on Crime in the District of Columbia. It authorizes a special evidentiary hearing at the request of the government for the purpose of imposing upon the accused certain conditions of release, or for the purpose of issuing an order that the accused be detained for trial if it is found that the preventive detention prerequisites established by the bill have been met. Such hearings may be held only (1) where the defendant is accused of committing a felony involving serious bodily harm or the threat thereof and the government, by affidavit, alleges that the defendant will, if released, inflict serious bodily harm on another or pose a serious threat to the community, or (2) where the defendant is accused of committing such a felony while released pending trial of a prior felony charge, or (3) where the defendant is charged with a robbery offense.

The hearing must be conducted within two days of the filing of the government's application therefor and the defendant is entitled to counsel during the hearing. The rigid rules of evidence applicable in a criminal trial will not prevail at the hearing, but no testimony of the accused will be admissible in any other judicial proceeding, nor will he be considered to have waived his right against self-incrimination in any future proceeding by testifying at the hearing.

If the judicial officer determines that there is clear and convincing evidence that the accused will, if released, cause the death of, or inflict serious bodily harm upon another, or participate in the planning or commission of a robbery or burglary offense, or seek to intimidate witnesses or otherwise interfere with the administration of justice, the judicial officer must impose such conditions of release as will reasonably protect against this danger. If the judicial officer should find that no conditions offer a sufficient protection against the described dangers, then he must order the accused detained for a period not to exceed 30 days. An expedited trial would then be set. Judicial review of any specifically conditioned release or order of detention is provided by my proposal.

My proposal specifically allows detention or specifically conditioned release upon the finding of probable future robbery offenses because both the statistics in the District of Columbia and my discussions with Federal

judges from around the country convince me that this type of defendant is most likely to participate in additional offenses while awaiting trial.

A second legislative proposal which I am prepared to introduce deals with the problem of bail on appeal. The right to bail pending appeal is not surrounded by the same constitutional restrictions which limit restraint prior to trial. The presumption of innocence and the need to assist counsel in the preparation of a defense disappear upon conviction. The Bail Reform Act presently recognizes the constitutional distinction between pre- and post-trial bail and gives the judge great latitude in dealing with the convicted criminal who seeks bail pending appeal. Not only may conditions be imposed, but detention is authorized; and not only the risk of flight may be used as a standard for restraint, but also the potential danger to the community may be considered.

In spite of the created discretion which may be used to restrain convicted persons, the Hart Committee found the rate of recidivism among those released pending appeal for the first six months of 1967 to be 15%, as compared with the 9% recidivism rate for those released on pre-trial bail during the same period. The Hart Committee urged more extensive use of the existing power to detain and I concur in that recommendation. I further propose, however, that we alter the statutory language to make clear that such detention is justified whenever there is a sufficient indication of dangerousness and that the restraints are not intended to apply, as at least one court has stated and other courts appear to believe, only to the exceptional case. I propose that we amend Section 3148 of Title 18 to state that no person shall be released pending appeal unless a court or judge finds both that the appellant is not likely to flee or pose a danger to the community and that his appeal raises a substantial question of law or fact likely to require a new trial or reversal.

Mr. Chairman, the Bail Reform Act of 1966 brought about much needed changes in the pre-trial release procedures used in the Federal courts. The Act, however, appears to need some curative amendments. I attempted to outline my suggestions for legislative alterations. But let me stress that minor amendments to the Bail Reform Act will be no substitute for continued efforts to make the ideal of swift justice a reality. A management study of all the courts in the District of Columbia is now underway with, I am proud to say, private funds secured through my efforts. I await anxiously the report of the court survey team and I pledge both as Chairman of the District of Columbia Committee and as Chairman of the Judiciary Committee's Subcommittee on Improvements in Judicial Machinery to seek legislative improvements to expedite the administration of justice in both the Article I and III courts in our Nation's Capital.

APPENDIX

Under the English Bill of Rights there is a prohibition against "excessive bail." However, under section 18(5) of the Criminal Justice Act of 1967 a magistrate's court is not required to commit a person to bail:

"(a) where he is charged with an offense punishable by . . . imprisonment for a term of not less than six months and it appears to the court that he has been previously sentenced to imprisonment or borstal training;

"(b) where it appears to the court that, having been released on bail on any occasion, he has failed to comply with the conditions of any recognizance entered into by him on that occasion;

"(c) where he is charged with an offense alleged to have been committed while he was released on bail;

"(d) where it appears to the court that it is necessary to detain him to establish his identity or address;

"(e) where it appears to the court that he has no fixed abode or that he is ordinarily resident outside the United Kingdom;

"(f) where the act or any of the acts constituting the offense for which he is charged consisted of an assault on or threat of violence to another person, or of having or possessing a firearm, an imitation firearm, an explosive or an offensive weapon, or of indecent conduct with or towards a person under the age of sixteen years;

"(g) where it appears to the court that unless he is remanded or committed in custody he is likely to commit an offense; or

"(h) where it appears to the court necessary for his own protection to refuse to remand or commit him on bail."

S. 559—INTRODUCTION OF BILL ON THE TULALIP TRIBES OF WASHINGTON

Mr. JACKSON. Mr. President, I introduce, for myself and Senator MAGNUSON, by request, for appropriate reference a bill to authorize the purchase, sale, exchange, mortgage, and long-term leasing of land by the Tulalip Tribes of Washington.

By letter dated January 10, the chairman of the Tulalip Tribes requested introduction of legislation that would enable them to buy, sell, exchange, and lease lands for terms longer than now prescribed by law. The tribes need this authority in order to carry out a land consolidation and development program and to maximize income from valuable properties they now hold. The Congress has given similar authority to several other tribes in recent years to help them bring about maximum development of their resources.

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

The bill (S. 559) to authorize the purchase, sale, exchange, mortgage, and long-term leasing of land by the Tulalip Tribes of Washington, introduced by Mr. JACKSON (for himself and Mr. MAGNUSON), by request, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

S. 560—INTRODUCTION OF BILL TO PROVIDE FOR THE ESTABLISHMENT OF THE WILLIAM HOWARD TAFT NATIONAL HISTORIC SITE

Mr. BIBLE. Mr. President, I introduce, for appropriate reference, for myself and on behalf of my colleague, Mr. DIRKSEN, a bill to provide for the establishment of the William Howard Taft National Historic Site.

The purpose of the bill is to have the birthplace of William Howard Taft declared to be a national historic site. This distinguished Ohioan occupied the office of the Presidency and was also a Chief Justice of the United States.

There is no adequate memorial in honor of former President William Howard Taft. The Taft family has now acquired control of the Alphonso Taft house, where William Howard Taft was born in 1857. The father of William Howard Taft, Alphonso Taft, was a distinguished American. He was a leading judge in Ohio. He was Secretary of War and Attorney General under President Grant and also Minister to Austria and Russia.

The family, through a nonprofit corporation, the William Howard Taft Memorial Association, has, with its own finances, restored a part of the old house, but has encountered insurmountable barriers. It is for that reason that I have introduced the bill.

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

The bill (S. 560) to provide for the establishment of the William Howard Taft National Historic Site, introduced by Mr. BIBLE (for himself and Mr. DIRKSEN), was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

S. 561—INTRODUCTION OF A BILL TO AMEND THE HIGHWAY BEAUTIFICATION ACT OF 1965

Mr. HANSEN. Mr. President, I introduce, for appropriate reference, a bill to amend section 131 of title 23, United States Code. This legislation would amend the portion of the Highway Beautification Act of 1965 which relates to outdoor advertising devices.

This bill would change the date by which States must enact effective controls from January 1, 1968, to January 1, 1972, and would similarly extend other dates relating thereto.

It is my hope that the 91st Congress will give the States a little more breathing room by enacting this measure. In my own State of Wyoming, the legislature meets for only 40 days every 2 years. With such a short legislative session, Wyoming often requires more time than many other States to enact legislation to meet Federal standards.

I urge the Senate to take early action on this bill and grant the States more time to respond to the Federal Beautification Act, in an orderly manner.

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

The bill (S. 561) to amend section 131 of title 23 of the United States Code, introduced by Mr. HANSEN, was received, read twice by its title, and referred to the Committee on Public Works.

S. 562—INTRODUCTION OF THE FULL OPPORTUNITY ACT

Mr. McGOVERN. Mr. President, I introduce, for myself and Senators MCCARTHY, METCALF, HART, and YOUNG of Ohio, the Full Opportunity Act, a bill designed to meet on what I believe is a necessarily broad scale the fundamental problems of economic and social denial which continue to plague an alarming proportion of the American people.

A similar bill was introduced last week in the House of Representatives by more than 20 Members of that body, led by Congressman JOHN CONYERS, JR., of Michigan, who is its principal sponsor. It was also introduced in the 90th Congress, when the distinguished senior Senator from Minnesota (Mr. MCCARTHY) was the Senate sponsor. I am honored to have him join me in proposing this legislation this year.

The purpose of the bill, as described by Representative CONYERS, is to mount a "full-scale offensive against the causes

of poverty in both urban and rural America." It seeks to move against the three most prominent, interrelated aspects of poverty—jobs, housing, and education.

The eight titles of the bill include provisions of 3 million jobs at the subprofessional level to assure full employment, an increase in the minimum wage, family allowances, 1 million additional housing units for low- and moderate-income families, new Federal efforts to assure quality education regardless of income, and firm restrictions against discrimination in each of these areas.

Language has been included to assure that these deficiencies will be met in rural, as well as in urban, areas; an approach which I believe can, by stemming the tide of migration to the cities, bring both a reduction in total costs and relief from the grinding pressures of urban overcrowding.

Mr. President, in introducing this legislation I do not belittle the accomplishments we have made in these areas during the past 8 years. Many people have been helped to self-sufficiency. Manpower development and training programs and vocational education have made significant strides. We have seen a breakthrough in the willingness of Government to innovate, to search out methods that will work. Housing authority has been broadened and strengthened, and we have begun to eliminate legal barriers to social equality. The Elementary and Secondary Education Act of 1965 is an historic accomplishment, as is the system of educational opportunity loans which opens the doors of higher education to many who would otherwise not have the means. We can point to numerous other positive steps.

But at the same time we have ample evidence that we have made only small beginnings.

The report of the National Advisory Commission on Civil Disorders, now nearly a year old, draws a sharp contrast between our accomplishments and our needs, and it seems quite appropriate to recall its recommendations at this time. As Senators will recall, it was created by Executive order to determine the causes and search out possible cures for the violence which had erupted in many of the Nation's population centers, and we received its report last March.

Three basic principles were suggested:

To mount problems on a scale equal to the dimensions of the problems;

To aim these programs for high impact in the immediate future in order to close the gap between promise and performance; and

To undertake new initiatives and experiments that can change the system of failure and frustration that now dominates the ghetto and weakens our society.

The problems underscored by the Commission are clear enough:

Despite growing Federal expenditures for manpower development and training programs, and sustained general economic prosperity and increasing demands for skilled workers—

The report said—

about 2 million—white and nonwhite—are permanently unemployed.

The quality of education in the ghetto was cited as a major source of discontent and a primary long-term cause of the racial separation which the Commission found pervades our society.

The bleak record of public education for ghetto children is growing worse—

The Commission said—

and this notwithstanding the achievements in Federal assistance which have marked the last three Congresses.

The Commission found 6 million substandard housing units still being occupied, and it noted that nearly two-thirds of all nonwhite families living in the central cities today reside in neighborhoods marked by substandard housing and urban blight. We should be especially concerned by the disclosure that only 800,000 units have been produced over the 31-year history of federally subsidized housing, while 10 million middle- and upper-income units have been made possible by FHA insurance guarantees in existence only 3 years longer.

But the most disturbing conclusion for many of us concerned the issue of race.

Our Nation—

The Commission said—

is moving toward two societies, one black, one white—separate and unequal.

Reaction to last summer's disorders has quickened the movement and deepened the division. Discrimination and segregation have long permeated much of American life; they now threaten the future of every American.

More specifically:

Pervasive discrimination and segregation in employment, education and housing, which have resulted in the continuing exclusion of great numbers of Negroes from the benefits of economic progress.

Was listed as one basic answer to the question, Why did it happen?

The Commission did not condone violence as a response, nor do any of us. But the grievances which it found underlying the disorders cannot be talked away with glib restatements of "those who work shall eat." It is impossible to make an imprint with such phrases on young men who have been physically and mentally deprived and damaged in childhood, discouraged in school, alienated in youth, and deprived of their dignity throughout their adult lives. We must deal with reality. We can no longer conceal it.

The report of the Kerner Commission was not ignored. It received extensive coverage from the press, and the reaction was as wide as it was varied. Many Americans took it seriously, and called upon the Congress to act. Others found it unpleasant, and refused to accept its indictment.

But it provoked little action. Now, nearly a year later, it is beginning to take on the aura of study as an alternative, rather than as a precedent, for positive progress.

Mr. President, I believe we must begin now to close the gap between our bold promises and their fulfillment. To do less is to tax our credibility, tolerate human waste, ignore human misery, undermine human dignity, and insure social explosion.

We must recognize that adjustments in authority, new formulas proliferating guidelines and pilot projects are not going to win a war on poverty—or even accomplish our 22-year-old goal of jobs for every American.

We must be aware that blacks, their hopes kindled by the rhetoric we employed in our debates on civil rights legislation, are more concerned today about economic dignity than we have been about obstacles to legal equality over the past decade.

We know a great deal about the nature of the divisions in our society—between black and white, between affluence and need. We have to realize that they are broader than words can reach, and deeper than calls for patience can probe.

In short, the time for substance has come. That is the basic objective of the Full Opportunity Act.

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

The bill (S. 562) to assure to every American a full opportunity to have adequate employment, housing, and education, free from any discrimination on account of race, color, religion, or national origin, and for other purposes, introduced by Mr. McGOVERN (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

INTRODUCTION OF BILL RELATING TO ADDITIONAL FEDERAL JUDGESHIPS FOR THE EASTERN AND WESTERN DISTRICTS OF KENTUCKY

Mr. COOPER. Mr. President, I introduce, for myself and Mr. COOK, a bill to provide for the creation of one additional judgeship position in the eastern district of Kentucky and one additional judgeship position for the western district.

During the 90th Congress, I introduced for myself and on behalf of Senator Morton, S. 656, which would have provided for the appointment of one additional district judge for the eastern district of Kentucky. In my remarks at that time, I pointed out the need for an additional Federal judge in Kentucky's eastern district if the work of that court is to be dispatched with promptness and efficiency.

Mr. President, I ask unanimous consent that my remarks of January 25, 1967, together with correspondence I received from the Kentucky State Bar Association on this subject be printed in the RECORD at this point.

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

APPOINTMENT OF AN ADDITIONAL DISTRICT JUDGE FOR THE EASTERN DISTRICT OF KENTUCKY

Mr. COOPER. Mr. President, I introduce, for myself and on behalf of Senator MORTON, a bill to provide for the appointment of one additional district judge for the eastern district of Kentucky.

In recent years, I have received correspondence from many members of the Kentucky bar showing that the growing volume of business now being handled in the U.S.

court for the eastern district of Kentucky requires the appointment of an additional Federal judge if the work of that court is to be dispatched with promptness and efficiency. The president of the Kentucky State Bar Association, Mr. Grant F. Knuckles, has brought to my attention a resolution adopted by the Kentucky State Bar Association on September 2, 1966, recommending the appointment of additional judges for the eastern district of Kentucky.

I ask unanimous consent that Mr. Knuckles' letter and the attached resolution of the Kentucky State Bar Association be included in the RECORD at this point.

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

The bill (S. 656) to provide for the appointment of one additional district judge for the eastern district of Kentucky, introduced by Mr. COOPER (for himself and Mr. MORTON), was received, read twice by its title, and referred to the Committee on the Judiciary.

The letter and resolution presented by Mr. COOPER are as follows:

"KENTUCKY STATE BAR ASSOCIATION,
"September 6, 1966.

"Hon. JOHN S. COOPER,
"Senate Office Building,
"Washington, D.C.

"DEAR SENATOR COOPER: The Kentucky State Bar Association generally and lawyers and citizens in eastern Kentucky specifically are vitally interested in obtaining the appointment of additional judges for the United States District Court, for the Eastern District of Kentucky.

"In order to promote this interest, advise you of this imperative need and enlist your good offices in the promotion of the administration of justice the enclosed resolution is submitted for your usual prompt action.

"With kindest personal regards, I am

"Sincerely yours,
"GRANT F. KNUCKLES,
"President."

"Whereas, it is a matter of common knowledge that there is pending in the United States District Court for the Eastern District of Kentucky a tremendous backlog of cases, and

"Whereas, the situation exists despite the fact that our able Judges exert a supreme effort to keep the dockets in each Division current, and

"Whereas, the aforesaid District contains several divisions where Court is held and necessary the Judges must expend a large amount of time in travel from Court to Court, and

"Whereas, the need of additional Judges is recognized by the Members of the Bar and supported by statistics from the Administrative Office of the United States Courts, and

"Whereas, the matter has been called to the attention of the Kentucky State Bar Association to initiate and take such available steps to secure the appointment of additional Judges, and

"Now, therefore, be it resolved by the Board of Governors of the Kentucky State Bar Association that our duly elected Senators and Members of the House of Representatives and the Attorney General of the United States of America initiate and take such steps as may be necessary to bring about the prompt appointment of additional Judges for the Eastern District of Kentucky.

"Dated: September 2, 1966.
"GRANT F. KNUCKLES,
"President,
"Kentucky State Bar Association."

Mr. COOPER. Mr. President, the Senate Judiciary Committee took no action on this bill during the 90th Congress. The Judicial Conference of the United States met late in September of last year and the Chief Justice released the conference report on October 22, 1968.

Judge Harvey M. Johnsen, chairman of the Conference's Committee on Judicial Statistics, presented the committee's findings.

The conference report discusses Judge Johnsen's recommendations concerning Federal district courts at pages 49 to 50 as follows:

Judge Johnsen advised the Conference that the Committee had made a full and comprehensive review and survey of all of the district courts. Four years have elapsed since the Committee's last general survey of district judgeship needs and although many requests for additional judgeships have arisen on an emergency basis during these four years, none of the situations was found to be so critical as to require emergency action. Judge Johnsen stated that the Committee had studied the nature and extent of the accumulation of cases, the rate of attrition in the build-up of the backlog, the rate of dispositions as a matter of overall judicial performance as an aspect of the ability of the court to cope with its caseload, the trends in case filings and the comparative weighted caseload per judgeship with the awareness that the weighted caseload requires revision. In recognition of the policy of reviewing judgeship needs once every four years, the Committee also included as a deliberative element a factor of projection. These factors, Judge Johnsen stated considered in the light of the recommendations of the judicial councils of the circuits and the individual district courts fused themselves into what the Committee considered to be the demonstrably justifiable needs for judgeships in the district courts now and in the next four years, except as extraordinary developments may occur in some individual situations.

The Committee recommended and the Conference approved the recommendations for additional judgeships in the district courts as follows:

NUMERICAL RECOMMENDATIONS FOR ADDITIONAL JUDGESHIPS

FIRST CIRCUIT

Puerto Rico, 1.

SECOND CIRCUIT

New York, Eastern, 1.
New York, Southern, 5.

THIRD CIRCUIT

New Jersey, 1 (Plus 1 temporary judgeship).
Pennsylvania, Eastern, 5 (Three temporary judgeships to be made permanent).
Pennsylvania, Western, 2.
Virgin Islands, 1.

FOURTH CIRCUIT

Maryland, 1.
North Carolina, Eastern, 1.
South Carolina, 1.
Virginia, Eastern, 1.

FIFTH CIRCUIT

Alabama, Northern, 1.
Alabama, Middle, 1.
Alabama, Middle & Southern (The roving judgeship to be made a judgeship for the Southern District of Alabama only).
Florida, Southern, 3.
Georgia, Northern, 3.
Georgia, Southern, 1.
Louisiana, Eastern, 2.
Louisiana, Western, 1.
Texas, Northern, 2.
Texas, Eastern, 2.
Texas, Southern, 1.
Texas, Western, 1.

SIXTH CIRCUIT

Kentucky, Eastern, 1.
Kentucky, Western, 1.
Michigan, Eastern, 2.
Ohio, Northern, 1.
Ohio, Southern, 1.

SEVENTH CIRCUIT

Illinois, Northern, 2.
Indiana, Northern, 1.
Indiana, Southern, 1.

EIGHTH CIRCUIT

Missouri, Eastern, 1.

NINTH CIRCUIT

Arizona, 1.
California, Northern, 2.
California, Central, 3.
California, Southern, 3.

TENTH CIRCUIT

Colorado, 1.
Kansas (Temporary judgeship to be made permanent).
New Mexico, 1.

DISTRICT OF COLUMBIA CIRCUIT

District of Columbia, 6 (These judgeships are recommended as needed unless the local criminal jurisdiction under Title 22 of the D.C. Code is transferred to another court.)

Mr. COOPER. Mr. President, in reviewing the committee's recommendations for additional judgeships for Federal district courts throughout the country, I am pleased to note that the conference concluded that based on Judge Johnsen's findings an additional judgeship for the western district as well as for the eastern district of Kentucky were needed for the proper functioning of Kentucky's Federal courts.

These recommendations were based on carefully accumulated statistics and an analysis of the dockets of the courts in both districts.

I am hopeful that the Senate Judiciary Committee will have an opportunity to give the recommendations of the Judicial Conference its early consideration.

Because of the widespread interest that the Kentucky State and local bar associations have taken in this matter, and because of the many inquiries I have received from attorneys throughout the State, I requested the Judicial Conference to provide me with a copy of the committee's findings as they relate to Kentucky. I ask unanimous consent that the committee's findings provided in tables 1 through 7, relating to the eastern district, and the corresponding tables, relating to the western district of Kentucky, be included in the RECORD at this point.

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

TABLE 1.—U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF KENTUCKY

[Authorized judgeships, 1–1/2; resident judges: Mac Swinford, chief judge, Bernard T. Moynahan, Jr.; places of holding court: Lexington, Catlettsburg, Covington, Frankfort, Jackson, London, Pikeville, Richmond; district population, 1960: [1] 1,459,435]

Year	State population	Percent increase over 1960
1960	[1] 3,038,156	
1967	3,189,000	5.0
1970	3,265,000	7.5
1975	3,400,000	11.9

[1] 1960 actual; years 1967, 1970, and 1975 are estimates published by the Bureau of the Census.

TABLE 2.—U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF KENTUCKY

CIVIL AND CRIMINAL CASES COMMENCED, TERMINATED, AND PENDING

Fiscal year	Total						Distribution of civil cases					
	Civil cases [1]			Criminal cases			Private civil			U.S. civil		
	Commenced	Terminated	Pending	Commenced	Terminated	Pending	Commenced	Terminated	Pending	Commenced	Terminated	Pending
1959	300	321	239	596	565	108	156	167	159	144	154	80
1960	354	273	320	568	591	85	161	138	182	193	135	138
1961	307	311	316	549	537	97	145	149	178	162	162	138
1962	304	318	302	475	502	70	179	184	173	125	134	129
1963	428	361	369	444	449	65	186	170	189	242	191	180
1964	501	323	547	468	452	81	205	143	251	296	180	296
1965	481	497	531	412	422	71	158	175	234	323	322	297
1966	480	441	570	397	375	93	168	165	237	312	276	333
1967	407	429	548	281	314	60	164	173	228	243	256	320
1968	406	375	579	319	301	78	185	160	253	221	215	326

[1] Private civil and U.S. civil cases shown below.

TABLE 3.—U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF KENTUCKY

[Civil cases commenced during the fiscal years 1959 through 1968, and civil cases pending on June 30, 1958, June 30, 1967, and June 30, 1968, by nature of suit]

Nature of suit	Civil cases pending, June 30, 1958	Civil cases filed, by fiscal year									Civil cases pending, June 30, 1967
		1959	1960	1961	1962	1963	1964	1965	1966	1967	
Total	260	300	354	307	304	438	501	481	480	407	548
U.S. plaintiff, total	68	112	145	116	71	110	95	101	153	107	139
Land condemnation	25	6	12	15	10	17	13	17	17	10	75
Note cases and overpayments	18	47	41	30	15	24	16	18	36	21	19
Antitrust		1		1			1				
Labor cases	4	17	7	20	13	26	23	24	31	24	20
Tax		2	1	3	1	3	4	2	1	2	1
Other	21	39	84	47	32	40	38	40	68	50	24
U.S. defendant, total	22	32	48	46	54	132	201	222	159	136	181
Tort Claims Act	3	4	3	2	3	8	12	5		9	12
Prisoner petitions	1	4	10	5	6	11	14	17	17	28	3
Tax refund	12	8	8	5	7	14	4	11	10	13	18
Social security	(1)	(1)	(1)	(1)	37	97	169	181	124	73	137
Other	6	16	27	34	1	2	2	8	8	13	11
Federal question, total	20	31	31	33	34	42	40	38	31	51	43
Marine contracts				1	1		1		1	1	1
Jones Act	1	2		1	1	1	3	5			
Federal Employer's Liability Act	7	8	2	3	5	8	8	10	6	3	8
Miller Act	2		2					4		1	
State habeas corpus	1								1	19	2
Labor cases	1	9	15	16	8	6	14	8	12	8	13
Antitrust	1	1	6		5	4	1		1	3	5
Patent		2					2				1
Copyright and trademark	2	2	2	2	3	5	3	1	5	3	1
Civil rights	1			5	3	9	3	4	2	8	8
Other	4	7	4	5	8	9	5	6	3	3	4
Diversity of citizenship, total	150	125	130	112	145	144	165	120	137	113	185
Contract actions	57	49	29	29	43	33	39	29	33	26	47
Stockholders' suits											
Real property	41	8	11	4	12	16	15	8	3	8	18
Personal injury, motor vehicle	38	49	79	62	70	74	84	63	86	60	92
Other personal injury	8	17	10	12	14	20	22	20	14	19	25
Other	6	2	1	5	6	1	5		1		3

[1] Not available.

TABLE 4.—U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF KENTUCKY

[Criminal cases [1] commenced and pending on June 30, 1967, and June 30, 1968, by nature of offense]

Offense	Criminal cases						
	Commenced				Pending, June 30, 1967	Commenced, 1968	Pending, June 30, 1968
	1964	1965	1966	1967			
Criminal cases, total	460	401	392	274	60	303	78
General offenses:							
Homicide						1	
Robbery	3	4	5	8		7	
Assault	6	3		3	1	6	1
Burglary	5	1	1			1	
Larceny and theft	25	16	18	14	2	6	3
Embezzlement	13	5	5	11	2	2	
Fraud	21	12	19	13	7	11	7
Auto theft	115	96	85	60	8	104	25
Forgery and counterfeiting	32	33	27	32	9	21	2
Sex offenses	1		1			1	1
Narcotic laws	1		2	3			
Miscellaneous general offenses	9	10	31	22	6	39	15
Special offenses:							
Immigration laws		1					
Liquor, Internal Revenue	193	173	140	82	16	82	13
Selective Service Act	1	2	2	4	1	4	1
Other Federal statutes	35	45	56	22	8	18	10

[1] Excludes transfers.

TABLE 5.—U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF KENTUCKY

[Time interval from issue to trial of civil cases [1] in which a trial was completed]

Fiscal year	Number of trials	Median time interval (in months)	National median time interval (in months)	Fiscal year	Number of trials	Median time interval (in months)	National median time interval (in months)
1961	63	7	11	1965	35	12	11
1962	35	10	10	1966	31	18	11
1963	42	8	10	1967	28	13	12
1964	26	13	11	1968	29	15	12

TABLE 6.—U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF KENTUCKY

[Age of civil cases [1] pending at the end of fiscal years]

Fiscal year	Total	Less than 1 year	1 to 2 years	2 to 3 years	Over 3 years		Fiscal year	Total	Less than 1 year	1 to 2 years	2 to 3 years	Over 3 years	
					Number	Percent						Number	Percent
1961	273	178	52	18	25	9.2	1965	458	306	97	38	17	3.7
1962	249	185	42	18	4	1.6	1966	485	300	122	41	22	4.5
1963	311	240	58	10	3	1.0	1967	472	241	150	48	33	7.0
1964	478	362	87	23	6	1.3	1968	517	263	147	70	37	7.2

[1] For both tables 5 and 6 excludes land condemnation cases. For table 5 also excludes habeas corpus cases, deportation reviews, and motions to vacate sentence.

TABLE 7.—WEIGHTED CASELOAD PER JUDGESHIP [1] FOR ALL U.S. DISTRICT COURTS AND FOR THE EASTERN DISTRICT OF KENTUCKY

Fiscal year	Number of district courts in the United States	Number of judgeships		Weighted caseload per judgeship [1]						
				Civil		Criminal		Total		
		United States	Eastern Kentucky	United States	Eastern Kentucky	United States	Eastern Kentucky	United States	Eastern Kentucky	
									Number	Rank [2]
1962	87	289	2	185	165	57	134	242	299	16
1963	88	289	2	195	217	56	106	251	323	16
1964	88	289	1½	207	309	57	147	264	456	4
1965	88	288	1½	214	265	60	120	274	385	9
1966	87	318	1½	200	253	55	139	255	392	3
1967	89	322	1½	198	235	54	102	252	337	10
1968	89	323	1½	207	272	58	118	265	390	6

[1] Based on civil and original criminal cases filed. The weighted caseload reflects the amount of court time used for types of civil or criminal cases divided by the proportions of total terminations. A description of the method used appears on pp. 156–161 in the Annual Report of the Director of the Administrative Office of the U.S. Courts, 1964. The weighted caseload per judgeship refers only o the overall average per judgeship for each district as provided by 28 U.S.C. 133. Therefore, the number of judgeships does not include the services of senior judges or services of visiting judges. In computing the weighted caseload for the United States, the District of Columbia, and territories are excluded.

[2] Refers to the rank of the district court compared to all of the district courts for the year indicated. The lower the ranking the higher the average weighted caseload.

TABLE 1.—U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY [1]

[Authorized judgeships, 2½; resident judges: Henry L. Brooks, chief judge; James F. Gordon, Mac Swinford (resident of eastern district). Places of holding court: Louisville, Bowling Green, Owensboro, Paducah]

Year [2]	State population	Percent increase over 1960
1960	3,038,156	
1967	3,189,000	5.0
1970	3,265,000	7.5
1975	3,400,000	11.9

[1] District population, 1960, 1,578,721.

[2] 1960 actual. Years 1967, 1970, and 1975 are estimates published by the Bureau of the Census.

TABLE 2.—U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY

CIVIL AND CRIMINAL CASES COMMENCED, TERMINATED, AND PENDING

Fiscal year	Total						Distribution of civil cases					
	Civil cases [1]			Criminal cases			Private civil			U.S. civil		
	Commenced	Terminated	Pending	Commenced	Terminated	Pending	Commenced	Terminated	Pending	Commenced	Terminated	Pending
1959	343	387	253	362	365	13	155	199	142	188	188	111
1960	362	322	293	345	345	13	182	172	152	180	150	141
1961	325	357	261	346	339	20	174	187	139	151	170	122
1962	427	311	377	357	344	33	232	171	200	195	140	177
1963	416	398	395	393	403	23	237	216	221	179	182	174
1964	409	439	365	289	289	23	248	264	205	161	175	160
1965	477	449	393	275	275	23	274	246	233	203	203	160
1966	520	471	442	294	290	27	275	260	248	245	211	194
1967	514	542	414	299	278	48	291	291	248	223	251	166
1968	595	484	525	282	296	34	338	301	285	257	183	240

[1] Private civil and U.S. civil cases shown below.

TABLE 3.—U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY

[Civil cases commenced during the fiscal years 1959 through 1968, and civil cases pending on June 30, 1958, June 30, 1967, and June 30, 1968, by nature of suit]

Nature of suit	Civil cases pending, June 30, 1958	Civil cases filed, by fiscal year									Civil cases pending, June 30, 1967
		1959	1960	1961	1962	1963	1964	1965	1966	1967	
Total	297	343	362	325	427	416	409	477	520	514	414
U.S. plaintiff, total	66	134	138	107	149	134	93	138	150	140	98
Land condemnation	12	11	13	8	58	29	14	13	26	22	49
Note cases and overpayments	23	76	53	29	39	49	30	64	80	55	19
Antitrust		1									
Labor cases	5	22	22	25	13	20	16	15	12	25	7
Tax	1	1	1		1	3	4	2		1	2
Other	25	23	49	45	38	33	29	44	32	37	21
U.S. defendant, total	45	54	42	44	46	45	68	65	95	83	68
Tort Claims Act	8	5	4	6	5	7	12	5	11	10	6
Prisoner petitions	6	13	4	6	6	5	18	25	26	13	1
Tax refund	28	26	28	23	18	15	20	20	31	41	47
Social security	(1)	(1)	(1)	(1)	11	13	16	13	14	11	8
Other	3	10	6	9	6	5	2	2	13	8	6
Federal question, total	37	38	39	51	90	66	73	98	113	106	61
Marine contracts	2	1	1	2	3	1	1	3		1	1
Jones Act		2	5	1	5	3	1	13	5	3	3
Federal Employer's Liability Act	5	3	5	2	2	1	2	4	3		
Miller Act	5	1	1	2	4	4	2	8	9	7	8
State habeas corpus	1	3	7	13	10	11	20	26	50	49	7
Labor cases	6	4	8	9	6	18	23	19	21	15	16
Antitrust	1	1	1		34	5	2		1	1	2
Patent	2		1	3		1		3	1	1	2
Copyright and trademark	7	13	8	5	5	5	8	7	8	9	9
Civil rights	2	1	1	6	8	8	2	3	5	8	5
Other	6	9	1	8	13	9	12	12	10	12	8
Diversity of citizenship, total	149	117	143	123	142	171	175	176	162	185	187
Contract actions	49	28	36	30	38	32	31	53	32	35	43
Stockholders' suits											
Real property	3	11	15	11	4	7	12	4	5	10	9
Personal injury, motor vehicle	61	55	62	61	73	98	101	91	94	100	93
Other personal injury	33	22	27	15	22	33	30	26	29	39	40
Other	3	1	3	6	5	1	1	2	2	1	2

[1] Not available.

TABLE 4.—U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY

[Criminal cases [1] commenced and pending on June 30, 1967 and June 30, 1968, by nature of offense]

Offense	Criminal cases						
	Commenced				Pending, June 30, 1967	Commenced, 1968	Pending, June 30, 1968
	1964	1965	1966	1967			
Total, Criminal cases	279	263	281	281	48	268	34
General offenses:							
Homicide						2	
Robbery	5	10	14	9	1	12	2
Assault	1	2	2	8	2	9	
Burglary	2	8	1	1		6	
Larceny and theft	15	18	27	37	6	24	
Embezzlement	5	6	7	6		3	1
Fraud	49	11	26	40	6	16	6
Auto theft	93	91	78	68	8	98	8
Forgery and counterfeiting	29	39	39	32	2	35	4
Sex offenses	6	6	2	3	2	4	
Narcotic laws		1	1	8		4	
Miscellaneous general offenses	8	7	7	11	9	8	3
Special offenses:							
Immigration laws	2		2		1	2	
Liquor, Internal Revenue	41	48	27	25	6	13	3
Selective Service Act	1	4	2	14	3	8	1
Other Federal statutes	22	12	46	19	2	24	6

[1] Excludes transfers.

TABLE 5.—U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY

[Time interval from issue to trial of civil cases [1] in which a trial was completed]

Fiscal year	Number of trials	Median time interval (in months)	National median time interval (in months)	Fiscal year	Number of trials	Median time interval (in months)	National median time interval (in months)
1961	56	8	11	1965	48	8	11
1962	42	6	10	1966	45	7	11
1963	48	4	10	1967	38	9	12
1964	41	6	11	1968	40	8	12

TABLE 6.—U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY

[Age of civil cases[1] pending at the end of fiscal years]

Fiscal year	Total	Less than 1 year	1 to 2 years	2 to 3 years	Over 3 years		Fiscal year	Total	Less than 1 year	1 to 2 years	2 to 3 years	Over 3 years	
					Number	Percent						Number	Percent
1961	239	157	51	14	17	7.1	1965	348	240	58	32	18	5.2
1962	301	218	47	19	17	5.6	1966	395	277	77	21	20	5.1
1963	327	208	85	16	18	5.5	1967	365	247	80	21	17	4.7
1964	313	206	66	24	17	5.4	1968	409	288	76	37	8	2.0

[1] For both tables 5 and 6 excludes land condemnation cases. For table 5 also excludes habeas corpus cases, deportation reviews, and motions to vacate sentence.

TABLE 7.—WEIGHTED CASELOAD PER JUDGESHIP FOR ALL U.S. DISTRICT COURTS AND FOR THE WESTERN DISTRICT OF KENTUCKY[1]

Fiscal year	Number of district courts in the United States	Number of judgeships		Weighted caseload per judgeship[1]						
				Civil		Criminal		Total		
		United States	Western Kentucky	United States	Western Kentucky	United States	Western Kentucky	United States	Western Kentucky	
									Number	Rank[2]
1962	87	289	2	185	235	57	92	242	327	8
1963	88	289	2	195	219	56	104	251	323	17
1964	88	289	2½	207	172	57	62	264	234	53
1965	88	288	2½	214	177	60	54	274	231	56
1966	87	318	2½	200	186	55	64	255	250	39
1967	89	322	2½	198	196	54	72	252	268	31
1968	89	323	2½	207	267	58	63	265	330	13

[1] Based on civil and original criminal cases filed. The weighted caseload reflects the amount of court time used for types of civil or criminal cases divided by the proportions of total terminations. A description of the method used appears on pp. 156–161 in the Annual Report of the Director of the Administrative office of the United States Courts, 1964. The weighted caseload per judgeship refers only to the overall average per judgeship for each district as provided by 28 U.S.C. 133. Therefore, the number of judgeships does not include the services of senior judges or services of visiting judges. In computing the weighted caseload for the United States, the District of Columbia and territories are excluded.

[2] Refers to the rank of the district court compared to all of the district courts for the year indicated. The lower the ranking the higher the average weighted caseload.

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

The bill (S. 567) to provide for the appointment of additional district judges for the eastern and western districts of Kentucky, introduced by Mr. COOPER (for himself and Mr. COOK), was received, read twice by its title, and referred to the Committee on the Judiciary.

ADDITIONAL COSPONSORS OF BILLS

Mr. MUSKIE. I ask unanimous consent that, at its next printing, the name of the junior Senator from Vermont (Mr. PROUTY) be added as a cosponsor of the bill (S. 1) the Uniform Relocation Assistance and Land Acquisition Policies Act of 1969.

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

Mr. MUSKIE. Mr. President, I also ask unanimous consent that, at its next printing, the name of the junior Senator from Vermont (Mr. PROUTY) be added as a cosponsor of the bill (S. 7) the Water Quality Management Act of 1969.

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

Mr. MUSKIE. Mr. President, I further ask unanimous consent that, at its next printing, the name of the senior Senator from Pennsylvania (Mr. SCOTT) be added as a cosponsor of the bill (S. 11) the Intergovernmental Personnel Act of 1969.

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

SENATE CONCURRENT RESOLUTION 3—CONCURRENT RESOLUTION RELATING TO THE FURNISHING OF RELIEF ASSISTANCE TO PERSONS AFFECTED BY THE NIGERIAN CIVIL WAR

Mr. PEARSON (for himself and Senators BROOKE, ALLOTT, BAYH, BELLMON, BENNETT, BOGGS, BYRD of West Virginia, CASE, CHURCH, COOPER, CRANSTON, CURTIS, DOLE, EAGLETON, FANNIN, GRAVEL, GRIFFIN, GURNEY, HANSEN, HART, HARTKE, HATFIELD, HRUSKA, HUGHES, INOUYE, JAVITS, KENNEDY, MATHIAS, MCCARTHY, MCGEE, MCGOVERN, METCALF, MILLER, MOSS, MURPHY, MUSKIE, NELSON, PACKWOOD, PELL, PERCY, RANDOLPH, RIBICOFF, SCOTT, SCHWEIKER, STEVENS, TALMADGE, THURMOND, TYDINGS, WILLIAMS of New Jersey, and YOUNG of Ohio), submitted a concurrent resolution (S. Con. Res. 3) relating to the furnishing of relief assistance to persons affected by the Nigerian Civil War, which was referred to the Committee on Foreign Relations.

(See the above concurrent resolution printed in full when submitted by Mr. PEARSON, which appears under a separate heading.)

SENATE RESOLUTION 35—RESOLUTION TO REFER SENATE BILL 521 TO THE U.S. COURT OF CLAIMS

Mr. SCOTT submitted the following resolution (S. Res. 35); which was referred to the Committee on the Judiciary:

S. RES. 35

Resolved, That the bill (S. 521) entitled "A bill for the relief of Edith Berkenfeld, executrix of the estate of Sidney Berkenfeld, for the benefit of Arlene Coats, a former partnership, consisting of the late Sidney Berkenfeld and Benjamin Prepon", now pending in the Senate, together with all the accompanying papers, is hereby referred to the chief commissioner of the United States Court of Claims; and the chief commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

SENATE RESOLUTION 36—RESOLUTION RELATING TO INSTALLATION AND OPERATION OF SUITABLE ELECTRICAL PUBLIC ADDRESS SYSTEMS IN THE SENATE CHAMBER

Mr. JAVITS (for himself, Mr. ANDERSON, Mr. BENNETT, Mr. HARTKE, Mr. MOSS, Mr. MURPHY, Mr. RANDOLPH, Mrs. SMITH, and Mr. SYMINGTON) submitted a resolution (S. Res. 36) relating to installation and operation of suitable electrical public address systems in the Senate Chamber, which was referred to the Committee on Rules and Administration.

(See the above resolution printed in full when submitted by Mr. JAVITS, which appears under a separate heading.)

SENATE RESOLUTION 37—RESOLUTION DESIGNATING THE "U.S. SENATOR'S MARCH" AS THE OFFICIAL SONG OF THE U.S. SENATE

Mr. McGEE submitted the following resolution (S. Res. 37); which was referred to the Committee on the Judiciary:

S. RES. 37

Resolved, That the composition entitled "U.S. Senator's March", composed by Carrol M. Butts, of Torrington, Wyoming, is hereby designated as the official song of the United States Senate.

SENATE RESOLUTION 38—RESOLUTION AUTHORIZING THE COMMITTEE ON GOVERNMENT OPERATIONS TO STUDY THE ORIGIN OF RESEARCH AND DEVELOPMENT PROGRAMS FINANCED BY THE DEPARTMENTS AND AGENCIES OF THE FEDERAL GOVERNMENT—REPORT OF A COMMITTEE

Mr. HARRIS, from the Committee on Government Operations, reported the following original resolution (S. Res. 38); which was referred to the Committee on Rules and Administration:

S. RES. 38

Resolved, That in holding hearings, reporting such hearings, and making investigations as authorized by section 134 of the Legislative Reorganization Act of 1946, and in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Government Operations, or any subcommittee thereof, is authorized, from February 1, 1969, through January 31, 1970, to make studies as to the efficiency and economy of operations of all branches and functions of the Government with particular reference to:

(1) the operations of research and development programs financed by departments and agencies of the Federal Government, including research in economics and social science, as well as the basic sciences, biomedicine, research, and technology;

(2) review those programs now being carried out through contracts with higher educational institutions and private organizations, corporations, and individuals to determine the need for the establishment of national research, development, and manpower policies and programs, in order to bring about Government-wide coordination and elimination of overlapping and duplication of scientific and research activities; and

(3) examine existing research information operations, the impact of Federal research and development programs on the economy and on institutions of higher learning, and to recommend the establishment of programs to insure a more equitable distribution of research and development contracts among such institutions and among the States.

SEC. 2. For the purposes of this resolution, the committee, from February 1, 1969, to January 31, 1970, inclusive, is authorized—

(1) to make such expenditures as it deems advisable;

(2) to employ upon a temporary basis and fix the compensation of technical, clerical, and other assistants and consultants: *Provided*, That the minority of the committee is authorized at its discretion to select one employee for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,400 than the highest gross rate paid to any other employee; and

(3) with the prior consent of the head of the department or agency concerned, and the Committee on Rules and Administration, to utilize on a reimbursable basis the services, information, facilities, and personnel of any department or agency of the Government.

SEC. 3. Expenses of the committee under this resolution, which shall not exceed $63,852, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 39—RESOLUTION TO STUDY ADMINISTRATIVE PRACTICE AND PROCEDURE—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported an original resolution (S. Res. 39); which was referred to the Committee on Rules and Administration:

S. RES. 39

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to make a full and complete study and investigation of administrative practices and procedures within the departments and agencies of the United States in the exercise of their rulemaking, licensing, investigatory, law enforcement, and adjudicatory functions, including a study of the effectiveness of the Administrative Procedure Act and the study of the recommendations of the Administrative Conference of the United States, with a view to determining whether additional legislation is required to provide for the fair, impartial, and effective performance of such functions.

SEC. 2. For the purpose of this resolution the committee, from February 1, 1969, to January 31, 1970, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,400 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its finding, together with its recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1970.

SEC. 4. Expenses of the committee under this resolution, which shall not exceed $244,820 shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 40—RESOLUTION TO INVESTIGATE ANTITRUST AND MONOPOLY LAWS OF THE UNITED STATES—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported an original resolution (S. Res. 40); which was referred to the Committee on Rules and Administration, as follows:

S. RES. 40

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to make a complete, comprehensive, and continuing study and investigation of unlawful restraints and monopolies, and of the antitrust and monopoly laws of the United States, their administration, interpretation, operation, enforcement, and effect, and to determine and from time to time redetermine the nature and extent of any legislation which may be necessary or desirable for—

(1) clarification of existing law to eliminate conflicts and uncertainties where necessary;

(2) improvement of the administration and enforcement of existing laws; and

(3) supplementation of existing law to provide any additional substantive, procedural, or organizational legislation which may be needed for the attainment of the fundamental objects of the laws and the efficient administration and enforcement thereof.

SEC. 2. For the purposes of this resolution the committee, from February 1, 1969, to January 31, 1970, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis, technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,400 than the highest gross rate paid to any other employee; and (3) with prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1970.

SEC. 4. Expenses of the committee, under this resolution, which shall not exceed $623,500 shall be paid from the contingent fund for the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 41—RESOLUTION TO CONSIDER MATTERS PERTAINING TO FEDERAL CHARTERS, HOLIDAYS AND CELEBRATIONS—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported an original resolution (S. Res. 41); which was referred to the Committee on Rules and Administration, as follows:

S. RES. 41

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate to consider all matters pertaining to Federal charters, holidays and celebrations.

SEC. 2. For the purposes of this resolution, the committee, from February 1, 1969, to January 31, 1970, inclusive, is authorized to (1) make such expenditures as it deems advisable; (2) to employ upon a temporary basis, technical, clerical, and other assistants and consultants; and (3) with the prior consent of the heads of the departments or agencies concerned and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. Expenses of the committee, under this resolution, which shall not exceed $9,500, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 42—RESOLUTION AUTHORIZING A STUDY OF MATTERS PERTAINING TO CONSTITUTIONAL AMENDMENTS—REPORT OF A COMMTTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported an original resolution (S. Res. 42); which was referred to the Committee on Rules and Administration, as follows:

S. RES. 42

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of any and all matters pertaining to constitutional amendments.

SEC. 2. For the purposes of this resolution the committee, from February 1, 1969, to January 31, 1970, inclusive, is authorized (1) to make such expenditures as it deems

advisable; (2) to employ upon a temporary basis, technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,400 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its activities and findings, together with its recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1970.

SEC. 4. Expenses of the committee, under this resolution, which shall not exceed $139,500.00, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 43—RESOLUTION TO INVESTIGATE MATTERS PERTAINING TO CONSTITUTONAL RIGHTS—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported an original resolution (S. Res. 43); which was referred to the Committee on Rules and Administration, as follows:

S. RES. 43

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate to examine, investigate, and make a complete study of any and all matters pertaining to constitutional rights.

SEC. 2. For the purposes of this resolution the committee, from February 1, 1969, to January 31, 1970, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ, upon a temporary basis, technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,400 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1970.

SEC. 4. Expenses of the committee, under this resolution, which shall not exceed $220,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 44—RESOLUTION TO INVESTIGATE CRIMINAL LAWS AND PROCEDURES—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported an original resolution (S. Res. 44); which was referred to the Committee on Rules and Administration, as follows:

S. RES. 44

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of criminal laws and procedures.

SEC. 2. For the purpose of this resolution the committee, from February 1, 1969, to January 31, 1970, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ on a temporary basis technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment and his compensation shall be so fixed that his gross rate shall not be less by more than $2,400 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the department or agency concerned and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for such legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1970.

SEC. 4. The expenses of the committee under this resolution, which shall not exceed $142,000, shall be paid from the contingent fund of the Senate by vouchers approved by the chairman of the committee.

SENATE RESOLUTION 45—RESOLUTION TO STUDY MATTERS PERTAINING TO IMMIGRATION AND NATURALIZATION—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported an original resolution (S. Res. 45); which was referred to the Committee on Rules and Administration, as follows:

S. RES. 45

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate to examine, investigate, and make a complete study of any and all matters pertaining to immigration and naturalization.

SEC. 2. For the purposes of this resolution, the committee, from February 1, 1969, to January 31, 1970, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis, technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,400 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1970.

SEC. 4. Expenses of the committee, under this resolution, which shall not exceed $200,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 46—RESOLUTION TO INVESTIGATE THE ADMINISTRATION, OPERATION, AND ENFORCEMENT OF THE INTERNAL SECURITY ACT—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported an original resolution (S. Res. 46); which was referred to the Committee on Rules and Administration, as follows:

S. RES. 46

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, insofar as they relate to the authority of the committee, to make a complete and continuing study and investigation of (1) the administration, operation, and enforcement of the Internal Security Act of 1950, as amended; (2) the administration, operation, and enforcement of other laws relating to espionage, sabotage, and the protection of the internal security of the United States; and (3) the extent, nature, and effect of subversive activities in the United States, its territories and possessions, including, but not limited to, espionage, sabotage, and infiltration by persons who are or may be under the domination of the foreign government or organizations controlling the world Communist movement or any other movement seeking to overthrow the Government of the United States by force and violence.

SEC. 2. For the purposes of this resolution, the committee, from February 1, 1969, to January 31, 1970, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,400 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. Expenses of the committee, under this resolution, which shall not exceed $475,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 47—RESOLUTION TO STUDY AND EXAMINE THE FEDERAL JUDICIAL SYSTEM—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported an original resolution (S. Res. 47); which was referred to the Committee on Rules and Administration, as follows:

S. RES. 47

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization

Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to conduct a study and examination of the administration, practice, and procedures of the Federal judicial system with a view to determining the legislation, if any, which may be necessary or desirable in order to improve the operations of the Federal courts in the just and expeditious adjudication of the cases, controversies, and other matters which may be brought before them.

SEC. 2. For the purpose of this resolution, the committee, from February 1, 1969, to January 31, 1970, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis professional, technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,400 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of departments and agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1970.

SEC. 4. Expenses of the committee under this resolution, which shall not exceed $213,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 48—RESOLUTION TO INVESTIGATE JUVENILE DELINQUENCY—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported an original resolution (S. Res. 48); which was referred to the Committee on Rules and Administration, as follows:

S. RES. 48

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of any and all matters pertaining to juvenile delinquency in the United States, including (a) the extent and character of juvenile delinquency in the United States and its causes and contributing factors; (b) the adequacy of existing provisions of law, including chapters 402 and 403 of title 18 of the United States Code, in dealing with youthful offenders of Federal laws; (c) sentences imposed on, or other correctional action taken with respect to, youthful offenders by Federal courts, and (d) the extent to which juveniles are violating Federal laws relating to the sale or use of narcotics.

SEC. 2. For the purposes of this resolution, the committee, from February 1, 1969 to January 31, 1970, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ, upon a temporary basis, technical, clerical, and other assistants and consultants; Provided, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,400 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for legislation, as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1970.

SEC. 4. Expenses of the committee, under this resolution, which shall not exceed $257,500 shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 49—RESOLUTION TO EXAMINE AND REVIEW THE STATUTES RELATING TO PATENTS, TRADEMARKS, AND COPYRIGHTS—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported an original resolution (S. Res. 49); which was referred to the Committee on Rules and Administration, as follows:

S. RES. 49

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to conduct a full and complete examination and review of the administration of the Patent Office and a complete examination and review of the statutes relating to patents, trademarks, and copyrights.

SEC. 2. For the purposes of this resolution the committee, from February 1, 1969, to January 31, 1970, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ, upon a temporary basis, technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,400 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1970.

SEC. 4. Expenses of the committee, under this resolution, which shall not exceed $117,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 50—RESOLUTION TO INVESTIGATE PROBLEMS CREATED BY THE FLOW OF REFUGEES AND ESCAPEES FROM COMMUNISTIC TYRANNY—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported an original resolution (S. Res. 50); which was referred to the Committee on Rules and Administration, as follows:

S. RES. 50

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of any and all matters pertaining to the problems created by the flow of refugees and escapees.

SEC. 2. For the purposes of this resolution, the committee, from February 1, 1969 to January 31, 1970, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ, on a temporary basis, technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,400 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the department or agency concerned and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for such legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1970.

SEC. 4. The expenses of the committee under this resolution, which shall not exceed $109,227, shall be paid from the contingent fund of the Senate by vouchers approved by the chairman of the committee.

SENATE RESOLUTION 51—RESOLUTION TO STUDY REVISION AND CODIFICATION OF THE STATUTES OF THE UNITED STATES—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported an original resolution (S. Res. 51); which was referred to the Committee on Rules and Administration, as follows:

S. RES. 51

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of any and all matters pertaining to revision and codification of the statutes of the United States.

SEC. 2. For the purpose of this resolution the committee from February 1, 1969, to January 31, 1970, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis technical, clerical, and other assistants and consultants: *Provided*, That if more than one counsel is employed, the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,400 than the highest rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations, to the Senate at the earliest practicable date, but not later than January 31, 1970.

SEC. 4. Expenses of the committee, under this resolution, which shall not exceed $48,950.00, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 52—RESOLUTION TO MAKE A FULL AND COMPLETE STUDY OF THE SEPARATION OF POWERS UNDER THE CONSTITUTION—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported an original resolution (S. Res. 52); which was referred to the Committee on Rules and Administration, as follows:

S. RES. 52

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to make a full and complete study of the separation of powers between the executive, judicial, and legislative branches of Government provided by the Constitution, the manner in which power has been exercised by each branch and the extent if any to which any branch or branches of the Government may have encroached upon the powers, functions, and duties vested in any other branch by the Constitution of the United States.

SEC. 2. For the purposes of this resolution the committee, from February 1, 1969, to January 31, 1970, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis, technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,400 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings to the Senate at the earliest practicable date, but not later than January 31, 1970.

SEC. 4. Expenses of the committee, under this resolution, which shall not exceed $130,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 53—RESOLUTION DESIGNATING THE MINORITY MEMBERSHIP OF THE SELECT COMMITTEE ON SMALL BUSINESS

Mr. DIRKSEN submitted a resolution (S. Res. 53) designating the minority membership of the Select Committee on Small Business, which was considered and agreed to.

(See the above resolution printed in full when submitted by Mr. DIRKSEN, which appears under a separate heading.)

SENATE RESOLUTION 54—RESOLUTION TO INVESTIGATE NATIONAL PENITENTIARIES—REPORT OF A COMMITTEE

Mr. EASTLAND, from the Committee on the Judiciary, reported an original resolution (S. Res. 54); which was referred to the Committee on Rules and Administration, as follows:

S. RES. 54

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and inspect national penitentiaries.

SEC. 2. For the purposes of this resolution the committee, from February 1, 1969, to January 31, 1970, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ, upon a temporary basis, technical, clerical, and other assistants and consultants; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1970.

SEC. 4. Expenses of the committee, under this resolution, which shall not exceed $5,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 55—RESOLUTION TO REFER SENATE BILL 557 TO COURT OF CLAIMS

Mr. ALLOTT submitted the following resolution (S. Res. 55); which was referred to the Committee on the Judiciary:

S. RES. 55

Resolved, That the bill (S. 557) entitled "A bill for the relief of Michael D. Manemann", now pending in the Senate, together with all the accompanying papers, is hereby referred to the Chief Commissioner of the Court of Claims and the Chief Commissioner of the Court of Claims shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States and the amount, if any, legally, or equitably due from the United States to the claimant.

NOTICE OF HEARING

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judicary, I desire to give notice that a public hearing has been scheduled for Wednesday, January 29, 1969, at 10:30 a.m., in room 2228, New Senate Office Building, before the Committee on the Judiciary, on the following nominations:

Richard G. Kleindienst, of Arizona, to be Deputy Attorney General, vice Warren Christopher, resigned.

William H. Rehnquist, of Arizona, to be an Assistant Attorney General, vice Frank M. Wozencraft.

Will Wilson, of Texas, to be an Assistant Attorney General, vice Fred M. Vinson.

Richard W. McLaren, of Illinois, to be an Assistant Attorney General, vice Edwin M. Zimmerman, resigned.

William D. Ruckelshaus, of Indiana, to be an Assistant Attorney General, vice Edwin L. Weisl, Jr.

Jerris Leonard, of Wisconsin, to be an Assistant Attorney General, vice Stephen J. Pollak.

Johnnie M. Walters, of South Carolina, to be an Assistant Attorney General, vice Mitchell Rogovin.

At the indicated time and place, persons interested in the above nominations may make such representations as may be pertinent.

EPITHET ON A COMPUTER CARD

Mr. PROXMIRE. Mr. President, on Friday, January 17, the American Broadcasting Co. televised a most timely exposé of the activities of credit reporting agencies on the regular weekly program—"Judd for the Defense." The program showed how credit reporting agencies can wreck the life of a person through the use of erroneous information and malicious gossip. While the incident portrayed on the program may, perhaps, be overdramatized, most of the problems highlighted in the program are real and represent a distinct threat to the individual's right to privacy.

The program dealt with the case of a Ph. D. chemist who lost his job and eventually his sanity all because of a monstrous error originated and perpetuated by computers. Because of a freak computer error on a routine market survey, the chemist is listed in a credit file as "destitute of moral qualities." The error goes unnoticed for 5 years, but eventually is called to light in a dispute with a credit card company, once again over a computer error. The man's employer learns of the file, and the falsehood is compounded by a special investigation conducted by a large nationwide credit reporting agency. The agency develops a 32-page report consisting of half truths, gossip, hearsay, and downright slanderous lies. Unfortunately, the man's employer prefers to believe the credit reporting agency and the computer. The man is dismissed. He sues the credit reporting agency, but the pressure of the suit leads to a complete mental collapse.

Farfetched? Perhaps. But the fact remains that there is not one single public law to prevent the incident from occurring. Judging from the mail I have received, many Americans are victimized by credit-reporting agencies. One company alone, the Retail Credit Co., of Atlanta, Ga., has 1,800 offices in the United States and Canada. They maintain dossiers on 45 million individuals and issue 35 million reports a year. While a small percentage deal with people seeking credit, over 90 percent of the reports concern people applying for insurance or employment. Despite this vast private information network, there is virtually no public regulation either at the State or Federal level.

I have just written to a number of Senators enclosing a draft of a Fair Credit Reporting Act to protect consumers against erroneous, arbitrary or malicious information. Because of the extreme im-

portance of this measure, I hope as many Senators as possible will join me in introducing the bill.

The bill would require safeguards to insure the accuracy of information maintained by credit-reporting agencies and would give consumers a chance to correct adverse information. In addition, standards would have to be followed to preserve the confidentiality of information and to protect the individual's right to privacy.

Mr. President, I believe the American Broadcasting Co. is to be commended for dramatizing this important social problem. Since a number of Senators may have missed the show, and since these shows are completely perishable, I ask unanimous consent that a transcript of the program be printed in the RECORD at the conclusion of my remarks.

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

JUDD FOR THE DEFENSE: EPITHET ON A COMPUTER CARD

(By E. Arthur Kean)

(A Vanadas production in association with Twentieth Century-Fox Television)

PROLOGUE

Business building, Houston, Tex., day. Four or five floors, modern. Establish. Plaque on building reads: "Sup-R-Charge—World-Wide Credit Card."

Corridor of business building, day, featuring a door marked "Computer Systems—B." Harry Stratton walks in, carrying attache case. Business suit, glasses, about forty, Harry stops, visibly discouraged, his backbone curved by spiritual burdens. He looks left, right, seems not to know where to go next. The legend on the door catches his eye. He toys with a thought, tries the door. It opens.

Computer room, day. Machines whirring. Various office workers going about their business. It is a large room and the array of computers is impressive. Harry stops a minute to take it all in.

(Sequence of quick cuts dwelling on the whirring tapes, whizzing punch cards, clacking mechanical fingers, banks of figures, flashing lights, digital counters, etc.)

Harry has set his attache case on a convenient machine. He opens it, withdraws a dozen letters. Mrs. Tiffin, who has been watching him from her desk, approaches. She is polite, but authoritative. Harry sees her, holds up the letters, opens his mouth to speak—and is beaten to the draw.

MRS. TIFFIN. I'm Mrs. Tiffin. Are you with the company?

HARRY. With? No. I'm a customer. Harry Stratton. How do you do? (indicates) These machines make out the bills don't they?

MRS. TIFFIN. Yes. Were you referred here?

HARRY. No, but it's about the only place I haven't been. You see, there's an error in my bill. A rather large error.

MRS. TIFFIN. Oh, you want Customer Relations. They'll be glad to help.

HARRY. No they won't. I've been there. Twice. To say nothing of the phone calls. And the letters—which I just found out are answered by a computer. (He waves the letters.)

MRS. TIFFIN. I'm sorry. This area is restricted. You'll have to leave. (She indicates the door, turns, and walks away. Harry shakes his head, packs up his letters. Starts toward the door when something catches his eye. He withdraws a check from his inside coat pocket, moves on past the door.)

(Male office worker in shirtsleeves, eyeing various dials on a machine. He has a clipboard and is making notes on a chart. Harry approaches.)

HARRY. You seem to have a grasp of things. Could you help me? (Shows him check.) Made out to the company, you see? And it's been cashed. A thousand and twenty-eight dollars. (Turns it over.) Endorsed plain as day by some machine down there in Accounting. Now the question is how do you get *that* machine to tell *these* machines . . . (indicates) . . . I paid my bill? After all, a thousand and twenty-eight bucks. . . .

MAN. Beats me.

Mrs. Tiffin approaching again—this time wearing a sterner countenance. In the b.g., a computer maintenance man works on a rack. He has a toolbox and has removed the unit's protective cover. Harry spots Mrs. Tiffin's approach, stabs a finger toward her.

HARRY. Somewhere in this room there's a little punch card with the wrong holes in it. Holes which say I'm a deadbeat. I want those holes changed, Mrs. Tiffin. (Polite.) All I ask is a little assistance.

MRS. TIFFIN. As I say this area's restricted.

HARRY. Look. Last week some process server hands me a paper. It says "pay up or else." Now I happened to be lunching with government men—I'm in the aerospace industry—and on top of that, the waiter comes back with the bill saying my credit card is "no longer recognized" by the company. Not super-charge, mind you, *another* one! (Thumps computer.) That's when I realized these machines talk to each other—cross-country! They're lying about me! Now I want that stopped.

MRS. TIFFIN. I understand that. But you see I'm in no way authorized. . . .

HARRY. That again? (Impatient gesture.) A building full of people and no one is "authorized." But, the damn machine is "authorized"! Now why is that? (Points to it.) This thing can ruin me if it isn't set straight. Come now. Surely somebody can do something. Machines aren't in charge here . . . *people* are! Aren't they?

(Mrs. Tiffin studies him a minute, arrives at a decision. She walks to the nearest phone, picks it up.)

MRS. TIFFIN. Security please.

(Harry eyes her his temperature rising. Impulsively strides to the maintenance man's tool kit, grabbing a big wrench which he wields like a projectile.)

HARRY. How about it? Do I get a little help or do I wing this into the works?

(This announced in a loud voice. A few workers glance his way, then return to their tasks. The maintenance man eyes him, but he seems more interested in the welfare of his wrench than anything else. That leaves Harry and Mrs. Tiffin. He'd hoped for a somewhat larger audience. Again waves the wrench threateningly.)

HARRY. Look, you people, do I get some help or don't I? (silence) That's it? Nobody's going to help me.

(Awkward moment. Mrs. Tiffin stands transfixed, phone halfway to her ear. Maintenance man lights a cigarette and settles into a chair. No one else seems particularly concerned. Harry's hung with the threat. In a kind of token gesture he lobs the wrench toward the power supply. It disappears into the works. There follows a blinding arc of current. To everyone's amazement, the machines wheeze and quit. Harry, quite unexpectedly, has incapacitated the entire room. Turns to Mrs. Tiffin, somewhat meekly.)

HARRY. That . . . settles one thing, anyway. Man is still in control of his destiny.

ACT ONE

Courthouse, corridor, day. Various passers-by. At far end of corridor, Ben Caldwell, Esq. is saying good-bye to a client. They shake hands, the man goes. Ben turns, walks until he reaches the Court entrance. Pushes door open and goes in.

Courtroom, day, in session. In b.g., Clinton Judd, Esq. stands in the rear of the spectator section watching, intrigued. Immediate f.g. shows Mrs. Tiffin on the Stand, an Attorney walking away from her, going to the plaintiff table. Judge Clayton Lodi presiding, turns, indicates Harry Stratton who is seated alone at the defendant's table.

LODI. You may cross-examine, Mr. Stratton.

HARRY. I have no questions, Your Honor.

LODI. None?

HARRY. No sir. Seems to me she told the truth.

LODI. We presume that, Mr. Stratton. Are you sure you understand the function of cross-examination?

HARRY. Function? (thinks a moment) Yes, sir, I think I do.

LODI. But you have no wish to challenge any of the statements made about you by the witness.

HARRY (gesture). Well . . . I think she exaggerated a little here and there.

LODI (indicates). Here's the witness, Mr. Stratton. (waits) You say she exaggerated. Go ahead. Question her.

HARRY (looks at Lodi). Isn't that kind of quibbling?

BEN. You as hungry as I am? Let's go.

JUDD. Wait a minute. See that man? (indicates Harry) He beat up a computer. (eyes Ben) Don't laugh. I find it very understandable.

BEN (knowingly). I wonder why.

JUDD. Ben. I don't hold grudges.

BEN. What was it—an electric bill for two thousand dollars?

JUDD. Two thousand and twenty. A *computerized* bill.

LODI. Quibbling! (eyes him) The charge of malicious mischief may *sound* insignificant, but I assure you conviction carries serious consequences. (meaningful pause) Mr. Stratton, you are not equipped to defend yourself in this matter. I'm going to grant a continuance so you can get yourself a lawyer. For your own protection. Is that clear?

(Intrigued, Judd has approached the front of the Courtroom.)

JUDD. Your Honor might I consult with the defendant . . . (indicates) . . . with a view toward advising him?

LODI (turns to Court Clerk). What's that other thing we have to dispose of? (spotting the victim) Oh yes, sentencing on the speeding case. (thinks) Very well, Mr. Judd, Mr. Stratton come back in ten minutes.

(Taps gavel on the block, beckons to traffic violator.)

Corridor of courthouse, day. Sparse number of people waiting, strolling by. Judd and Harry Stratton are huddled in a corner by a wooden bench.

HARRY (with a shrug). My wife and I took a vacation. I used my Sup-R-Charge credit card of course, and when we got back I tallied up the receipts. (gesture) I'm rather meticulous about that. (shrug) Didn't wait for a bill. I just sent them a check. (pulls out cancelled check) Here it is. Cancelled.

JUDD. You mean to say no one would acknowledge this?

HARRY. Acknowledge? Aside from broom closets I think I knocked on every door at Sup-R-Charge! (points to check) . . . Absolute black-and-white proof—and nobody would even look at it—or me. I guess that's why I did it. Started out as a bluff, really . . .

JUDD (thinks a moment). You willing to pay damages?

HARRY. Yes of course.

JUDD. Tell you what: let's go back in there and request a Jury trial. (Harry reacts) Oh it won't come to that. I just want to get the Judge thinking about the cost. And the fact that a Jury might very well sympathize with you. (pleased) About that time I'll mention you're willing to pay all damages. (gestures) C'mon.

(They go.)

Vinton's office, day, view of model rocket with label "Olmstead Aerospace Industries".

Office indicating the occupant's high position in the company. Large enough to include a conference table as well as his desk, sofa and so on. Frank Vinton stands in the middle of the room facing the door, waiting. Vinton is an astute, world-wise man in his fifties. He could be a swinger—he certainly knows the score.

Open door, revealing on its outer face the legend: "Frank Vinton, Vice President". Harry Stratton stands in the doorway.

HARRY. It's all settled. I pay the damages and they straighten out my account.

(Harry closes the door. Frank Vinton eyes Harry with a funny, faintly tolerant gaze. He is holding a newspaper.)

VINTON. With Clinton Judd on your side how could you lose?

HARRY. It made the papers? (Vinton hands it to him; as he does:) Thanks. (gesture) By the way I'm sorry I had to miss that conference yesterday.

VINTON. No matter.

(Harry scans the paper. While he does, Vinton takes a little stroll back behind his desk, settles in his swivel chair.)

VINTON. Tell me. How long's your mortgage got to run?

HARRY (still reading). Five, six years. Why?

VINTON. You've built up considerable equity then. The market being what it is, you could realize a healthy profit.

HARRY. *If* I sold my house. (looks up). What's this all about?

VINTON. Well what we'd like you to do, Harry. We'd like you to go up to St. Louis for us.

HARRY (with a shrug). I'm still testing that new polymer process. Maybe next Wednesday?

VINTON. We don't mean for a visit. You're to be transferred.

(This stops Harry. He has to think a moment.)

HARRY. You sure you mean St. Louis? We have no research facility there. (Unexpected silence. Vinton clears his throat.)

VINTON. It's a top-level decision, Harry. You're . . . being phased out of research. Into management.

(A thunderbolt. Harry is absolutely staggered by the disclosure. No way he can fathom it. Vinton anticipated a different reaction.

VINTON. Are you really that surprised?

HARRY. I'm a theoretical chemist, remember? Twenty years' experience, the PhD, all that? (gesture) *Management?* No I'm not surprised. Astounded, maybe. Flabbergasted . . .

VINTON. Harry consider our posture in the defense industry. You *know* security is a sensitive area. Very sensitive.

HARRY. So?

VINTON. St. Louis has no secret projects. Therefore, no security problem.

HARRY (hotly). Frank, I'm no security risk. Now what's this all about?

VINTON. I really have to spell it out.

HARRY. That would help, yes.

VINTON (holds up file). Dossier marked "Harry Stratton". There's an entry on page three which pretty well sums it up. You are, and I quote, "destitute of moral qualities".

HARRY (reacts, thinks). I'm not sure I know what that means.

VINTON (*he* obviously does). Twenty-six pages of detailed explanation. (eyes him) And you don't have an inkling.

HARRY. Let me see that thing.

VINTON. Sorry. Private property.

HARRY. Whose?

VINTON. Oh . . . some credit bureau (looks at cover) Enquirer Corporation.

HARRY. Credit? Came up with . . .?

VINTON. More than just playing around, Harry. Look. I've committed a few indiscretions myself—who hasn't? I guess the difference is, I made sure no one was looking.

HARRY. What do you mean 'indiscretions'? Who? Where? What are you talking about?

(Vinton throws him an as-if-you-didn't-know-look—and dodges the question.)

VINTON. What I'm talking about is St. Louis. It's a step down, of course. But Harry. It's also a fresh start. You're getting a second chance.

HARRY. I don't *need* a second chance. Anyway my whole life is research and development. You expect me to give that up because of . . . what? (exasperated gesture) Rumors? Slander? What's *in* that thing?

VINTON. Nothing you don't already know. The point is this: you've been ordered to St. Louis by the Board of Directors. The decision was unanimous. So you don't have a voice in this, Harry. When the Board says "go", you *go*. (halts) Unless you decide to resign.

HARRY (angry now). I'm not going to resign and I'm not going to St. Louis. What I *am* going to do, I'm going home and read my contract!

VINTON. Suit yourself. But you might as well start packing while you're there.

HARRY. Wait a minute. I don't know anything about contracts. (thinks) I'll get a lawyer. Sure. I'll get a lawyer to handle this!

VINTON. Harry. This is a business decision. The law, the Courts, have nothing to do with it. The Board is entitled to act in its own best interests—and it has. Now I ask you: what can a lawyer do about that?

HARRY. There must be something.

(Judd's law office, day. Judd seated at his desk, holding a contract. Harry seated nearby.)

JUDD. For one thing, according to your contract you can force a hearing. (looks up) That gets you in front of the Board of Directors, and you can state your case.

HARRY. Have I got one?

JUDD. You're the expert on that. Be honest Harry—not with me—with yourself. Is this file accurate? Any of it?

(Stack of xeroxed sheets. Top sheet reproduces a file cover which reads: "Enquirer Corp., re: Harry Stratton.")

HARRY. *No!* (reacts) Oh, bits . . . pieces! I'm not perfect. But the way it's put together—talk about a stacked deck! (angry gesture) "Private property"! I felt like a sneak thief making these copies!

(He throws up his hands. The advocate picks up the file, thumbing through it. His expression changes.)

HARRY. What's the matter?

JUDD. Twenty-six pages. It's going to be tough knocking this down. (opens it) Um . . . this assault charge, for example. That's public record.

HARRY. *That's* what I mean by a stacked deck! I wasn't the aggressor, *he* was! Once they found that out they threw him right out of court. (crossing in) And this stuff! ". . . notorious troublemaker . . . chronic complainer . . . philandering in public . . . drinking . . . squandering money . . .!" (looks at him, throws up his hands) Science fiction I tell you! Look. Can I argue these things? I mean if we force a hearing?

JUDD. That's what it's all about.

HARRY. (hefts file) Just look will you? All this so Sup-r-charge can okay one lousy credit card.

JUDD. No. I think most of it's what they mean here by re-evaluation. (points) Check the dates.

HARRY (scans them; thinks). Ah. *After* I started the tiff about my bill.

JUDD. Yes. I'd say that gave Enquirer Corporation second thoughts.

HARRY. Okay, they ran a check. So where does this morals thing come in? Look. (indicates) Just sitting there in the middle of the page. No explanation, no date, nothing. Thrown in with a lot of other stuff. You know what these are, don't you? Print-out sheets from computers.

JUDD. Well, that's progress, Harry. (wry) Now character assassination can be automated.

HARRY. Little holes in little cards . . .

(Ben stalks into the office toting an attache case, a file folder, and a look of downright exasperation. He plunks the file folder down on Judd's desk. Harry comes over to look at it, too.)

JUDD (reading). "Harry M. and Bethel J. Stratton: Reputation and Marital Amicability Report" . . .

BEN. Think that's a mouthful? Read on. (Plunks on sofa. Judd indicates folder.)

JUDD. Marked "Confidential." How'd you get it?

BEN. Oh that was a hardship. Friend of mine is a mortgage lender. Cost him a buck and a half. (gesture) It's an FHA file.

JUDD (to Harry). FHA?

HARRY. I applied for a loan a few years back. They said 'no.'

BEN. (nodding "yes"). Page six.

HARRY (going through it). Look! Graduation photo . . . wedding announcements . . . newspaper clippings . . . copy of my birth certificate . . . page six. Here it is. (looking up, surprised) "Destitute of moral qualities".

JUDD (checking cover of file). "Spotcheck limited." What happened to Enquirer Corporation?

HARRY. You know it's possible, just barely possible, this could try a man's patience? How do they justify a thing like that?

BEN (fishing out a note pad). Well, take that uh, . . . 'amicability' mouthful for instance. It is—and I quote—"a vital part of our risk determination. One of the leading causes of foreclosure is divorce". Unquote. (drop pad). By the way they have no figures to support that claim.

JUDD (points). Here's the assault charge again.

HARRY. Does anyone mind if I'm appalled?

(He flops down next to Ben, eyes the ceiling. Judd stands, meanwhile, looking from one file to the other.)

JUDD. I gather Spotcheck and Enquirer Corporation exchange notes.

BEN. Yes. Along with forty-two hundred others in this country. No law says they can't. I'm beginning to wonder what they've got on me.

HARRY. For a buck and a half anybody can find out—right? (smacks one hand into the other). Mr. Judd, I want that hearing.

JUDD. This . . . (consults file) Enquirer Corporation will be there, you realize. And unless I miss my guess, the file's going to get fatter.

BEN. And dirtier.

JUDD. Harry. If there's anything even remotely . . .

HARRY. Immoral?

JUDD. . . . colorful in your past I want to know about it right now. Because I assure you we'll be told all about it at the hearing.

HARRY. In glorious slander-color, no doubt. (hand on heart). Harry Stratton, this is your life. (gesture). Oh I'm looking forward to that.

ACT TWO

Olmsted plant complex, day.

(Two views of Harry Stratton looking ten years younger and, like all mug shots, grubby and unsavory.)

(Vinton's office, day. The hearing in session. Present are Judd and Harry, Frank Vinton, and three new men: Colerain, about fifty, lean, reflective, pipe-smoking, President of Olmsted Industries; Bergholz, also in his fifties, ruddier, more aggressive-looking, Chairman of the Board; and Sidney Degratt, attorney for Enquirer Corporation. Degratt is a splendid corporate image. In his forties, clean-cut, honest-looking, the kind one instinctively trusts. He is holding the police photos. Seated around Vinton's conference table, each man has been provided with a copy of the Stratton file. Used ashtrays, crumpled notepapers, indicate the meeting has been in progress awhile. Two other men are present—also members of the Board of Directors.)

DEGRATT. I have in my hand two photo-

graphs of Mr. Stratton. Or should I say "Mug Shots"?

JUDD. That's a shabby trick, Mr. Degratt. My client was acquitted of those charges ten years ago—as you well know.

(Degratt pointedly displays pictures while putting them away.)

DEGRATT. In that case . . . there's no harm done, is there?

JUDD. Aside from creating a false and deliberately misleading impression, I suppose not.

HARRY (points to the last page of the file, whispers). You were right. They've added six pages. Now there's thirty-two.

(JUDD simply nods "yes".)

DEGRATT (opens file). Last January sixth, Mr. Stratton, was a Saturday. Do you remember your whereabouts on that night?

HARRY (thinks). No. Should I?

DEGRATT. Fourteen-twenty-eight Wooster Drive. That, gentlemen, is an address where married couples gather. The men toss their car keys in a bowl and the women . . .

HARRY. All right! I remember now, of course I do. We were there. Beth and I, yes. But as soon as we realized it was a wife-swapping party . . . we left.

DEGRATT. You left. You and uh . . . who?

JUDD. Mr. Degratt. Do you have anything to show Mr. and Mrs. Stratton did not leave together?

DEGRATT. No, Mr. Judd. Still, it might be of interest to learn how your client ah, . . . "fell" into such company.

HARRY. As a matter of fact we met at the golf club. A couple. Said they were having a little get-together . . .

DEGRATT. "Get-together"? That's an apt phrase. (turns calmly) Gentlemen we've all read the file. The pattern is clear. His walks late at night—the peeping tom reports in the neighborhood—his behavior in the office—the leers, the suggestive remarks . . . I don't think I have to bring these up.

JUDD. I'm glad you spared us that, Mr. Degratt.

DEGRATT. Point is, gentlemen, this record—or for that matter any part of it—speaks for itself. I see no need to flail a dead horse.

(Degratt settles in his chair.)

BERGHOLZ. Very well. Harry?

HARRY. Mr. Judd will speak for me.

BERGHOLZ. Mr. Judd, then.

JUDD. Thank you. (pause) Enquirer Corporation is very much involved in this hearing wouldn't you say, Mr. Degratt?

DEGRATT. Yes.

JUDD. Why then is there no representative of the company present?

DEGRATT. As their legal representative I'm prepared to answer all questions.

JUDD. We'll see. (opens file) This entry on page three: "Destitute of moral qualities." (eyes him) Tell us where this came from if you will, and who exactly is responsible.

DEGRATT. Enquirer Corporation employs seven thousand full-time, professional investigators. Our information flows from nationwide sources.

JUDD. Answer the question, please.

DEGRATT. Regarding *one* entry in *one* of forty-two million files? That uh . . . may take some time. You see that particular entry was not dated. Which somewhat complicates the process of tracing it down. But I assure you its origin is authentic. A company in our position cannot afford to make mistakes.

JUDD. I agree you can't afford to. (pregnant pause) But tell me, Mr. Degratt: How can you possibly prevent it? (gesture) Now the information is fed in through punch cards isn't that so?

DEGRATT. In some cases, yes.

JUDD. All right then. What about simple clerical error—or worse, a programming error? People do make mistakes, Mr. Degratt and machines malfunction.

DEGRATT. Why argue the point? Let's assume for the moment the entry in question was somehow . . . plucked out of thin air. Let us then discard it.

(Degratt reaches into file, tears out, crumples the page. Some thirty pages remain. He whacks them.)

DEGRATT. Which leaves us with this. And *this* was not plucked from the air Mr. Judd. For example—and I quote: "I saw him go into a motel with a Mrs. Hancock." Or this, quote: "He virtually acknowledged intimate relations with . . ." well, with another married woman. (points to Harry) That man *is* destitute of moral qualities!

JUDD (forcefully). Mrs. Hancock was a visitor from Chicago! As a courtesy, my client met her at the airport and drove her to the motel. (gesture) As for that other reference why, that's locker room scuttlebutt and you know it! (thumps file) This entire file is little more than accumulated hearsay—deliberately and maliciously arranged to shore up a charge—a morals charge—for which you admittedly have no explanation!

(Degratt simply shrugs: he's noticed Bergholz fidgeting in his seat.)

BERGHOLZ. Are you aware of our position Mr. Judd? Our lifeblood is defense contracts. Why . . . when word reached Washington we had a sex offender on our payroll . . .

HARRY. Sex . . .

BERGHOLZ (cuts Harry off). "Office behavior questionable . . . provocative looks, acts, remarks . . . touching with lustful intent . . ."

(Colerain is shaking his head.)

COLERAIN. Surely Mr. Judd you don't maintain the average man—the *normal* man, lives like *that*.

(He indicates file.)

JUDD. What makes you think this report is accurate, or objective? Show me one entry supporting Harry Stratton's character. Show me one indication he has any redeeming qualities whatsoever!

COLERAIN. We assume he has redeeming qualities. Our concern here is for truth. In this case, hidden truth. The . . . submerged and camouflaged areas of Mr. Stratton's character. Areas which jeopardize our interests.

JUDD. Truth you say? Truth, as Mr. Degratt should know, is brought out in an adversary proceeding, by examination and cross-examination, of being able to answer, to rebut. Tell me if you will, how I cross-examine thirty-two pages of print! (turns to Bergholz) Mr. Chairman, I submit the contents of this file are inadmissible. And I request a ruling.

BERGHOLZ. The reason for this gathering, Mr. Judd, is to consider the transfer of your client to our St. Louis plant. The file is incidental.

DEGRATT (turns). I've been meaning to ask, Mr. Stratton. The night following your uh, . . . 'discussion' in Mr. Vinton's office—you were in the building until well after eleven p.m. (eyes him) Why was that?

HARRY (angered). Did you have someone tailing me? How long's that been going on?

DEGRATT. What were you doing here all that time?

JUDD. Harry. This is a fishing trip. You don't have to answer.

(Harry looks at the faces of his employers.)

HARRY. Don't I? (draws a breath) What he's getting at is the file. I knew it was on Frank's desk. I waited until everyone left and then ran off some photocopies.

DEGRATT. That file, sir, was private property. I believe you knew that.

HARRY. Yes. Frank told me so.

JUDD. He did more than that. He deliberately baited him with it! Held it up to him and then denied him access! Isn't that so, Mr. Vinton?

VINTON (unperturbed). Bait? The thought never entered my mind.

JUDD. No. Of course not. Nor that withholding such information under those circumstances was punitive! Nor that it amounts, in fact, to deliberate cruelty! I'm sure none of that occurred to you! (forcefully, to Board) My client had every moral and human right to act as he did!

DEGRATT. Human he is, sir—but *Moral?* (quietly) You're an able lawyer, Mr. Judd. But not even your skill can obscure the fact Harry Stratton crept into the vice-president's office and stole that file. This man has many talents, gentlemen: he is not only a theoretical chemist—he is also a very practical petty thief!

Bedroom of Stratton home, day. Cheerful, sunny room. Beth Stratton is hanging some freshly laundered and ironed glass curtains. A pretty sight, as she stands in dappled sunlight. A few years Harry's junior, she is the kind of woman any man would want for his own. A moment passes and Harry walks into the room, looking troubled and worn. She turns, sees his expression.

HARRY. Beth . . . I've been fired.

BETH. Oh Harry. No!

HARRY. Oh Harry, yes! Did it all by myself, too. Really blew it.

BETH. How? What happened?

HARRY (holds up the file). Remember I made copies of this? (Drops it on bed). Well, there's a clause in my contract—one of those catch-all things, you know, if I do anything to violate public standards or morals . . . something vague like that—anyway, a technicality. So they canned me for "conduct not irreprehensible." (Sits on bed). They can make it stick, too. Judd told me so.

(Beth sits beside him, placing a hand on his. Takes a long moment to digest all this. Her gaze settles on the file.)

BETH. That's not why they fired you, honey. This is. (Indicates file). What kind of people are they anyway, could believe a thing like this?

HARRY. People I thought I knew. How's that for a kick in the head?

(She takes the file to a wastebasket, neatly drops it in.)

BETH. That's where it belonged in the first place.

HARRY (very serious). Beth. You really think so? I mean . . . did it give you any doubts, what it says in there?

BETH (warm smile). After fifteen years do you really have to ask?

HARRY. Hon, I'm finding out these days there's nothing you can take for granted.

BETH. So here's one thing: Beth Stratton. And don't you forget it.

HARRY. Still, that file had to come from somewhere. Who's saying these things about me? Friends? Associates? Neighbors? Has to be.

BETH. Hey.

HARRY. What are we going to do?

BETH. What do you think? They can't get away with this!

HARRY. Well it's all very legal and complicated. You know how contracts are . . .

BETH (serious). Harry. You can't just sit back. You're not thinking that way, are you?

HARRY. Oh . . . I'm just beat, honey. Really.

BETH (special meaning). Pressure?

HARRY. No, no. Nothing like that. Just ground down, that's all.

(Beth goes to the wastebasket, withdraws file, looks at it.)

BETH. "Enquirer Corporation." (considerable resolve) You know what we have to do, honey. Take them to Court.

HARRY. Beth. That could drag on for years.

BETH. Maybe. Maybe no. From what I hear it kind of depends on your lawyer. I know this Judd's got a reputation, but is he really any good?

HARRY. *I* think so.

BETH. All right then, let's go see him.

HARRY (hesitates, then) Aw who'm I kidding? I can't afford a lawsuit. Not now anyway!

JUDD. Yes you can—at least as far as money's concerned.

Judd's office, day. Beth, Harry there (with a change of clothing). Ben is with them.

JUDD. If I lose the case for you, forget it. If I win, I take thirty percent of the award.

BETH. What kind of award?

BEN. Two hundred, maybe three hundred thousand.

JUDD (quickly). Don't start counting. We can *ask* for three hundred thousand, but you'll be lucky to get fifty.

HARRY. Big risk is it?

JUDD. You'll never take a bigger one. Your job's finished, you know that. You'll be looking for work. Everywhere you go you'll have to answer the charges made in that Courtroom. That is, provided we win. (Harry's head snaps up). If we lose . . . you won't get a nickel and I doubt you could work in the city dump.

HARRY (bewildered). Little holes in little cards. (shakes his head) I don't know, Beth. Maybe we better just take our lumps and forget it.

JUDD. Why don't you two go home and talk it over.

HARRY. I don't like it, Beth. I really don't.

BETH. You want to sell shoes or something? It'll come to that, you know. (goes to him) How about that PhD of yours, Harry. Remember what we went through to get it?

HARRY (very lively, very warmly). Course I do.

BETH. You want to throw all that down the drain because some . . . credit bureau is telling lies about you? (turns) Mr. Judd. Talk to him, will you? We've *got* to clear his name.

JUDD. Mrs. Stratton, there's no guarantee we can do that.

BETH. I know. But that's still why we're going to Court, isn't it? To try?

JUDD. Well, no. You see, the only course open to us is invasion of privacy. We claim Enquirer Corporation deliberately and maliciously put Harry in a false light.

BETH. Isn't that just exactly what they did?

BEN. Yes, but Harry is not on trial then, *they* are. His reputation is therefore immaterial.

JUDD. The scrutiny is on them. *Their* motives, *their* actions, *their* methods. One: did they violate your right to remain personally secure? Two: were they malicious and reckless in their methods? And in defending that Degratt will lose no opportunity to make your life public. I mean the whole back side of it! All you stand to gain is cash and infamy.

HARRY. Lord. (Beth shoots him a disapproving look) Well I'm partly thinking of you, you know. You heard what he said. Besides, everything we've got would be on the line. (Silence.)

BETH. You think it isn't already?

(Harry takes a little walk, does some head-scratching.)

HARRY. Sell shoes or fight.

(He sends a look at Judd.)

JUDD (restraining gesture). Don't ask me to quote you odds.

BETH. Who cares about odds? Things can't be worse than they are now.

JUDD. I don't know. So far just a few people know about this. (waves file) You want to be famous?

BETH (slowed) For what?

(Judd picks up the file, thumbs through it, looks at them.)

JUDD. All of it, or some of it—maybe none of it. That'll be up to the Jury.

HARRY. I don't know, honey . . . what do you think?

BETH. You *know* what I think.

(Harry takes another little stroll. Stops.)

HARRY. I'll tell you this: I'm no shoe salesman. (whacks fist into palm). Mr. Judd, Mr. Caldwell. Let's take them to Court!

ACT THREE

Courthouse, courtroom. In session. Degratt, his assistant at defense table. Harry, Ben at the plaintiff's. Seated immediately behind them in the spectator section, Beth Stratton. Elsewhere, Bergholz, Vinton. Judd addresses the jury.

JUDD. My client is not the defendant, Ladies and Gentlemen. He is not charged with any crime. Yet ironically he faces punishment far more severe than any prison sentence. I've already shown how he lost his livelihood . . . And you have seen the intricate ways in which his reputation has been blackened. The cause? (holds up file) Thirty-two sheets of paper. How many times they have been reproduced, into what hands they have fallen—or will fall—no one knows. (indicates Harry)

Now my client has no recourse other than to bring suit against the Enquirer Corporation—a credit research bureau. The question you must decide is this: where does legitimate credit investigation end and invasion of privacy begin? (pause) Should you find for the plaintiff you cannot restore his job, you cannot rebuild his reputation. You can offer him nothing but a cash award. But this issue goes beyond the weighing of damages in dollars and cents. What is at stake here is not the size of a man's bank account, but his very life—its meaning, and the promise of his future. (pause)

Thank you.

Corridor outside courtroom. People flowing out of court, going about their business. Harry stands by the door, nervously pulling out a cigarette. Beth is with him. Judd and Ben emerge from Courtroom, stopping when they see Harry.

HARRY. Mister, you've got me shook. (eyes him) Was that our whole case?

JUDD. Case for the plaintiff, yes.

HARRY. What—that I got fired? They could read that in the newspaper.

BEN. How about the seven character witnesses, Mr. Stratton?

HARRY. So Degratt comes up with ten guys who say I'm a bum. These days they're not hard to find. (irritated gesture) You told me you were going to demolish that file—I mean, really take it apart! (taps him) What happened?

(Ben, Judd exchange looks.)

JUDD. Harry. We told you our real job here is knocking down the defense. Now we can't do that until it's been presented can we?

HARRY. How should I know? I just don't think we got off on the right foot!

JUDD. What's got into you, anyway?

HARRY. Into me? What do you mean by that? Look, you run the case, I'll run Harry Stratton. Okay?

BETH. Harry.

(Her tone of voice casual enough, yet it stops Harry cold. Apparently her interruption has a great deal of meaning.)

HARRY. Can't do anything right can I? (shows his palms) Look at that. Soaking wet. I . . . better wash up.

(Abruptly leaves. Awkward silence.)

JUDD. (gently). Beth. Is there anything you ought to tell me?

BETH. (looks after Harry a moment) It's just the pressure, Mr. Judd. He . . . didn't mean anything.

(Judd looks over to Ben, who offers a disguised shrug, a somewhat dubious look.)

Courtroom, day. Again in session. Degratt stands by the Witness Stand as Bergholz approaches it (having just taken the oath).

BERGHOLZ. Lawrence J. Bergholz, Chairman of the Board, Olmstead Industries.

(He sits down, Degratt turns to him.)

DEGRATT. Mr. Bergholz, I'll get right to the point: Would you say this file had any bearing on Harry Stratton's dismissal?

BERGHOLZ. Directly? No. It merely served to confirm what we had already come to suspect.

DEGRATT. Do you have any personal grudge against the plaintiff?

BERGHOLZ. I bear him no malice. (pause) I'd like to point out he was dismissed by unanimous action of the president and board of directors.

DEGRATT. Your witness.

(He sits down. Judd waits a moment, thumbing through his copy of the file. Then takes it to the stand.)

JUDD. Mr. Bergholz you say the file "only served to confirm what you had already come to suspect."

BERGHOLZ. That is correct.

JUDD. I wonder then how well you know the man.

BERGHOLZ. As chairman of the board it's my business to know my staff.

JUDD. Let me put it this way: did you personally witness "suspicious" or so-called "immoral" acts on the part of Harry Stratton?

BERGHOLZ. Hardly, Mr. Judd.

JUDD. You believe this file, then.

BERGHOLZ. On the whole, yes.

JUDD. If you didn't witness any of the alleged acts, what on earth leads you to believe the file is correct?

BERGHOLZ. Well. You can't discount the stature of Enquirer Corporation, can you? A company of that size and reputation would hardly say these things if they weren't true.

(This has impact. Murmur grows and has to be rapped down by Botkin. Judd waits and lets the effect sink in. Then:

JUDD. Thank you, Mr. Bergholz. You've made it clear this file cost Harry Stratton his job.

DEGRATT. (jumping up). Objection!

JUDD. No further questions.

The courtroom, still in session, Degratt, file in hand, walking toward the stand. Lewis Galion seated on stand. In his fifties, solid build, the kind of a man who can handle himself in a scrap.

DEGRATT. Now Mr. Galion. When Enquirer Corporation accumulates a file such as this . . . (displays it) . . . well, be honest now: isn't that prying?

GALION. No sir. Unless you consider reading a newspaper prying. Our main interest is the man's reputation—what's already known about him.

DEGRATT. You mean, Mr. Galion, this file was accumulated discreetly? By established, professional techniques? Is that correct?

GALION. It is.

DEGRATT. It was not done carelessly or recklessly or with malicious intent?

GALION. No sir.

DEGRATT. All right. As a qualified expert—with over thirty years' professional experience—what is your conclusion regarding Harry Stratton's behavior?

GALION. Exactly what I said in the report. He is a man destitute of moral concepts.

DEGRATT. "Destitute of moral concepts." That was your conclusion?

GALION. Yes. In my opinion that phrase describes the character of the plaintiff.

(Judd and Harry whisper.)

HARRY. He's lying! He didn't think up that phrase, it was in the file, remember? They don't even know how it got there! (stares) Aren't you going to object?

JUDD. No.

HARRY. Why not? Can't you see what they're doing?

JUDD. Yes. And the jury can see you. I said it could get rough. Now simmer down.

DEGRATT. It may sound foolish at this point, Mr. Galion, but does this file in any way place Mr. Stratton in a false light?

GALION. No sir, it does not.

DEGRATT (turning to Judd). Your witness.

(Degratt retires to his seat. Judd rises, marching straight down on Galion, eyes boring all the way through him.)

JUDD. Mr. Galion your business is credit research. As long as Harry Stratton pays his bills what do you care what kind of a man he is? It's none of your business is it?

DEGRATT. Objection!

JUDD. Your Honor the thrust of this case is privacy—the plaintiff's right to remain personally secure. If his personal life can be probed to the extent shown in this file . . .

(he holds it up) If such derogatory and non-contextual data can be assembled . . . in the name of "credit investigation"—then the very concept of freedom as we know it, is in jeopardy.

BOTKIN. I'll allow the question.

JUDD. I repeat: is Harry Stratton's character any of your business?

GALION. I don't set company policy Mr. Judd. I just follow orders.

JUDD. "Just follow orders"! That has a familiar—and sinister—ring! (opens file) Mr. Galion I'm going to cite some specific entries. Tell the Court, please, how they came into being. For example: Mr. Stratton "prefers an automatic shift to a manual transmission."

GALION (thinks a moment). That . . . was included in a questionnaire on preferences, some years back, when Mr. Stratton bought a car.

JUDD. Harmless enough I suppose. Although some may wonder how it got into a credit statement. (reads from file) Quote: "Mr. and Mrs. Stratton have no children; in fact they cannot have children." Unquote. Where did you get that?

GALION. His uh . . . an application for health insurance.

JUDD. I see. (eyes him) There are additional medical entries here which I consider too delicate to mention. These, too, I suppose, are a matter of "public record". (pauses for effect) Now this. "Question: have you ever been charged with a felony? Answer: Yes, assault". You recognize this?

GALION. No, not specifically. But it's a matter of public record.

JUDD (eyes him with disgust). It is *also* a matter of public record that the charge was dismissed—that Harry Stratton was *not* the aggressor! That in fact, he acted heroically to save a young girl from a vicious beating! (passionately) What I want to know, Mr. Galion, is why that information does not appear in your carefully researched, professionally prepared "*credit* statement"! Why do I see nothing here but the charge?

GALION. Well, sir. The way our files are organized, it's relatively simple to record filed lawsuits, but expensive to note their disposition.

JUDD. Oh, I see. It's a matter of economics. How do we know then—as a matter of economics—the remainder of this so-called "record" isn't equally misleading?

DEGRATT. Objection.

JUDD. The issue here is not only the probing for information but the *responsible handling* of the results! If what I have shown is not "misleading" I'd like to know what term is appropriate.

BOTKIN. Mr. Degratt.

DEGRATT. If it please the Court . . . in order for business to function some freedom must be allowed. Some leeway, some room for error—or, in this case, for omission. Being aware of that omission we made no use of the assault charge in this proceeding.

(Botkin simply eyes him a moment.)

BOTKIN. Please continue, Mr. Judd.

JUDD. The defense maintains the information in this file is privileged and was limited in its communication. (To Galion I assume then you're careful in your interviews not to . . . say, "tip your hand."

GALION. That is correct.

JUDD. In the course of your investigation, you personally interviewed a Mr. Laferty of Tribly Enterprises, is that correct?

GALION. Mr. Stratton's former employer. Yes.

JUDD. Do you remember the date of that interview—and the time you left the office?

GALION (looks through his notes; then). That was . . . August twenty-first. I had a plane to catch at three-fifteen. I'd say I left no later than two o'clock.

JUDD (producing a letter). At this time I'd like to introduce into evidence Plaintiff exhibit J—a letter dictated by Mr. Laferty approximately two-forty-five that same date.

(Hands it to clerk and, as the ritual is performed, Judd reads from notes.)

JUDD. It is addressed to Mr. Frank Vinton and says in part—quote—"In light of what I have just learned about Harry Stratton I feel I should apologize for having recommended him as a prospective employee . . ." Unquote (hotly to Galion).

Would you state once again under oath, sir, that these interviews are conducted discreetly and in such a way as to not arouse suspicion?

(Galion shows shocked countenance.)

Courtroom, Still in session. Harry now on the stand. He is uneasy.

JUDD. It's been a long day Harry, I'll try to be brief. (pause) Be completely honest, now. Have you ever done any of the things mentioned in this file?

(Harry hesitates. The whole rooms seems to draw its breath.)

HARRY. Yes I have.

(Spectators react.)

JUDD. What for instance?

HARRY. I've gotten drunk a couple of times. (thinks) I've kidded around with some of the girls in the office. You know how things go around an office. But this . . . touching with lustful intent . . . I can't agree with that. (gestures) Besides. My wife and I . . . well, if you knew her . . . What I mean is . . . I don't play around, Mr. Judd.

JUDD (shows him file). Now this document was forwarded to your company on August twenty-eighth. Would you tell the Court some of the things that have happened since that date?

HARRY. I got fired. I . . . (stops).

JUDD. Go on.

HARRY. What? (odd gesture) Yes. I got fired. I . . . now I find it impossible to get work. You can imagine the *pressure* that exerts. My credit's down to nothing. People, some of them, make it pretty clear they won't associate with a man of my reputation.

(Shifts his weight awkwardly.)

JUDD. In so many words?

HARRY. What?

JUDD. I said "in so many words".

(Harry stares at him a moment, looking blank.)

HARRY. Yes. In so many words. (gesture) Maybe I should say something here. About pressure. It may have a bearing, you see . . .

(Unaccountably Harry has begun to sweat. Looks frightened.)

JUDD. Harry.

HARRY. Yes I know. You say "friends". I'll tell you about friends . . .

JUDD. Are you all right?

HARRY. As to that. The truth, isn't that it? The *whole* truth? I started to say . . . (stops, looks around) Could I have some water? I . . . guess I'm not very well at that.

Court counsel room. Harry sagging in a chair looking rather pale, sipping water. Beth with him. Judd, Ben hurry into room, close the door.

JUDD. Harry. What happened in there?

HARRY. You suppose there's a way out of this? My testifying, I mean.

JUDD. No. I told you that. Why?

(Harry shoots a look at Beth, then takes the plunge.)

HARRY. Back about four years ago I was developing a rocket fuel. It had terrific potential but it was also very dangerous. The firm wanted it yesterday. You know how it goes. The pressure.

BETH. I hardly saw him, Mr. Judd. More than a year went by. Just day and night . . .

HARRY. I realize now it was affecting me emotionally, mentally, physically . . . (gesture) But I licked the problem. Then out of the blue I remember saying to myself, "I've had it. I'm cracking up." Just like that.

JUDD. A breakdown?

HARRY. Mental and physical, the doctor said. I checked into a psychiatric hospital for three months.

JUDD. And that was the end of it?

HARRY. No. Happened all over again about a year later. I went back of my own accord, had a few shock treatments. Just two weeks that time. Since then I've been fine. That is . . . (gesture) . . . until now on the Stand. Pressure, you see. That's what I can't take: that kind of pressure.

BEN. Clint, if Degratt gets hold of this . . .

JUDD. I know. (to Harry) How about it? Can he dig this out of the files?

HARRY. I . . . don't think so. You see I never told the company. As far as they're concerned, I was on vacation. I just insisted on some time off. They didn't argue with me.

JUDD. Then we're all right.

HARRY. No. On the Stand just now I just . . . just for a minute there, almost lost control. I was on the verge of blurting it out. All of it.

BEN. Degratt knows we've got him on the ropes, Clint. He'll be fishing.

(Harry rises, walking, tied up in knots. It is evident this man is under tremendous pressure—and is beginning to yield to it. Turns facing Judd.)

HARRY. Clint, you've got to keep me off that Stand!

JUDD. How? Withdraw the suit? Drop the case? Is that what you want?

BETH. We can't do that Mr. Judd. You know we can't.

JUDD. I warned you at the outset, remember?

HARRY. Suppose Degratt comes right out and says "Have you ever been in a mental institution?" He may not even have to. (imploring look) See what I'm getting at? Degratt could twist me all around up there. Why . . . he could go through that file page by page and make every last thing stick!

(Judd and Ben exchange looks. This is trouble.)

BEN. Could we settle, maybe?

JUDD. Degratt saw what happened you know. If we try for a settlement *now*, he could very well put two and two together. If he figures it out—we're through. You want to run that risk?

HARRY. I don't know. The only thing I'm certain of . . . I'm not going back on that Stand. I can't.

(He sinks exhausted into a chair. On their reactions:)

ACT FOUR

Judd's office building, night. Judd's office, night. Judd, dressed as he was in Court, is in front of his desk, leaning back on it, waiting as Ben comes in, closes the door. Both men are far from happy.

BEN (pause). I think he knows.

JUDD. Did he say anything?

BEN. No, but . . . he's got a look on his face.

(This gives Judd pause. Reflects a moment.)

JUDD. He wouldn't wait until we put up a rebuttal witness. He'd have brought it up long ago.

(But Judd harbors a doubt. And it shows.)

BEN. 'Long as I'm reading faces . . .

JUDD. Listen. This same face bluffed you out of a full house, remember? (points) Just bring him in.

(Ben makes a start on a grin, turns, opens the door for Degratt, who enters—also dressed as he was in Court, but wearing, in addition, a confident expression. A touch broader and it would be patronizing.)

DEGRATT. I know we're here for a little horse trading, Mr. Judd. But tell me . . . (deliberate pause) . . . who's got the horse—you or me?

JUDD. I think your sense of the Jury tells you that. Sit down.

(Judd indicates a chair. Degratt pointedly takes a different one. Each man sizes up the other.)

DEGRATT. Shoot.

JUDD (politely). Let's start by clearing the air, Mr. Degratt. Nothing's going to win this case for you and we both know it.

DEGRATT. Well don't stop there, counsellor, I hang on your every word.

JUDD. The news media, for example. What will two more days' coverage do for Enquirer's reputation?

DEGRATT. Or your client's, for that matter?

JUDD. No good, certainly. So what do we gain, any of us?

DEGRATT. In terms of the Jury award? Couple of thousand, give or take.

JUDD. Is it worth it? Why prolong the agony of our clients?

DEGRATT. You think I enjoy putting people through this? (sits back in amazement. But *you*—you really want to settle?

JUDD. Won't hurt to talk about it.

DEGRATT. I wonder.

(Outer door heard banging, sound of approaching footsteps, and all heads turn as office door swings open. Harry Stratton is standing there, smiling.)

JUDD. (surprised, annoyed). What is it, Harry?

(Harry says nothing until he has marched into the center of the room.)

HARRY. I know you don't want me here. But it occurs to me you can't very well have a ping-pong match without the ball, can you?

(Indicates himself. A little funny. Aware of Degratt's reaction, Ben strides over to Harry, draping an arm around his shoulder and turning him back toward the door.)

BEN. Harry, I'm going to be very diplomatic about this: Get out.

(Points to the door. Harry, brought up sharp, suddenly aware of his position, retreats awkwardly. Ben follows. Degratt watches, shaking his head with a wry grin.

DEGRATT. People.

Judd's reception room, night. Harry standing there, Ben closing the door to Judd's office, then fixing Harry with his eye.

BEN. What was that supposed to accomplish?

HARRY (holds up his hands). You see any fingernails left?

BEN. Well try to hang in there a little longer, will you?

(Harry sinks unhappily into a chair. Ben deliberately does the same.)

HARRY. Look. You don't have to baby-sit.

BEN (pointed). Can I drive you home then?

HARRY. No. I'll behave. But I'm here to the bitter end.

Judd's office.

DEGRATT. I do all my haggling on a first-name basis (offering his hand) Sid.

JUDD (taking it). Clint.

DEGRATT. So make me an offer.

(Makes himself comfortable. So does Judd.)

JUDD. Let's start with the one you made me—back before the trial began, remember?

DEGRATT. Thirty-five thousand.

JUDD. Yes. But the figure's gone up, Sid. That Jury's in a generous mood. (pause) Three hundred thousand.

DEGRATT. What, the full amount? You can do better than that, friend.

JUDD. Yes I can. But it'll be like pulling teeth.

DEGRATT. Well, to be perfectly honest, I was thinking more like forty-thousand. Looks like we've got some work to do.

(Silence. The men regard one another with vague amusement. Judd rises, goes to the bar, returning with a tray on which are glasses, some booze, and an ice bucket. Sets the bottle in front of Degratt.

DEGRATT. Clint, you're my kind of lawyer.

(Pours himself a shot, then reaches for Judd's glass.)

JUDD. No thanks.

(Degratt thinks a moment, smiles, then very carefully pours his shot back into the bottle.)

DEGRATT. It's going to be that kind of an evening.

JUDD. You bet it is—friend.

Judd's reception room, night. Coatless now, Ben has settled into a chair, toying with an empty liquor glass. Harry, also coatless and looking rumpled, is pacing a precise, measured rectangle. The action is so slow, so deliberate, it is maddening. Ben has held off as long as he can.

BEN. Does that really help?

HARRY. Yes.

(A few more measured steps and Harry suddenly makes for a desk clock. Picks it up, stares at it, shakes it, listens to its works.)

HARRY. Midnight? How can that possibly be. (looks at Ben). Has this thing stopped?

BEN (wearily). Harry. We've only been here two hours.

HARRY. Maybe to you its two hours. (waves glass). I'm dry.

BEN. Good. Stay that way.

(Harry rolls his eyes skyward, flops on the sofa. Immediately gets up again to resume walking in the same, precisely measured pattern. Intercom buzzes, startling the men a bit. Ben flips it on.)

BEN. Yes, Clint?

JUDD'S voice (o.s.; filter). How many investigators have we got on the Stratton case?

BEN (thinks a moment). If you mean tonight, six.

JUDD'S VOICE (o.s.; filter). When's the next report?

BEN. Eight a.m.

JUDD'S VOICE (o.s.; filter). All right.

(Clicks off. Harry moves toward the desk.)

HARRY. Six men on what? What was that all about?

BEN. Forget it. Just a lot of noise to impress Degratt.

HARRY. Hey Turn that back on. He could be selling me out for all I know.

BEN. Selling you . . . ! (warming). He's saving your neck!

HARRY. Maybe. Maybe not.

Judd's office, night. Ashtrays have a few butts in them. Judd and Degratt are both coatless now, ties loosened, sleeves rolled up. Judd is at the little service counter making coffee. Turns to Degratt.

JUDD. Suppose I do that, Sid. Suppose I go in there tomorrow and prove malice. We're talking punitive damages now which means the sky's the limit. Your clients have an extra four-five hundred thousand sitting around?

DEGRATT. They grossed one hundred million last year. Wouldn't surprise me if they do. But ah . . . *prove* malice? you haven't a prayer.

JUDD. Twenty-eight investigators on the Stratton file, right? You honestly believe not one of them found anything good to say about Harry Stratton? Don't kid yourself! (eyes him). All I have to do is find *one* man who's willing to admit it and there's your malice. One at a time, Sid, we're tracking them down.

DEGRATT. There's something here I can't quite fathom. Curiosity is a very persistent trait in me. (gesture). Of course it can be satisfied rather easily by dropping your price.

JUDD. No sale. If that isn't a one hundred thousand dollar jury, I've never seen one.

DEGRATT. Well I have and it didn't look like that. (thinks). Say . . . fifty thousand. And I'll answer any questions.

JUDD. In public?

DEGRATT (ignoring that). You know, I'm tempted to let this go another day just to get Harry under cross-examination.

JUDD. All right. That gives my investigators another day, too.

DEGRATT. Fair enough.

(He rises, begins going through the motions of departure.)

JUDD. See you in Court. Ten a.m.

(Degratt continues staging his exit. Thinks, stops a minute to eye Judd.)

DEGRATT. You're bluffing.

JUDD. Sid, you found me out.

DEGRATT (more scrutiny.) It *is* a bluff.

JUDD. Of course. I don't have any investigators. Who ever heard of such a thing?

(Degratt eyes him some more. Judd returns his stare with supreme indifference. Degratt wilts just a bit, debates with himself a moment longer.)

DEGRATT. Eighty thousand.

Reception room, night. Ben sunk low in his chair, wishing he could doze off, but keeping a weather eye on Harry, who is finally settled into a chair in order to stare glumly at the carpet. Door opens, Judd walks in. Goes directly to Harry.

JUDD. We've got a deal. Pending your approval, of course.

HARRY. What kind of deal?

JUDD. Eighty-five thousand and a full clarification.

BEN (really impressed). What'd you use—a club?

HARRY (coping with the numbers). Eighty-five *thousand* . . . (looks up) Clarification. Can I hear it first?

JUDD. No.

HARRY (mulls it). Suppose I accept.

JUDD. Well, we have to agree to a dismissal with prejudice. Then you get your money.

HARRY. With prejudice.

JUDD. Yes. Means very simply we can't ever sue them again. The whole thing's over and done with.

HARRY. Over? You know, after all these rotten months I'd almost settle for that all by itself? (rolling the words in his mouth) Eighty-five thousand dollars. (begins nodding) I think that's just great.

JUDD. Okay. Let's go inside.

Judd's office, night. Judd returning with Harry, Ben. Degratt's eyes are expectantly on Judd's.

JUDD. It's a deal.

DEGRATT. Good. Good. (going to Harry takes his hand) Mr. Stratton, for my part I'm glad it's over. I don't enjoy . . .

HARRY. Never mind. Get to the clarification.

DEGRATT. Ah. Yes, that. (walks away) It's ironic in a way that such a little thing could cause all this trouble.

HARRY. Well?

DEGRATT. That questionnaire on automobiles, remember? It came up at the trial. (gets some "yes" nods) Among other things, Mr. Stratton, you indicated a preference for hardtops over sedans. Well you can't feed that verbatim into a computer, so you translate it into a series of numbers. (gesture) All right. Somewhere along the line two digits got switched or maybe omitted. Whatever, the wrong number went into that computer. And there it sat. Harmless. Some five years go by, comes the dispute over the credit card and a reevaluation is ordered. Follow so far?

JUDD. Go on.

DEGRATT. First thing they do is translate the numbers back into words. Proper card goes into the computer and out comes the Harry Stratton file, twelve thousand lines a minute on a big sheet. (gesture)

Ordinarily a phony number prints out gibberish or nothing at all. But in this case—and believe me it's a long shot—it prints out "Harry Stratton is destitute of moral qualities." (pauses, noting their shock) What fooled us, you see, they actually program such a category.

(Rather stunned silence.)

JUDD. Who did this? Who's responsible?

DEGRATT. The uh . . . entry was fed in from a remote terminal. It could have originated there, or the main office . . . some punch-card operator . . .

JUDD. (astounded) You *don't know?*

DEGRATT. Look. We'll give you the information. Maybe you can figure it out.

JUDD. Sid. What's to prevent this from happening *again?*

DEGRATT. It's a million to one shot.

JUDD. Don't quote me odds. Look at that man! Think what's been done to him!

(Indicates Harry, who is staring wordless, grim-faced, at Degratt.)

BEN. (hotly). Did you know about this at the hearing?

DEGRATT. Try to understand their position. They'd checked this man out, given him an A–1 rating. He gets into this credit scrap and on top of everything it appears he's, well . . . "different."

BEN. Try to understand!

DEGRATT. Heads were rolling, I tell you. Hotshot Galion's put in charge of the thing and like a good professional investigator he runs up a dossier in a hurry.

JUDD. He's no investigator, he's a professional character assassin!

DEGRATT. Look. I know how you feel.

JUDD. Sure. But you take their money.

(Harry mumbles something.)

JUDD. What?

(Harry who has been motionless, showing no flicker of reaction, rises, walking slowly toward Degratt.)

HARRY. Little holes in little cards.

(Approaches Degratt and, with no rise in intensity, lifts his hands to the man's throat and begins choking the life out of him. So swift and viselike is the grip, Degratt can only emit a short-lived gasp. Harrys face betrays no fury, but his eyes could kill unaided. Ben, Judd take a moment to react.)

JUDD. Harry!

(Half expecting him to stop. No dice. Degratt's throat is so restricted he is utterly silent, hands clawing weakly at Harry's forearms, his face revealing a growing desperation. Judd, Ben, at last find their senses, dashing toward the men, trying to separate them.)

JUDD. Harry, stop it!

BEN. Harry! You'll kill him!

(So wild in the man's strength they cannot break his grip until they pry his fingers open one at a time. Degratt slumps to the floor on the verge of unconsciousness, gasping, choking. Harrys hands go limp. He turns, wordless, and moves. Judd leans down, helps Degratt to his feet.)

JUDD. You all right?

(Legs like rubber, he wheezes, nods as best as he can, groping for a chair. Judd, Ben help him into one.)

DEGRATT. Getting . . . some air now . . .

(Ben has poured out a glass of water. Degratt clutches it, gulps it down, coughs it right up again.)

DEGRATT. It's all right . . . all right . . .

(Judd, Ben, aware now of a steady thump . . . thump behind them, about the tempo of a heartbeat. They turn and see Harry who has moved to a far corner of the room. He stands with his back to them kind of nudging the wall with his fist.)

JUDD. Harry?

(The nudging continues, growing both in tempo and intensity, each little blow at the wall emphasizing some troubling, but unutterable thought.

(The blows, rising to sudden fury, end with a sickening crunch. Whether it is wood or bone that yields matters little to Harry Stratton. No one can do anything, say anything to help him. Degratt has struggled over to where Judd and Ben are standing. They look at him—this time more with compassion than contempt because it's clear from his expression Degratt is aware he's played a part in this tragic development. Harry, unmindful of his battered fist, turns on them, eyes ablaze with a thousand thoughts. Stands there blinking, washed by a tidal wave of feeling. He struggles to give voice.)

HARRY. I . . .

(But he can say no more. The silent struggle is long and awful.)

DEGRATT. My God.

EPILOGUE

Stratton living room, day. Doubtless a cheerful, homey room at one time. Now, with furniture gathered in one corner, various packing cases about, it seems dreary and lifeless. Beth has turned from her chores to greet Judd and Ben. They seem surprised.

JUDD. You closing the house Beth?

BETH. Selling it.

JUDD. Why? Where are you going?

BETH. Moving up nearer Harry. For one thing it'll cut down expenses.

JUDD. Maybe this will help, then.

(Hands her a check.)

BETH. Eighty-five thousand dollars. (pause) Not so big spread out over the years, is it? (shakes her head) Probably just a tax write-off for them. (looks up) How do you write off a husband, Mr. Judd?

JUDD (with compassion). He's in good hands, Beth. He'll recover.

BETH. When? The doctors are talking in terms of years, you know. (wan smile) The world's first computer widow. How's that strike you?

JUDD. Not very well. We—Ben and I—we're going to press for appropriate legislation.

BEN. We won't be polite about it, Mrs. Stratton. It's going to get through.

JUDD. He's flying to Washington this week.

BETH. I don't suppose you can put a corporation in jail, can you? (eyes begin to rim with moisture) I know it's bad form to be bitter. It's just that yesterday . . . the doctors . . . (vague gesture) Why is it bad news requires such long explanations? They finally had to write it down. I have it here someplace—the name of Harry's condition, I mean.

(Tears cloud her eyes, she fumbles around in her purse for the paper—not really looking for it, just something to do with her hands. It isn't easy for Judd and Ben to just stand there, but what can they do? Ben, who has been toying with a punch card, moves to comfort her. In so doing, the card drops to the floor by her feet. She retrieves it.)

BETH. What's this?

BEN. They uh, . . . traced it down finally. The original mistake.

BETH. Little card with little holes. (pause) Looks harmless enough.

(Slowly tears it up. Judd, Ben, simply watch.)

BETH. I think of a phrase you used, Mr. Judd: I'm just going to have to tough it out. (picks up check) And this will help. Thank you.

JUDD. Is there anything you need? Anything we can do?

BETH. No. (studies check) Have you taken a close look at this?

JUDD. I know. Made out by machine.

(Beth nods, holds it up so it can be easily seen. Not a paper check, but one printed on a stiff card—like a government check—and perforated.)

BETH. Little square holes. (pause) What do you suppose they mean?

ORDER OF BUSINESS

The VICE PRESIDENT. Is there further morning business?

Mr. HATFIELD. Mr. President, I ask unanimous consent that I may proceed for 12 minutes in addition to the 3-minute allotment.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

S. 503—INTRODUCTION OF BILL—VOLUNTARY MILITARY MANPOWER PROCUREMENT ACT OF 1969

Mr. HATFIELD. Mr. President, I am today introducing, for myself and Senators COOK, DOLE, GOLDWATER, MCGOVERN, NELSON, PACKWOOD, PROUTY, and SCHWEIKER, a bill entitled "The Voluntary Military Manpower Procurement Act of 1969."

It was nearly 2 years ago that I introduced in the Senate a bill to institute a fully voluntary armed force. Last September I reintroduced the 1967 bill with some revisions. The bill I am introducing today is a further revision of the 1967 bill.

In the past 2 years criticism of our present military draft system has grown, and substantial additional support has been indicated for the early transition to a fully voluntary military manpower procurement system.

President Nixon has endorsed the principle of a volunteer army; the Department of Defense has indicated through various spokesmen the advantages of this manpower procurement concept; and numerous political, social, religious, and educational organizations have indicated their agreement.

A certain amount of this support has resulted, of course, from the growing discontent with the Vietnam adventure and the large-scale drafting of men for this conflict. The young of the country on whom the draft falls so inequitably, especially for the maintenance of a war many of them feel is morally indefensible, are reflecting their dissent in ever more vocal numbers. The minorities are also restive under the draft. The Nation is divided by the provisions of an act which require what so many patently do not believe in.

There also has been in the same time period, a growing concern in this country about infringement on our individual liberty and a desire for freedom from unjustified government intrusion.

The present draft system, in addition to its other drawbacks, is a drastic invasion of individual liberty. Conscription is involuntary servitude, plain and simple. It is the complete usurpation by the Government of an individual's freedom of choice. The Wall Street Journal has stated editorially that it is "about the most odious form of Government control we have yet accepted."

I firmly believe that each man has a moral obligation to serve his country, but he must be granted as much freedom as possible to choose what form this service shall take. Conscription must always be the last desperate resort in meeting military manpower needs, and not merely the easy way out, as it is now. There have been periods in our history when conscription was the only alternative to destruction, but circumstances have changed and forcing men into service is no longer the only alternative in meeting manpower requirements.

The draft also has numerous other drawbacks, including the fact that it is militarily inefficient, inherently inequitable to draft-age Americans, and productive of low morale in the Armed Forces. Let me point out now the practical aspects of the volunteer force and the provisions of this bill which would do away with these handicaps.

The volunteer service system would provide an efficient military force with emphasis on quality rather than quan-

tity. The present draft system is designed only to provide large numbers of men. This point was clearly emphasized in the 1957 Report of the Defense Advisory Committee on Military Personnel—the Cordiner Report:

> As the tools of modern defense and the technology of their use become more intricate and complex, men—the human element in defense—become more, not less important. . . . The Committee is firmly convinced that human beings are the most important component of all modern weapons systems. . . . If the armed forces are manned with personnel of minimum or marginal capability, they cannot achieve operational effectiveness in proportion to the technical capacity built into the materiel. . . . Greater numbers of men do not satisfy this need. Only marked increases in the level of competence and experience of the men in the force can provide for the effective, economical operation required by the changing times and national needs.

That report was published nearly 12 years ago, but little has been done to upgrade the skill and competence of our men. The sad fact is that draftees, who have been taken from civilian life against their wishes, spend their 2 years of military service counting the days until they get out. As soon as the required period is over, they inevitably return to civilian life. Their empty bunks are filled with other unwilling draftees and the cycle continues. Any personnel manager would be quick to agree that low morale and inefficiency are the obvious results.

The eagerness of draftees to return to civilian life also prevents specialized training and in-depth knowledge of the complex weapons systems of our country. With its emphasis on quantity rather than quality, the draft automatically produces a high turnover rate in personnel. At the present time, only about 7 percent of the young men drafted stay in the Armed Forces beyond their 2-year obligation.

This high turnover rate causes many of the services' most experienced personnel to be tied down in training new recruits. Today, seven out of every 10 men in the Army have less than 2 years military experience. As one Pentagon military official has noted:

> As soon as we are able to operate as a unit, the trained men leave and we have to start all over again.

A major portion of the bill I am introducing is directed at upgrading the conditions and status of a military career—from increasing educational opportunities to improving the social, cultural, and recreational facilities for military men and their families. As military life becomes more attractive and as it enjoys a higher status, the number of young men entering the service freely would increase, with many considering a career in the military. The turnover rate of these willing enlistees would be dramatically reduced, making it necessary to recruit fewer men, and the services would have a higher percentage of skilled, motivated men.

Another provision of the bill would accelerate the substitution of civilians for noncombatant military personnel. This would effectively reduce the size of the armed services and would also reduce the number of new enlistees.

A third provision would help insure the recruitment of the necessary number of young men by accepting many who now try to volunteer and who would like a military career but who are currently rejected because of slight physical or educational deficiencies. Through additional and specialized training programs, these men could become productive members of the armed services.

Most important of all in attracting sufficient enlistees would be the improvement of military pay scales. We certainly cannot expect to recruit young men into military life when the salary offered them is at least one-third less than what they could be earning as civilians.

It is difficult to project the costs necessary for the establishment of a volunteer force. Authoritative studies indicate that the pay increases needed to recruit the necessary number of volunteers would come to $5 to $7 billion more per year. The bill I am introducing calls for $100 per month pay raises for enlisted men with the price tag coming to about $3.7 billion at our present force level.

While this additional outlay in salaries would be significant it must be weighed against the substantial savings that would result under a volunteer force. Presently, it costs $6,000 just to train the average serviceman, making the total training cost for draftees now in uniform—those men who will leave the service the moment their 2-year hitches expire—about $3 billion. Many training centers that are expensive to maintain and operate could be closed. Other cost adjustments would result, such as the increase in tax revenue from civilians who otherwise would be drafted. Unfortunately, it is difficult to estimate the very real savings that would result because of the increased competence and efficiency of the armed services.

I do not think there is any question that the volunteer system could supply the necessary number of military personnel. The manpower pool is increasing with nearly 2 million new men attaining draft age each year. The total number of draft-eligible males in the 18 to 26 age category now stands at more than 12 million. To meet necessary personnel requirements the military needs to recruit only about 5 percent of this total each year. Certainly, sufficient inducement can be made to attract that many.

The bill I am introducing also responds to the main point of criticism of the volunteer force—that the system lacks the necessary flexibility for meeting crises. It includes a special provision for the improvement of the Ready Reserve and the National Guard. I submit that the volunteer force would be more flexible and, in conjunction with a strengthened Reserve and National Guard, would be better able to respond to an emergency military situation than is the current draft system.

Even in the past, for such emergencies as the Korean conflict in 1950 and the Berlin crisis of 1961 the Defense Department relied largely on recall of trained reserves rather than draftees. Military emergencies being what they are in this day of speed and highly complex weaponry, they cannot be resolved by summoning large numbers of untrained men to boot camp. Competence, not compulsion, is the key to an effective national defense.

As recognized by the bill, the volunteer system could be phased in gradually. There already is a large base from which to start since draftees comprise only 15 percent of the enlisted members of the present Armed Force. In case of emergency during the transition or later, and the President determines that the military manpower needs of the country are not being met, the bill provides that the President shall recommend to Congress legislation calling for the involuntary induction of persons into the Armed Forces.

I feel strongly that a volunteer military manpower system will work. But for such a system to be given a chance to prove its merit, we must dispel the myth that the draft, however undesirable, is inevitable. We must be willing to accept the challenge of new realities and have the foresight and confidence to accept logic over habit and reason over the retarding security of tradition.

I believe the volunteer force is a workable alternative, that it will remove the inequities of the old system which have caused tension and division, and that it will help restore unity to this Nation.

Mr. President, I ask unanimous consent that following my remarks, the text of the "Voluntary Military Manpower Procurement Act of 1969" be printed in the RECORD and that the following items be printed thereafter:

A radio address on October 17, 1968, by Richard M. Nixon, entitled "The All-Volunteer Armed Force,"

An essay from the January 10, 1969, issue of Time magazine, entitled "The Case for a Volunteer Army,"

An article entitled "Mr. Nixon's Second Promise" by Stewart Alsop in the December 9, 1968, issue of Newsweek magazine,

A selection of quotations by respected public figures on the subject of "The Draft and the Voluntary Army,"

A statement by Dr. Milton Friedman, University of Chicago from the December 19, 1966, issue of Newsweek magazine,

An article entitled "Draft 'Crisis' in Graduate Schools" in the January 20, 1969, issue of U.S. News & World Report, and

An article entitled "Can We Afford the Draft?" by Walter Y. Oi, published in the July 1968 issue of Current History.

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

The bill (S. 503) to provide for meeting the manpower needs of the Armed Forces of the United States through a completely voluntary system of enlistments, and to further improve, upgrade, and strengthen such Armed Forces, and for other purposes, introduced by Mr. HATFIELD, for himself and other Sena-

tors, was received, read twice by its title, referred to the Committee on Armed Services, and ordered to be printed in the RECORD, as follows:

S. 503

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voluntary Military Manpower Procurement Act of 1969".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress hereby finds that—

(1) the Armed Forces of the United States can be materially improved and strengthened by increasing and improving the economic and educational benefits of the members thereof, by elevating the status of military personnel generally, and by developing and maintaining a system of military manpower procurement based on the free choice of the individual;

(2) the present system of military manpower procurement, which is based primarily on conscription, is an undesirable infringement on individual liberty; militarily inefficient; inherently inequitable to draft age Americans; and productive of low morale in the Armed Forces;

(3) the military manpower requirements of the Nation can be adequately met through the effective administration of a voluntary system;

(4) a voluntary system should be instituted and given a fair test as soon as practicable while providing necessary safeguards in the event that unforeseen circumstances create a need for additional military manpower;

(5) the President, the Secretary of Defense, and the Secretaries of the military departments should exercise all authority available to them to promote the success of a voluntary system of meeting the military manpower needs of the Nation; and

(6) the authority to induct persons into military service under the Military Selective Service Act of 1967 should be terminated promptly.

TERMINATION OF INDUCTIONS

SEC. 3. (a) No person shall be inducted for training and service in the Armed Forces of the United States under the Military Selective Service Act of 1967 after six months following the date of enactment of this Act.

(b) If at any time after the termination of induction of persons into the Armed Forces, as provided in subsection (a) of this section, the President determines that the military manpower needs of the Nation are not being adequately met through a voluntary system and that conscription is necessary for the national security, he shall promptly notify the Congress of such determination, and of the facts upon which such determination is based, and submit to the Congress such recommendations for legislation as he deems necessary and desirable to provide for the involuntary induction of persons into the Armed Forces.

CONGRESSIONAL DIRECTIVES RELATING TO THE IMPROVEMENT OF THE ARMED FORCES

SEC. 4. (a) The President, the Secretary of Defense, and the Secretaries of the military departments shall exercise the authority vested in them by law to provide for the military manpower needs of the Nation and for the improvement of the Armed Forces through a voluntary program of enlistments. In the exercise of such authority, the Secretaries of the military departments shall, under the direction and supervision of the Secretary of Defense, specifically provide for—

(1) the inducements necessary to take fullest advantage of career selection motivations in attracting persons to military careers;

(2) the adjustment of physical induction standards to accommodate volunteers who cannot meet the physical requirements necessary for combat service but who can meet those physical requirements necessary for noncombatant service;

(3) the adjustment of the mental induction standards to accommodate volunteers who have inadequate educational backgrounds but who have the aptitudes and capabilities to overcome their educational deficiencies through special courses conducted as part of their military training;

(4) the improvement and expansion of the program for utilizing civilian personnel in lieu of military personnel for noncombatant service;

(5) the improvement and expansion of in-service educational opportunities at the technical, vocational, and college levels;

(6) the improvement and expansion of programs under which the education of specialists, such as doctors and dentists, is paid for by the Armed Forces in return for an obligated period of military service by the person receiving the educational assistance;

(7) the improvement and expansion of officer training programs, particularly programs to facilitate the qualifying and training of enlisted members who wish to become officers;

(8) the reduction of time-in-grade and time-in-service requirements for promotion eligibility of enlisted military personnel;

(9) the improvement and expansion of the reenlistment bonus program;

(10) the improvement and expansion of social, cultural, and recreational facilities for military personnel; and

(11) the institution of any other appropriate actions designed to upgrade the conditions of military service and the status of military personnel generally.

(b) Not later than eighteen months after the date of enactment of this Act, the Secretary of Defense shall submit to the Congress a detailed report regarding the operation of the voluntary system of meeting the military manpower needs of the Nation and for the improvement of the Armed Forces, and shall include in such report such recommendations for legislation to improve such system as he deems appropriate.

CONTINUED REGISTRATION

SEC. 5. Notwithstanding the delimiting date specified in section 17(c) of the Military Selective Service Act of 1967, the President shall provide for the continued registration under such Act of all male persons in the United States between the ages of eighteen and twenty-six years in order that the involuntary induction of persons under such Act may be reinstituted without serious delay in the event the President determines under section 2(b) of this Act that such action is necessary.

INCREASE IN PAY RATES OF CERTAIN ENLISTED GRADES

SEC. 6. (a) The monthly rates of basic pay authorized enlisted members of the uniformed services under section 203(a) of title 37, United States Code, including any adjustments made in such rates pursuant to section 8 of the Act entitled "An Act to increase the basic pay for members of the uniformed services, and for other purposes", approved December 16, 1967 (81 Stat. 649), are each increased by $100.

(b) The increase authorized by subsection (a) of this section shall become effective on the first day of the first calendar month beginning after the date of enactment of this Act.

JOINT COMMITTEE ON IMPROVEMENT OF READY RESERVE AND NATIONAL GUARD

SEC. 7. (a) There is hereby established a joint congressional committee to be known as the Joint Committee on the Improvement of the Ready Reserve and National Guard (hereinafter in this section referred to as the "committee") to be composed of six members of the Committee on Armed Services of the Senate, to be appointed by the President of the Senate, and six members of the Committee on Armed Services of the House of Representatives, to be appointed by the Speaker of the House of Representatives. A vacancy in the membership of the committee shall not affect the powers of the remaining members to execute the functions of the committee, and shall be filled in the same manner as the original appointment. The committee shall select a chairman and a vice chairman from among its members. A majority of the members of the committee shall constitute a quorum for the transaction of business, except that the committee may fix a lesser number as a quorum for the purpose of taking sworn testimony.

(b) The committee shall conduct a thorough study and investigation of the National Guard and the Ready Reserve program of the Armed Forces with a view to determining what action is necessary to (1) insure that National Guard and Ready Reserve units will at all times be adequately equipped and trained to meet combat assignments, and (2) increase the attractiveness of the National Guard program and the Ready Reserve program to insure adequate manpower for each program.

(c) The committee shall report to the Senate and the House of Representatives not later than one year after the date of enactment of this Act the results of its study and investigation, together with such recommendations for necessary legislation, and such other recommendations as it may deem advisable, to achieve the purposes stated in clauses (1) and (2) of subsection (b) of this section. Ten days after making such report the committee shall cease to exist.

(d) In carrying out its duties, the committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such places and times, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable. The committee may make such rules respecting its organization and procedures as it deems necessary. Subpenas may be issued over the signature of the chairman of the committee or by any member designated by him or by the committee, and may be served by such person or persons as may be designated by such chairman or member. The chairman of the committee or any member thereof may administer oaths to witnesses. Members of the committee, and its employees and consultants, while traveling on official business for the committee, may receive either the per diem allowance authorized to be paid to Members of Congress or its employees, or their actual and necessary expenses provided an itemized statement of such expenses is attached to the voucher.

(e) The committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and staff employees as it deems necessary and advisable. The committee is authorized to utilize the services, information, facilities, and personnel of the departments and establishments of the Government.

(f) The expenses of the committee shall be paid from the contingent fund of the Senate from funds appropriated for the committee, upon vouchers signed by the chairman of the committee or by any member of the committee duly authorized by the chairman.

The material, presented by Mr. HATFIELD, is as follows:

RADIO ADDRESS BY RICHARD M. NIXON, REPUBLICAN PRESIDENTIAL NOMINEE, THURSDAY, OCTOBER 17, 1968

THE ALL-VOLUNTEER ARMED FORCE

I speak tonight about a matter important to us all, but especially to young Americans and their parents.

I refer to compulsory military service—or, as most of you know it, "The Draft."

We have lived with the draft now for almost thirty years. It was started during the dark uncertainty before the Second World War, as a temporary, emergency measure. But since then we have kept it—through our ordeals in Korea and Vietnam, and even in the years of uneasy peace between.

We have lived with the draft so long, in fact, that too many of us now accept it as normal and necessary.

I say it's time we took a new look at the draft—at the question of permanent conscription in a free society.

If we find we can reasonably meet our peacetime manpower needs by other means, then we should prepare for the day when the draft can be phased out of American life.

I have looked into this question very carefully. And this is my belief: Once our involvement in the Vietnam War is behind us, we move toward an all-volunteer armed force.

This means, that just as soon as our reduced manpower requirements in Vietnam will permit us to do so, we should stop the draft and put our selective service structure on stand-by.

For the many years since World War II, I believed that, even in peacetime, only through the draft could we get enough servicemen to defend our nation and meet our heavy commitments abroad. Over these years it seemed we faced a Hobson's choice: Either constrict the freedom of some, or endanger the freedom of all.

But conditions have changed, and our needs have changed. So, too, I believe, our defense manpower policies should change.

Tonight, I would like to share with you some of the reasons why I think this is so.

First, let me talk about what we cannot do.

First of all, we must recognize that conditions in the world today require us to keep a powerful military force. Being prepared for war is our surest guarantor of peace. While our adversaries continue to build up their strength, we cannot reduce ours. While they continue to brandish the sword, we cannot lay aside our shield.

So any major change in the way be obtain military manpower must not keep us from maintaining a clearly superior military strength.

In the short run, we need also to recognize the limits imposed by the war in Vietnam. However we might wish to, we can't stop the draft while we are in a major war.

What we can do, and what we should do now, is to commit ourselves as a nation to the goal of building an all-volunteer armed force.

The arguments about the draft center first on whether it's right, and second, on whether it's necessary.

Three decades ago, Senator Robert Taft declared that the draft "is absolutely opposed to the principles of individual liberty which have always been considered a part of American Democracy."

I feel this way: A system of compulsory service that arbitrarily selects some and not others simply cannot be squared with our whole concept of liberty, justice and equality under the law. Its only justification is compelling necessity.

The longer it goes on, the more troublesome are the questions it raises. Why should your son be forced to sacrifice two of the most important years of his life, so that a neighbor's son can go right along pursuing his interests in freedom and safety? Why should one young American be forced to take up military service while another is left free to make his own choice?

We all have seen, time and time again, how hit-or-miss the workings of the draft are. You know young people, as I do, whose lives have been disrupted first by uncertainty, next by conscription. We all have seen the unfairness of the present system.

Some say we should tinker with the present system, patching up an inequity here and there. I favor this too, but only for the short term.

But in the long run, the only way to stop the inequities is to stop using the system.

It does not work fairly, and given the facts of American life, it just can't.

The inequity stems from one simple fact—that some of our young people are forced to spend two years of their lives in our nation's defense, while others are not. It's not as much the way they're selected that's wrong, as it is the fact of selection.

Even now, only about 40 percent of our eligible young people ever serve. As our population grows, and the manpower pool expands, that percentage will shrink even further. Ten years ago about a million men became of draft age each year. Now there are almost two million.

There has also been a change in the armed forces we need. The kinds of war we have to be prepared for now include not only conventional war and nuclear war, but also guerrilla war of the kind we are now experiencing in Vietnam. In nuclear war, huge ground armies operating in massive formations would be terribly vulnerable. That way of fighting, where nuclear weapons are in use, is a thing of the past.

An all-out non-nuclear war, on the other hand (that is what we knew before as large-scale conventional war), is hard to see happening again. Of course, a sudden Soviet ground attack from Eastern Europe could mix Soviet forces with the populations in the West and thereby prevent swift resort to nuclear weapons. But even in this situation a massing of huge ground units would be impossible because of their nuclear vulnerability. So again, even this kind of struggle would break up into smaller unit actions.

In a guerrilla war of the Vietnam type, we face something else entirely. Here we need a highly professional, highly motivated force of men trained in the techniques of counter-insurgency. Vietnam has shown us that success in such wars may depend on whether our soldiers are linguists and civil affairs specialists, as well as warriors. Also, the complex weapons of modern war demand a higher level of technical and professional skill.

Of course, we will still need conventional forces large by standards of only a few decades ago to guard our vital interests around the world. But I don't believe we will need them in such quantity that we cannot meet our manpower needs through voluntary enlistments.

Conscription was an efficient mechanism for raising the massive land armies of past wars. Also, it is easier and cheaper simply to order men into uniform rather than recruiting them. But I believe our military needs in the future will place a special premium on the services of career soldiers.

How, then, do we recruit these servicemen? What incentives do we offer to attract an adequate number of volunteers?

One kind of inducement is better housing, and better living conditions generally. But to recruit and to retain the highly skilled specialists the services need, military life has to be more competitive with the attractions of the civilian world.

The principal incentives are the most obvious: higher pay and increased benefits.

The military services are the only employers today who don't have to compete in the job market. Supplied by the draft with the manpower they want when they want it, they've been able to ignore the laws of supply and demand. But I say there's no reason why our military should be exempt from peacetime competition for manpower, any more than our local police and fire departments are exempt.

A private in the American Army is paid less than $100 a month. This is a third of the minimum wage in the civilian economy. Now to this we should add food, uniforms and housing which are furnished free. Taken all together, a single young man can probably get by on this. But it's hardly competitive with what most people can earn in civilian life. Even with allowances, many married servicemen in enlisted ranks have actually been forced to depend on relief payments to support their families.

These pay scales point up another inequity of the draft system. Our servicemen are singled out for a huge hidden tax, the difference between their military pay and what they could otherwise earn. The draftee has been forced by his country not only to defend his neighbors but to subsidize them as well.

The total cost of the pay increases needed to recruit an all-volunteer army cannot be figured out to the dollar, but authoritative studies have suggested that it could be done for 5 to 7 billions of dollars more a year. While this cost would indeed be heavy, it would be increasingly offset by reductions in the many costs which the heavy rate of turnover now causes. Ninety-three percent of the army's draftees now leave the service as soon as their time is up, taking with them skills that it costs some $6000 per man to develop. The net additional annual cost of shifting to an all-volunteer armed force would be bound to be much less.

It will cost a great deal to move to a voluntary system, but unless that cost is proved to be prohibitive, it will be more than worth it.

The alternative is never-ending compulsion in a society consecrated to freedom. I think we can pay a great deal to avoid that.

In any case, in terms of morale, efficiency and effectiveness, a volunteer armed force would assuredly be a better armed force.

Today, seven out of every ten men in the army have less than two years military experience. As an army chief of personnel put it: "As soon as we are able to operate as a unit, the trained men leave and we have to start all over again. A volunteer force would have a smaller turnover; it would be leavened by a higher percentage of skilled, motivated men; fewer would be constantly in training, and fewer trained men would be tied down training others.

The result would be, on the average, more professional fighting men, and less invitation to unnecessary casualties in case of war.

The same higher pay scales needed to get more volunteers would also strengthen incentives for career service. I am sure the spirit and self-confidence of the men who wear the nation's uniform would be enhanced.

In proposing that we start toward ending the draft when the war is over, I would enter two cautions: first, its structure needs to be kept on stand-by in case some all-out emergency requires its reactivation, but this can be done without leaving 20 million young Americans who will come of draft age during the next decade in constant uncertainty and apprehension.

The second caution I would enter is this: the draft can't be ended all at once. It will have to be phased out, so that at every step we can be certain of maintaining our defense strength.

But the important thing is to decide to begin, and at the very first opportunity to begin.

Now, some are against a volunteer armed force because of its cost, or because they're used to the draft and hesitant to change. But three other arguments are often raised. While they sound plausible, I say they don't stand up under examination.

The first is that a volunteer army would be a black army, so it is a scheme to use Negroes to defend a white America. The second is that a volunteer army would actually be an army of hired mercenaries. The third is that a volunteer army would dangerously increase military influence in our society.

Now, let's take these arguments in order:

First, the "Black Army" one. I regard this as sheer fantasy. It supposes that raising military pay would be in some way slow up or stop the flow of white volunteers, even as it stepped up the flow of black volunteers. Most of our volunteers now are white. Better pay and better conditions would obviously make military service more attractive to black and white alike.

Second, the "Mercenary" argument. A mercenary is a soldier of fortune—one who fights for or against anyone for pay. What we're talking about now is American soldiers, serving under the American flag. We are talking about men who proudly wear our country's uniform in defense of its freedom. We're talking about the same kind of citizen armed force America has had ever since it began, excepting only the period when we have relied on the draft.

The third argument is the threat of universal military influence. This, if ever it did come, would come from the top officer ranks, not from the enlisted ranks that draftees now fill and we already have a career officer corps. It is hard to see how replacing draftees with volunteers would make officers more influential.

Today all across our country we face a crisis of confidence. Nowhere is it more acute than among our young people. They recognize the draft as an infringement on their liberty, which it is. To them, it represents a government insensitive to their rights, a government callous to their status as free men. They ask for justice, and they deserve it.

So I say, it's time we looked to our consciences. Let's show our commitment to freedom by preparing to assure our young people theirs.

[From Time magazine, Jan. 10, 1969]

THE CASE FOR A VOLUNTEER ARMY

The concept of a volunteer armed force for the U.S. is one of the few national propositions that have scarcely a single enemy. President-elect Richard Nixon is strongly for it. The Department of Defense holds that "reliance upon volunteers is clearly in the interest of the armed forces." Such conservatives as Barry Goldwater and William Buckley back the idea, and so do many liberals, including James Farmer and David Dellinger. Young men under the shadow of the draft want it, and so do their parents. Most of American tradition from the Founding Fathers on down is in favor, as were the untold millions of immigrants who came to America to avoid forced service in the conscript armies of czars and kaisers.

A volunteer armed force would seem to have something for everybody. For the Pentagon, it would provide a careerist body of men staying in the ranks long enough to learn their jobs, and do them well; as it is, 93% of drafted soldiers leave the service when their two-year tour of duty ends. For constitutionalists, a volunteer army would affirm the principle that free men should not be forced into involuntary servitude in violation of the 13th Amendment. For philosophers, it would restore freedom of choice: if a man wants to be a soldier, he can do so, and if not, he does not have to. The idea also appeals to all those who have become increasingly aware that the draft weighs unfairly upon the poor and the black, the dropout and the kid who does not get to college.

For all this rare unanimity of opinion, however, it seems hardly likely that the U.S. will soon achieve what Nixon has promised to build toward: "an all-volunteer armed force." A main reason for this is that the Pentagon's basic support for the idea of a volunteer army is heavily qualified by worries that it will not work—while the draft has now delivered the bodies without fail for two decades.

WORRIES IN THE PENTAGON

Burned into military memories is the hasty dismantlement of the U.S. armed forces after World War II, when the nation returned to its traditional military stance: a small number of voluntary regulars, backed up by reserves and the National Guard. The Army managed to attract 300,000 volunteers, of whom West Point's Colonel Samuel H. Hays wrote: "In an infantry battalion during that period one might find only two or three high school graduates in nearly a thousand men. Technical proficiency was not at a high level; delinquency and court-martial rates were." Getting choosier, the army raised qualifying scores on aptitude tests from 59 to 70, 80, and finally 90. Simultaneously, it limited recruits to men without dependents and those willing to sign up for a three-year hitch. When the Berlin blockade and the Communist seizure of Czechoslovakia took place in 1948, the Pentagon complained that it was far under strength and that relying on volunteers had failed. Congress was told that the draft was needed to get manpower and show U.S. determination to check Communist aggression. The clumsily titled Universal Military Training and Service Act was passed. After that, proposals for returning to a volunteer army was not heard for years.

The military arguments against the volunteer army nowadays derive from new judgments about the size of the forces needed, the cost, and the necessity of flexibility. Certainly nothing but a draft could have supplied the 2,800,000 doughboys of World War I or the 10 million GI's of World War II, and the Pentagon's estimate of its current needs runs to similar magnitudes: 3,454,160 at the present moment, and 2,700,000 when peace returns. To raise the Viet Nam-inflated forces, the Department of Defense has relied on the draft to bring in about one-third of new troops and on the scare power of the draft to induce thousands of others to "volunteer." The draftees go to the Army, mostly to the infantry; the glamorous Air Force never has to draft anyone, and the Navy and Marines only rarely.

The Defense Department's study of the practicability of a volunteer army, made five years ago, proved to the department's satisfaction that it still would not work. Even allowing for growth in military-age population, DOD found that it could not expect to get more than 2,000,000 men, at least 700,000 short of pre-Viet Nam needs. As for the possibilities of increasing incentives, the Pentagon concluded that "pay alone is a less potent factor than might be expected" and that fringe benefits have small appeal for young men not deeply conscious of the value of medical care or retirement pay. On the other hand, Richard Nixon holds to the old American idea that it should be possible to devise incentives—pay among them—that will draw men into service.

The Pentagon's estimates of pay increases sufficient to attract a volunteer army ranged startlingly from $4 billion to $17 billion a year; Nixon says that he has found "authoritative studies" suggesting that a volunteer force could be set up for $5 billion to $7 billion extra. The Pentagon speculates that pensions for a volunteer army might be astronomical, but presumably they would at least partly and eventually replace the $6 billion a year (sixth largest single item in the federal budget) that the nation pays to ex-servicemen who feel that something is their due for having been drafted. S. vings in training costs could run to $750 million a year, according to the Department of Defense; another economy would result because the proportion of time spent in training would be smaller in relation to a volunteer's long hitch than to a draftee's quick in-and-out. More basically, the extra cost of a volunteer army would be more apparent than real, because paying servicemen wages lower than they could get in a free market is, in effect, a subsidy for the Department of Defense. "We shift the cost of military service from the well-to-do taxpayer, who benefits by lower taxes, to the impecunious young draftee," explains Economist John Kenneth Galbraith.

A number of military thinkers contend that establishing a volunteer armed force limits the flexibility or response to threats. When Khrushchev got tough with President Kennedy in 1961, for example, the President easily increased U.S. might by authorizing Selective Service to have each of its 4,000 draft boards pull in more men. Presumably war on a big scale could rapidly outrun the capacities of a volunteer army, possibly requiring every able-bodied man. Reserves therefore would have to be maintained—with incentives for reservists instead of the threat of the draft. Even the draft itself probably should be kept on stand-by, perhaps for use with the permission of Congress or in case of declared wars.

Another reason that military men would hate to see the draft go is that they think it provides them with manpower of greater quality as well as quantity. As Colonel Hays noted, volunteers, unpressured by the draft, tended to be "marginal" when the Army last tried them. But he was speaking of men who had grown up in the pinched and deprived Depression years. With the right inducements, a modern technological army should be able to attract technology-minded volunteers, educated and educable enough to cope with missile guidance, intelligence analysis, computer programming, medical care and other demanding jobs. Given five or ten years in service, volunteers should be trainable to considerable skills, to judge from the experience of Canada and Britain, the only major nations that have volunteer forces. Though these armies are small, not having the great global responsibilities of the American forces, they provide enviable examples of high effectiveness, low turnover and contented officers. Lieut. General A. M. Sharp, Vice Chief of the Defense Staff of Canada, contends that freewill soldiers are "unquestionably going to be better motivated than men who are just serving time."

PHANTOM FEARS

Civilian reservations about volunteer armed forces also focus on some fears that tend to dissolve upon examination. Some critics have raised the specter of well-paid careerists becoming either mercenaries or a "state within a state." Nixon, for one, dismisses the mercenary argument as nonsense. The U.S. already pays soldiers a salary. Why should a raise in pay—which for an enlisted man might go from the present $2,900 a year to as much as $7,300—turn Americans into mercenaries? Said Nixon: "We're talking about the same kind of citizen armed force America has had ever since it began, excepting only in the period when we have relied on the draft." The Pentagon itself rejects the Wehrmacht-type army, in which men spend all their professional lives in service.

Nixon has also addressed himself to the possibility that a careerist army might become a seedbed for future military coups. That danger is probably inherent in any military force, but, as the President-elect points out, a coup would necessarily come from "the top officer ranks, not from the enlisted ranks, and we already have a career-officer corps. It is hard to see how replacing draftees with volunteers would make officers more influential." Nixon might have added that conscript armies have seldom proved any barrier to military coups. Greece's army is made up of conscripts, but in last year's revolution they remained loyal to their officers, not to their King.

Might not the volunteer army become disproportionately black, perhaps a sort of internal Negro Foreign Legion? Labor Leader Gus Tyler is one who holds that view; he says that a volunteer army would be "low-income and, ultimately, overwhelmingly Negro. These victims of our social order 'prefer' the uniform because of socio-economic compulsions—for the three square meals a day, for the relative egalitarianism of the barracks or the foxhole, for the chance to be promoted." Conceivably, Negroes could

flock to the volunteer forces for both a respectable reason, upward mobility, and a deplorable one, to form a domestic revolutionary force.

As a matter of practice rather than theory, powerful factors would work in a volunteer army toward keeping the proportion of blacks about where it is in the draft army—11%, or roughly the same as the nation as a whole. Pay rises would attract whites as much as blacks, just as both are drawn into police forces for similar compensation. The educational magnets, which tend to rule out many Negroes as too poorly schooled and leave many whites in college through deferments, would continue to exert their effect. Black Power militancy would work against Negroes' joining the Army. Ronald V. Dellums, a Marine volunteer 13 years ago and now one of two black councilmen in Berkeley, opposes the whole idea of enlistment as a "way for the black people to get up and out of the ghetto existence. If a black man has to become a paid killer in order to take care of himself and his family economically, there must be something very sick about this society." But even if all qualified Negroes were enrolled, the black proportion of the volunteer army could not top 25%. Nixon holds that fear of a black army is fantasy: "It supposes that raising military pay would in some way slow up or stop the flow of white volunteers, even as it stepped up the flow of black volunteers. Most of our volunteers now are white. Better pay and better conditions would obviously make military service more attractive to black and white alike."

One consideration about the volunteer army is that it could eventually become the only orderly way to raise armed forces. The draft, though it will prevail by law at least through 1971, is under growing attack. In the mid-'50s, most military-age men eventually got drafted, and the inequities of exempting the remainder were not flagrant. Now, despite Viet Nam, military draft needs are dropping, partly because in 1966 Secretary of Defense Robert McNamara started a "project 100,000," which slightly lowered mental and physical standards and drew 70,000 unanticipated volunteers into the forces. Meanwhile, the pool of men in the draftable years is rising, increasingly replenished by the baby boom of the late '40s. Armed forces manpower needs have run at 300,000 a year lately, but they will probably drop to 240,000 this year. On the other hand, the number of men aged 19 to 25 has jumped from 8,000,000 in 1958 to 11.5 million now—and will top 13 million by 1974. The unfairness inherent in the task of arbitrarily determing the few who shall serve and the many who shall be exempt will probably overshadow by far the controversies over college deferments and the morality of the Viet Nam war. In the American conscience, the draft-card burners planted a point: that conscription should be re-examined and not necessarily perpetuated. The blending of war protest with draft protest, plus the ever more apparent inequities of Selective Service, led Richard Nixon to move his proposal for a volunteer army to near the top of his priorities.

HEALING TENSIONS

The position from which to start working for a volunteer army is that, to a large extent, the nation already has one—in the sense that two-thirds of its present troops are enlistees. Neither Nixon nor anyone else visualizes a rapid changeover. The draft will doubtless endure until the war in Viet Nam ends, but it could then be phased out gradually. After that, the draft structure can be kept in stand-by readiness, thinks Nixon, "without leaving 20 million young Americans who will come of age during the next decade in constant uncertainty and apprehension."

If Nixon and his executive staff can move ahead with legislation and the new Secretary of Defense prod and cajole his generals and admirals, the new Administration will go far toward its aim. A volunteer army might help ease racial tensions, perhaps by ending the imbalance that has blacks serving in the front lines at almost three times their proportion in the population and certainly by removing the arbitrariness of the draft that puts them there. The move would also eliminate the need to force men to go to war against their consciences, and end such other distortions as paying soldiers far less than they would get if they were civilians, or forcing other young men into early marriages and profitless studies to avoid the draft. Incentives, substituted for compulsion, could cut waste and motivate pride. Not least, a volunteer army would work substantially toward restoring the national unity so sundered by the present inequalities of the draft.

[From Newsweek magazine, Dec. 9, 1968]

MR. NIXON'S SECOND PROMISE

(By Stewart Alsop)

WASHINGTON.—President-elect Richard M. Nixon made just two explicit campaign promises. He promised to end the war in Vietnam. And he promised, after the war ended, to end the draft. The two promises are closely related, for the draft is the main reason the war is so unpopular. And if the war is not settled, or at least sharply scaled down, rather soon after Richard Nixon becomes President, he could become as unpopular as the war.

No doubt ideology and honest idealism play a part in the passionate opposition to the war among the college-educated young. But the draft supplies the passion. The young men who demonstrate against the war passionately do not want to be drafted. With draft calls up and the number of college men in the draft soon due to be multiplied at least five times over, the passion will deepen.

It is silly for the middle-aged to display indignation at this youthful desire not to be shouted at by top sergeants or shot at by strangers. It is a perfectly natural desire, and this generation of the young is not the first to experience it. When the draft law passed in 1940, my younger brother and I discovered that the regulations provided that a person adjudged "markedly unsightly" by a draft board would be placed in the 4–F category, so we spent a good deal of time making horrible faces at each other, in preparation for our first encounter with a draft board.

MASS RESISTANCE

Eventually, we changed our minds about the desirability of staying out of uniform—but then, if there ever was a war that had to be fought, it was World War II. Among the young in the universities, there are hardly any who think the war in Vietnam has to be fought, or ought to be fought. They are no doubt wrong, but that is the way they feel, and they feel so passionately that, if the war drags on indefinitely, President Nixon could quite conceivably be faced with a near-insurrectionary situation, with mass resistance to the draft in many universities.

This prospect raises a question—whether this country is capable of fighting a long, distant and limited war for limited national interests. The question is important, for if the United States is incapable of using limited power for limited purposes, it will cease to be an effective world power, and the world power balance will shift sharply to the Communist side. The evidence so far suggests that the answer to the question is: not with a conscript army.

That is not a very surprising answer. Great world powers have rarely relied on conscription except where the national territory was threatened. Professional armies fought for the Roman Empire and the British Empire, too—the British did not resort to the draft until a year and a half after World War I had started. Even the French, who invented conscription in its modern form, rarely used conscripts in non-European wars—they fought their war in Indochina, for example, entirely with professionals. But can this prosperous, traditionally inward-looking nation raise a serious military force without conscription?

DISPROPORTIONATE?

Innumerable "feasibility studies" have been made in the Pentagon and elsewhere, and many reasons why an all-volunteer army is not practical have been put forward. For economic and other reasons, for example, a professional army might be disproportionately black. But the Pentagon experts who have studied the figures doubt that the proportion of Negroes in an all-volunteer army would go much above 20 percent, about the current proportion in the infantry.

A more serious problem is that of attracting and keeping men with economically valuable skills—an electronics expert, for example, who could earn $15,000 in the civilian economy, is not likely to enlist voluntarily for less than half that amount. But that problem already exists, of course, and it is dealt with more or less successfully by offering ambitious young men on-the-job training in valuable skills in return for fairly long enlistments.

The central problem is money. During the heyday of the British Empire, poor men would enlist for a shilling a week and three square meals a day. To provide the American Army with "competitive pay" in the middle of a booming civilian economy would require pay scales undreamed of in all military history.

According to one Pentagon study, competitive pay would mean a buck sergeant getting $6,500 a year, a captain $12,800 and a chicken colonel $26,000. The extra cost of an all-volunteer force has been estimated all the way from $4 billion a year to $20 billion. But the best current guess is that the extra cost of non-draft post-Vietnam armed forces of about 2.7 million would come to around $8 billion.

Money is not the whole secret of attracting men into the armed forces, of course. There are intangibles, which the stodgy American Army has always underestimated. There are men, surprisingly, who enjoy the hierarchical certainties of military life, and there are even men, far more suprisingly, who rather enjoy shooting and getting shot at. Such men make far better soldiers than those conscripted against their will.

The Europeans, the British especially, use all sorts of ways of attracting such men, from what the British call "found"—special privileges—to magnificent costumes designed to attract the ladies and reinforce self-esteem. The American Army, even before the computer age, always tended to treat its men like faceless numbers, which is one reason why the U.S. Army has been so dependent on the draft.

EXPENSE ACCOUNT

With the draft there to call on, like an unlimited expense account, the American Army has also been profligate in its use of manpower. It has by a very wide margin the longest non-combat "tail" of any army in the world—or in the history of the world. If the Army had to rely on volunteers, it would be under useful pressure to cut back its tail, and thus deliver a greater return in real combat power.

The military, of course, dislike the whole idea of a non-draft force, for reasons just as natural as those which cause the young to dislike the whole idea of the draft. It is true that there are very serious problems involved, and that a professional Army would cost a great deal of money. But it is also true that the monstrously unfair draft system has helped to create the kind of passionate dissension which has almost torn this country apart. The United States must be able to use limited military power for limited ends, if it

is to stay in business as a great power, and even $8 billion a year does not seem too great a price to pay to avoid tearing the country apart in the process.

THE DRAFT AND THE VOLUNTARY ARMY
SELECTED QUOTATIONS

Senator ROBERT A. TAFT. It is said that a compulsory draft is a democratic system. I deny that it has anything to do with democracy. It is neither democratic nor undemocratic. It is far more typical of totalitarianism nations than of democratic nations. The theory behind it leads directly to totalitarianism. It is absolutely opposed to the principles of individual liberty which have always been considered a part of American democracy. . . . The principle of a compulsory draft is basically wrong.—CONGRESSIONAL RECORD, August 14, 1940, page 15768.

Senator BURTON K. WHEELER. Peacetime conscription . . . is the greatest step toward regimentation and militarism ever undertaken by the Congress of the United States.—CONGRESSIONAL RECORD, August 21, 1940, page 16255.

Senator ARTHUR VANDENBERG. These reasons must have been related in some indispensible fashion to the fundamental theory that peacetime military conscription is repugnant to the spirit of democracy and the soul of Republican institutions, and that it leads in dark directions.—CONGRESSIONAL RECORD, August 12, 1940, page 10123.

ADLAI E. STEVENSON. Every young man who has served in our armed forces knows the incredible waste of our present system of forced but short-term service. He knows the money that could be saved, the new efficiency that could result from a volunteer system which calls on young men not to endure two years of service because they have to, but to choose it for a longer period because it offers advantages that seem to them appealing.—Speech at Youngstown, Ohio, October 18, 1956; cited in the Report of Special Subcommittee on Utilization of Military Manpower of the Committee on Armed Services, House of Representatives, 86th Congress, Second Session, page 154.

RALPH J. CORDINER (Chairman, Defense Advisory Committee on Professional and Technical Compensation). Reduced to its simplest terms the personnel problem appears to be a matter of quality as opposed to quantity. It is not a matter of the total number of people on hand, but it is a matter of the level of retention of those possessing a high degree of leadership quality and those with the technical training and experience the services so urgently need. It is a matter of not being able, at the present time and under the present circumstances, to keep and challenge and develop the kinds of people needed for the periods of time necessary for them to make an effective contribution to the operation of the force. . . . It is foolish for the Armed Forces to obtain highly advanced weapons systems and not have men of sufficient competence to understand, operate and maintain such equipment. . . . The solution here, of course, is not to draft more men to stand and look helplessly at the machinery. The solution is to give the men already in the armed forces the incentives required to make them want to stay in the services long enough and try hard enough to take on these higher responsibilities, gain the skill and experience levels we need and then remain to give the services the full benefit of their skills—"A Modern Concept of Compensation for Personnel of the Uniformed Services", (Cordiner Report), March, 1957.

Major General HAROLD MADDUX (Department of Defense, Division of Manpower Requirements). We need drastic changes in pay and attitudes to upgrade a military career in the eyes of the nation. We can't get that change with large numbers of men compelled to serve against their will.—House Armed Services Committee Hearings on HR 2260, Extension of the Draft, January, 1959, #2, page 130.

Admiral BEN MOREELL (president, Americans for Constitutional Action). It is my firm conviction that the two greatest intrusions on individual freedom in the history of the Republic are, first, the Sixteenth Amendment . . . and second, the Act of May 18, 1917, whereby Congress "authorized and ordained" a conscript army for use in foreign war.—The Freeman, July, 1960.

Senator STUART SYMINGTON. A force made up of volunteer professional military personnel is more effective and less costly than one dependent on involuntary draftees. If the current atmosphere of complacency were dissolved, and a military career made more respected and attractive, the draft could be eliminated.—Cited in Newsweek magazine, April 4, 1960.

RUSSELL KIRK. Universal military training, the most crushing burden that the state can impose upon its people, the most terrible curse of the better types of humanity—highly strung, sensitive and nervous—is found in conjunction with levelling democracy not merely by coincidence. The armed horde is a concomitant of equalitarian socialism and state planning; and it is a natural reaction of any society which has abandoned all the old habitual and internal disciplines, so that it must rely (as Burke predicted) upon arbitrary internal disciplines.—The Conservative Mind. Russell Kirk, Chicago, Regnery, 1961, page 378.

Professor JOHN K. GALBRAITH. The draft survives principally as a device by which we use compulsion to get young men to serve at less than the market rate of pay. We shift the cost of military service from the well-to-do-taxpayer, who benefits by lower taxes, to the impecunious young draftee. This is a highly regressive arrangement which we would not tolerate in any other area. Presumably freedom of choice here as elsewhere would be worth paying for. . . . As an important added benefit a shift from compulsion to fully paid service would give us a better trained force—something that modern weapons make most desirable. We would not, as now, have a force which consists of partly trained men who leave about as soon as their training is complete.—Quoted by Reverend Montgomery J. Shroyer, Extension of the Draft and Related Authorities. Hearing before a Subcommittee of the Committee on Armed Services, United States Senate, 89th Congress, First Session on HR 2438 (S 846), page 80.

Senator ROBERT A. TAFT. It is said that we are going to teach the boys citizenship in the camps. This argument makes clear a real danger in the whole system. By handing boys over to the arbitrary and complete domination of the Government, we put it in the power of the Government to indoctrinate them with the political doctrines then popular with the Government. . . . In wartime it is bad enough; in peacetime, it would be intolerable.—Quoted by Reverend Montgomery J. Shroyer, Extension of the Draft and Related Authorities. Hearing before a Subcommittee of the Committee on Armed Services, United States Senate, 89th Congress, First Session on HR 2438 (S 846), page 159.

HANSON W. BALDWIN. There is no doubt that it would be desirable to end the draft entirely. Military effectiveness—in terms of highly trained professionals instantly ready—would be greatly improved if professional motivation could be substituted for compulsion. Certainly a voluntary system of recruitment is more compatible with past American traditions and with our concept of political freedom than conscription. The younger generation would be able to plan its important beginning years with far greater certainty than is now possible, and the somewhat corrosive effects upon morale of the present system of deferments and exemptions would be ended. Militarily, politically and socially, then, it seems desirable to end the draft . . . (I)f the facts then clearly indicate that voluntary recruitment and long term professionalism, encouraged by improved incentives, might supply service needs, the draft should be ended. But if there is a doubt, the principle of compulsion might then be suspended, rather than eliminated, for a stated period, in order to test and try a new system, one more compatible with the soul of republican institutions.—New York Times magazine, "Should We End the Draft? Our Way of Procuring Military Manpower, Now a Campaign Issue, Is Reexamined", September 27, 1964.

WILLIAM F. BUCKLEY, JR. The not so very long-term objective should be to eliminate the draft in favor of a professional army of volunteers, who would greatly increase the efficiency of the armed services, and relieve the civil population of an experience which, insofar as it is unrelated to true necessity, is debasing, and an unnecessary—and therefore inexcusable—encroachment on individual freedom.—Washington Daily News, April 24, 1964, page 27.

JAMES G. PATTON. I am confident that a well formulated program can be achieved which will eliminate the draft, modernize reserve programs and achieve huge savings in man-years and budget dollars. Such a program would justifiably generate widespread public support and enthusiasm. Most important, it would bring strengthened civilian control and simple human justice into our huge military manpower structure.—Cited in the CONGRESSIONAL RECORD, volume 110, part 18, page 23072.

Senator BARRY GOLDWATER. This administration uses the outmoded and unfair military draft system for social schemes as well as military objectives.

Republicans will end the draft altogether, and as soon as possible! That I promise you!

Republicans understand that the military forces need trained volunteers who make the military service a career. Republicans understand that the purpose of the military forces is not social, or political—it is to help the peace of the world.

To use military services for political and social schemes—as this administration does—is to drift closer to war on an ebbing tide of military strength.—Chicago Tribune, September 4, 1964, page 2.

NILS A. LENNARTSON (Deputy Assistant Defense Secretary for Public Affairs). We are glad to know that the Republican candidate agrees with the administration that the draft should be ended as soon as possible.—New York Times, "The Pentagon Says It Welcomes Goldwater Idea That Draft End", September 4, 1964.

Senator GAYLORD NELSON. If the Congress will take the time to make a detailed study of the draft as it works today, I think it will be shocked and appalled at what it finds.

My own study has led me to this conclusion:

Our present draft system is outmoded. It should be terminated, in the interests of national security as well as justice. With careful planning, we can end the draft, responsibly, in 1967.—CONGRESSIONAL RECORD, volume 110, part 12, page 15365.

Senator GEORGE MCGOVERN. The present system seems to me to be a wasteful, inefficient, and undemocratic method of securing our military manpower. It is a cloud over the lives of all of our young men and yet only a fraction of them are needed or will be called for service.

I think that by proper salary and job benefits we could secure the men we need on a voluntary basis. This would produce a military force of better motivated career servicemen and leave the rest of our young men free

to pursue their careers and their private lives without the uncertainty of a draft hanging over their head.—CONGRESSIONAL RECORD, volume 110, part 12, page 15371.

Republican Platform, 1964. "For the People. We pledge:

Re-evaluation of the armed forces manpower procurement programs with the goal of replacing involuntary inductions as soon as possible by an efficient voluntary system, offering real career incentives;—Adopted by the Republican National Convention, July 14, 1964, San Francisco, California, pages 15–16.

Democratic Platform, 1964. On August 25, the Democratic Convention promised in its platform to "pursue our examination of the selective service program to make certain that it is continued only as long as it is necessary and that we meet our manpower needs without social or economic injustice.—Cited in the CONGRESSIONAL RECORD, volume 110, part 18, page 23068.

Congressman WILLIAM H. BATES. I am against the draft and induction of all kinds unless we have to have them. . . . But you have to be very careful in using a military organization for other than military purposes. I still think that our home communities with our local schools and our churches and our neighbors and our friends and relatives, all of this kind of community effort is the place to which we should address problems of this nature and I would be most reluctant to use the purpose for which they have been established.—Review of the Administration and Operation of the Selective Service System, Hearings before the Committee on Armed Services, House of Representatives, 89th Congress, Second Session, page 9708–9709.

Congressman ROBERT ELLSWORTH. I urge that Congress abolish the draft, and get on with the establishment of a modern professional, career-oriented, highly paid volunteer military force.

The concept of a national service obligation to replace a military service obligation is repulsive. . . . But the drafting of men or women for civilian service, no matter how laudatory the cause, is the exact antithesis of everything this Nation stands for.

The basic concept which the Congress should accept is that the draft should be abolished.

This means increased military pay. It means increased career opportunities. It means a radical departure from existing practice of using uniformed personnel in administrative and supply jobs in the United States which could just as easily be filled by civilians. It means attention to the creation of a more adequate volunteer reserve force which can be activated in crisis time. It means a system of bonuses for enlistment by the reserves for active duty in crises. But most of all it means a determination by the administration and the Congress to make every effort to undertake the necessary reforms to allow the draft to be ended.—Review of the Administration and Operation of the Selective Service System. Hearings before the Committee on Armed Services, House of Representatives, 89th Congress, Second Session, pages 9756, 9757, 9759, 9760.

Congressman THOMAS B. CURTIS.—The draft, with its 4061 local and autonomous draft boards and its antiquated machinery, is an anachronism in the Cold War era, a relic of an earlier time when vast quantites of raw manpower were thrown onto the battlefields of Europe and Asia to overcome by their very numbers the killing power of cannon, machine gun and tank. In the age of the skilled technician, the Armed Forces of the United States still rely on the Selective Service System, a World War Two expedient, to supply them with bewildered, untrained, often poorly educated youth. Immune to technological change and changing population structure, the draft has become the weakest link in our national security system and an unnecessary burden on our society. It is within our means to eliminate compulsory military service; that we have not done so, or begun to do so, is an announcement of our failure to adapt to the changing conditions of modern society.—Play magazine, February, 1967. Cited in the CONGRESSIONAL RECORD, volume 113, part 1, page 1385.

Lieutenant General IRA C. EAKER, retired. Concurrent with renewal of the draft, Congress should provide for a professional military establishment to meet the requirements for national security without conscription. This can be done by making military careers competitive with the civilian professions and occupations that require similar education, preparation and skill.

Occasionally, one hears the unsupported assertion that the cost of an adequate defense force without conscription would be prohibitive. Actually, this proposal would cost less than the present draft system, with its high rate of personnel turnover. More importantly, it would provide a credible deterrent to nuclear war. Such an effective national security system is cheap at any price.—Post Advocate, Alhambra, California. "Military Affairs: Replacement For Draft Law", February 23, 1967. Cited in the CONGRESSIONAL RECORD, March 9, 1967, A1182.

Senator BARRY GOLDWATER. Conservatives want to end the draft—period. They do not want to extend it to any other form of service. They sympathize with the aims of the system, but they cannot and do not sympathize with the method, no matter what its motive.

The conservative position is based solidly upon the notion that man's most fundamental right and responsibility is to live his own life.—The New Guard, May, 1967.

BRUCE CHAPMAN. The abolition of the draft and a new all-volunteer military can terminate the conundrum of contradictions and confusion, the mandarin complexities, discriminations, and inefficiencies of the so-called Universal Military Training and Service Act. The evasion mentality among the young can be curbed. Lives in a world already anxious and precarious can be freed of the draft's additional uncertainty. The insidious subtle power of a vast bureaucracy to interfere in a citizen's personal plans—to punish, threaten, or "channel"—can be eliminated and personal freedom enhanced.

All this is now achievable because the draft is no longer necessary; it can be replaced, and therefore it should be replaced.—The Wrong Man in Uniform. New York, Trident Press, 1967, pp. 107–108.

[From Newsweek magazine, Dec. 19, 1966]

(By Milton Friedman)

A VOLUNTEER ARMY

A military draft is undesirable and unnecessary. We can and should man our armed forces with volunteers—as the United States has traditionally done except in major wars.

Only a minority of young men now enter the armed forces. Hence, some method of "selective service"—of deciding which young men should serve and which two or three should not—is inevitable. But our present method is inequitable, wasteful and inconsistent with a free society.

On this point there is wide agreement. John K. Galbraith and Barry Goldwater, the New Left and the Republican Ripon Society have all urged that conscription be abolished. Even most supporters of the draft regard it as at best a necessary evil.

The draft is inequitable because irrelevant considerations play so large a role in determining who serves. It is wasteful because deferment of students, fathers and married men jams colleges, raises the birth rate and fuels divorce courts. It is inconsistent with a free society because it exacts compulsory service from some and limits the freedom of others to travel abroad, emigrate or even to talk and act freely. *So long as compulsion is retained, these defects are inevitable.* A lottery would only make the arbitrary element overt. Universal national service would compound the evil—regimenting all youth to camouflage the regimentation of some.

THE PAY IS LOW

Two principal objections are made to a volunteer force:

1. That a "professional" army endangers political freedom. There *is* a real danger, but it arises from a strong armed force not from the method of recruiting enlisted men. Napoleon and Franco both rose to power at the head of a conscript army. However we recruit, the essential need is to maintain close links between the officer corps and the body politic.

2. That a volunteer army is not feasible because, at present terms, too few men volunteer. Little wonder: the starting pay, including cost of keep, is about $45 a week! We could readily attract more volunteers simply by paying market wages. Estimates of how much total military pay would have to go up vary from $4 billion to $20 billion a year.

Whatever the extra amount, we are now paying a larger sum in concealed form. Conscription is a tax in kind—forced labor exacted from the men who serve involuntarily. The amount of the tax is the difference between the sum for which they would voluntarily serve and the sum we now pay them—if Joe Namath were drafted, his tax might well run into hundreds of thousands of dollars. The real cost of manning the armed forces now, *including this concealed tax*, is greater than the cost of manning a volunteer force of the same size because the volunteers would be the men who find military service the most attractive alternative.

THE COST IS HIGH

Moreover, a volunteer force would need fewer recruits. We now waste manpower by high turnover, unnecessary training and retraining and the use of underpaid servicemen for menial tasks.

Adding to cost, low pay for men in service encourages extravagant veterans' bonuses—currently more than $6 billion a year (over 40 per cent as much as total military pay). Young men seeking shelter from the draft impose unnecessary costs on colleges and universities. Other young men fritter away their time in stopgap jobs awaiting conscription, while industry seeks men to train.

The monetary savings that would come from abolishing conscription are dwarfed by even greater, nonmonetary advantages: young men could arrange their schooling, careers, marriages and families in accordance with their own long-run interests; draft boards could be freed from the appalling task of choosing which men should serve, deciding claims for conscientious objection, ruling whether young men may leave the country; colleges and universities could be free to pursue their proper educational function; industry and government could hire young men on their merits not their deferments.

One of the greatest advances in human freedom was the commutation of taxes in kind to taxes in money. We have reverted to a barbarous custom. It is past time that we regain our heritage.

[From U.S. News & World Report, Jan. 20, 1969]

DRAFT "CRISIS" IN GRADUATE SCHOOLS

As the first semester of this college year draws to a close, the specter of a wholesale draft of graduate students again is being raised.

On January 13, the Scientific Manpower Commission—a nonprofit corporation sponsored by major scientific groups—issued a report picturing nearly half of all U.S. grad-

uate students in science fields as draftable soon.

Calling for a quick change in the draft rules, the Commission declared:

"The number of U.S. males now engaged in advanced scientific training . . . will be substantially reduced during the coming months. Adequate numbers of graduate teaching fellows to assist undergraduate students may not be available in many universities, and research projects now under way may be delayed or curtailed by the loss of graduate research assistants. . . .

"The nation's supply of newly trained Ph.D's in the sciences will be seriously curtailed in the early 1970s."

The Council of Graduate Schools, meanwhile, reports that, among all male graduate students, roughly 35 per cent of the first-year men in all fields are either 1-A or 2-S now, while 41 per cent of the second-year students qualify for the draft.

UNCERTAIN OUTLOOK

Deferments for most students doing graduate work ended officially last summer, but local boards were advised to allow students who were accepted by graduate schools to remain in class until the end of this semester.

Some boards, ignoring that advice, have yanked a few graduate students out of classes already. But tens of thousands of other students will become officially vulnerable in late January and February. Boards were advised a month ago that those students who are not drafted and who return to class next semester may be deferred until next June.

Because the typical graduate student is past 21, he will be at or near the top of his draft board's list of available men, at least between semesters, because the boards must take the "oldest eligible men."

What will actually happen in weeks just ahead, however, is far from clear. In theory, draft quotas for the next two or three months could be filled with nothing but graduate students. This is what many feared last autumn.

SERIOUS INROADS

A spot check of graduate schools and organizations around the country by "U.S. News & World Report" gives these indications of what may be ahead this time:

The University of Maryland's vice president for graduate studies, Dr. Michael J. Pelczar, Jr., reported:

"We are already beginning to feel the effects of the draft regulation on our graduate students. I expect fairly serious inroads in the graduate population at the end of the current semester, and more at the end of the academic year."

Graduate departments at Maryland have had from 10 to 20 per cent of their graduate teaching assistants called for induction at the end of the semester. In one department—zoology—15 of the 96 teaching assistants are draft-qualified and seven have been ordered up.

At Brown University, in Providence, R.I., few graduate students have been drafted thus far—30 just before classes started last autumn and 13 during the semester thus far, out of 1,460 students enrolled in Brown's graduate division. But university officials fear that many of the 320 men now classed 1–A will be called soon.

Some universities which operate on the quarterly system already are feeling the crisis. At Stanford University, for instance, "over 100 graduate students" received their draft orders before the end of 1968, when the quarter ended.

ABOUT 40 PERCENT BY JUNE

Over all, there is this prediction now from Dr. Gustave Arlt, head of the Council of Graduate Schools: "We anticipate inductions at the end of this semester to run as high as 15 per cent of all graduate students now qualified for the draft, and we expect that about 40 per cent of them will have received their draft calls by the end of the academic year in June."

Scientific Manpower Commission's executive director, Mrs. Betty Vetter, expects a far larger percentage of present graduate students to be called up.

A DISSENTING VIEW

Yet not everyone is convinced that inductions will be at a wholesale rate at the end of this semester. There is this comment by Russell Thackrey, executive director of the National Association of State Universities:

"Undoubtedly there will be some increase in the drafting of graduate students in the coming few weeks.

"But it may be quite a bit lighter than many people expect. There are about 4,000 draft boards, and these students are by no means spread evenly among them. So I would not expect most boards to fill their quotas with large numbers of graduate students.

"If the signs are that this is happening, the President now has the authority to order a larger ratio of younger men to be called each month."

It is some such move as this that the Scientific Manpower Commission is urging to limit the impact on graduate students at this time. But whether it will be needed—or used by Mr. Nixon if needed—is still undecided.

[From Current History, July 1968]

CAN WE AFFORD THE DRAFT?

(By Walter Y. Oi, professor of Economics, College of Business Administration, University of Rochester)[1]

(NOTE.—Noting that "the budgetary cost of a professional army is nothing more than a reflection of the real cost of the draft," this economist evaluates the "hidden costs" of today's Selective Service and contrasts them with estimates of the costs of an all-volunteer army.)

In June, 1967, Congress by an overwhelming majority voted to extend the draft for another four years. Unlike the previous extensions in 1955, 1959, and 1963, considerable debate and study preceded the passage of this bill. President Johnson by executive order established two study groups,[2] while the House Armed Services Committee undertook its own study with the Clark Commission. The reports of all three studies agreed on one conclusion; namely, there was definitely a *need* for some type of military draft. There were, however, many individuals who disagreed with this conclusion and opposed extension of the draft.[3]

Senator Mark Hatfield (R., Ore.), Professor Milton Friedman and many others oppose the draft and advocate the adoption of an all-volunteer army. They argue that our military manpower requirements could be met on a voluntary basis. Those who serve would serve out of choice, not compulsion, thereby eliminating all inequities of involuntary military service.

The unpopularity of the war in Vietnam has swelled the ranks of another group whose members oppose the draft because of their opposition to the war in Vietnam. They contend that if there were no draft, it would not be possible to continue the Vietnamese war at its present level. The thrust of their opposition is directed to a specific war, and the military draft happens to be the particular institution that they choose to attack.[4] In passing, I suspect that most members of this group would support an all-volunteer force, partly because they think that it might not work or that, if it did, the real cost of attracting enough recruits would be extremely high, thus revealing the war's real economic cost.

Finally, a third group of critics (whose leading spokesman is Massachusetts Democratic Senator Edward Kennedy) accepts the conclusion that some type of draft is essential. It objects, however, to the way in which the present Selective Service System through local draft boards picks draftees while other qualified men are allowed to avoid their military service obligations. The Marshall Commission documented the lack of consistent rules, and the clearly arbitrary actions of many local draft boards. In its report, the Commission recommended the adoption of a "Fair and Impartial Random" selection process, FAIR, which in spite of its fancy name is nothing more than a lottery. The lottery can surely achieve consistency and, in a very special sense, greater equity in who bears the burden of involuntary military service.[5] Notice that these critics do not oppose the concept of a peacetime military draft; they criticize only the way in which the conscripts are selected.

A glimpse of "who bears the burden of military service" is provided by the Department of Defense study. By July, 1964, the men who were born in 1938 had reached the age of 26, at which the draft liability is effectively terminated. Of the 1.19 million men in this age class, 51.6 per cent had satisfied their military service obligations: 7.6 per cent had been drafted, 33.9 per cent had volunteered as officers or regular enlisted men, and 10.1 per cent had served in reserve units requiring active duty only for basic training. If all men had been examined, 30 per cent would have been disqualified for physical or mental reasons. Hence, 18 per cent of this age class avoided the draft by obtaining deferments or exemptions for the 8.5 years of their draft liability.

In relation to the pool of qualified males, 59 per cent participated in active military service for two or more years. These participation rates ranged from a high of 77 per cent for high school graduates to a low of 32 per cent for college graduates; a result which is consistent with the claim that the more highly educated are less likely to serve. In the light of the rapid postwar growth in population in the United States, all of these participation rates will decline if force strengths return to their pre-Vietnam levels of 2.7 million men. According to Department of Defense projections, only 27 per cent of all males (39 per cent of qualified males) will be required to sustain active duty forces in 1970–1975.

Over the period 1960–1965, only the Army was obliged to take the draftees, who accounted for 21 per cent of new accessions to enlisted ranks in all four services. Many of the regular enlistments to all services can properly be classified as reluctant volunteers who enlisted because of the threat of being drafted. Approximately 38 per cent of the voluntary enlistments stated that if there had been no draft they would *not* have volunteered for active military service. The percentage of draft-motivated enlistments is about the same for newly-commissioned officers (41 per cent) and climbs to 71 per cent for volunteers to reserve units. The conscripts who have not volunteered and the reluctant volunteers are the ones who bear the largest part of the burden of national defense.

In principle, nearly every draftee and reluctant volunteer could be induced at some price to become a volunteer; that is, there is some level of military pay at which a draftee would have willingly left his civilian pursuit, be it job or school, and entered active military service. The draft, however, compels some and coerces others to serve without fully compensating them for it. Entry levels of military pay are absurdly low. The pay increases legislated by Congress since 1950 have applied only to men in the career force, the justification being that the draft assured adequate supplies of new recruits. An enlisted man on his first tour of duty (roughly three years) earns a monthly income (including the value of room, board and family allowances) of roughly $210; a figure well below the poverty line and below the minimum

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Footnotes at end of article.

wage of $260 per month. The typical recruit who was drafted or who reluctantly volunteered in 1964 could have earned a civilian income of $295 even after adjusting for the high incidence of unemployment of youths in this age group. The difference of $85 between civilian and military incomes is a direct financial loss suffered by those who are obliged by the draft to serve. (In addition to this direct loss, many youths incur further loss because they are not given enough extra compensation for the risks of combat service. In the civilian economy, premium pay is offered to attract workers to risky and odious occupations.)

THE HIDDEN TAX

I earlier estimated the pay level of a voluntary force to be around $350 a month.

The average difference of $140 between the pay level of an all-volunteer force and the actual first-term pay of enlisted men constitutes a *hidden tax* paid by those men who happen to be drafted or who volunteer because of their draft liability. This hidden tax borne by those who serve redounds to the benefit of all taxpayers via a lower defense payroll budget. The burden of this hidden tax of the draft is primarily placed on youths from the lower middle classes of our socio-economic strata. Those who go on to college, thereby enhancing their earning capacity, are most likely to avoid the draft and benefit from a lower defense budget.[6] The real economic cost of the manpower resources which are allocated to defense is thus shifted from taxpayers as a whole to that fraction of youths who are obliged to serve at below competitive rates of pay. This basic inequity of the draft—the hidden tax—was succinctly and eloquently summarized by Professor John K. Galbraith in his testimony before the Senate Armed Services Committee.

"The draft survives principally as a device by which we use compulsion to get young men to serve at less than the market rate of pay. We shift the cost of military service from the well-to-do taxpayer who benefits by lower taxes to the impecunious young draftee. This is a highly regressive arrangement that we would not tolerate in any other area. Presumably, freedom of choice here as elsewhere would be worth paying for."

The magnitude of the inequity is put in perspective by a simple comparison. According to my studies, the hidden tax of the draft in 1964 was conservatively estimated to be $1,680 per year for each draftee and reluctant volunteer. Federal personal income tax payments in 1964 averaged only $633 per adult over 21 years of age and $590 per person over 18 years of age. The typical draftee is thus saddled with a hidden tax that is over twice as high as the federal income tax burden of an individual taxpayer.[7]

ALTERNATIVES TO THE DRAFT

A draft in which only some men are conscripted represents one way of supplying the armed forces with qualified personnel. Two alternatives which were examined in all three studies were universal military training (UMT) and an all-volunteer force.[8] Although UMT achieves a measure of equity (or inequity, in the sense that all serve), it was rejected because the armed forces cannot efficiently utilize all qualified youths reaching draft age. In evaluating the merits of UMT, the Marshall Commission stated that "Changes in the technology of war, resulting in basic changes in military concept and requirements, have eliminated that need [for large land armies]." Some advocates of UMT argue that military service provides indirect benefits to some disadvantaged classes in the form of training and discipline which are partially transferrable to later civilian life. The basic fact is that in the light of future demands for defense, the cost of UMT (even at low military pay) is much too high.

An all-volunteer force has the obvious merit that no one is compelled to serve. All men would have the option of working in the civilian economy or entering the armed forces to insure our national defense. The military would no longer be saddled with the image of an odious occupational pursuit, something that must be done by someone. Pay, living conditions and other supplements would have to be improved to attract enough recruits for desired levels of defense capability. Moreover, if the armed forces had to pay competitive wages, it is more likely that we could attain greater efficiency in the use of manpower resources.

In spite of the many advantages of an all-volunteer force, it has received comparatively little attention. In a 65-page report, the Marshall Commission took only two pages to dismiss the all-volunteer army and to establish the "need" for a draft. Its five reasons for rejecting the voluntary force are examined in some detail below.

Flexibility

In a world fraught with international tensions, it is impossible to forecast with any degree of accuracy the force strengths that will be required to insure our national defense. Faced with such uncertainty, the commission declared, it would be folly to trust our national security to the ability of a professional army to adjust its strength quickly in response to a possible crisis.

The unasked question in this objection is, "What amount of flexibility is required of a professional army?" In the 12 years from 1954 to 1965, the largest year-to-year increase in force strength was 350 thousand men during the Berlin crisis of 1962. A substantial part of that mobilization was accomplished by recalling reserves to active duty.

The recent Vietnamese War escalation from June, 1965, to June, 1966—which raised force strength by 438 thousand men—was accomplished with virtually no reservists recalled to active duty. The present organization of Reserve and National Guard units defies rational explanation. About 1.3 million men are now in a ready, paid drill status. If the reserves were integrated under an overall military manpower policy and if their strength were reduced to 700,000–800,000 men, they could supply the requisite flexibility to meet short-run demands for active duty personnel.

In any case, in the event of an all-out land war requiring force strengths of 4 to 6 million men, Congress always has the power to enact new draft legislation. Finally, it should be remembered that even with machinery for a draft the armed forces cannot induct and train one and one-half million men in a year. A voluntary force of 2.7 million men backed by a truly ready reserve of 700 thousand men could easily raise its strength by 300 to 400 thousand men in a single year.

Cost of an all-volunteer force

The report of the Marshall Commission stated that "an exclusively volunteer system would be expensive although the Department of Defense gives no solid estimate of how much such a system would cost." Actually, the Department of Defense gave a wide range of cost estimates. In his testimony before the House Armed Services Committee in June, 1966, Assistant Secretary of Defense T. D. Morris stated that a voluntary force of 2.65 million men would cost between $4 billion and $17 billion per year. My own estimate of the cost is close to the $4 billion figure, arrived at via the following analysis.

If the draft were abolished with no accompanying changes in pay or other recruitment incentives, the armed forces would lose the annual inputs of draftees and draft-motivated reluctant volunteers. Many youths with unattractive civilian job opportunities and with a desire to try military service (at least for one tour of duty) would still volunteer. Moreover, there is considerable evidence that each true volunteer would remain in service for a longer period. (Surveys of Air Force enlisted men reveal that those who enlist because of the threat of being drafted have substantially lower reenlistment rates.) That the higher pay for an all-volunteer force would also raise reenlistment rates is supported by the experience of proficiency pay for men in critical military occupations. It is also worth noting that the reenlistment rate of Negro soldiers (whose alternative civilian job opportunities are inferior to those of their white counterparts) is 49 per cent, compared to an average of only 22 per cent for all regular Army enlistments. Presently, over half of all Army recruits are either drafted or coerced to enlist by the threat of being drafted. As a consequence, the turnover of Army enlisted personnel under a continued draft is projected to be around 25 per cent per year.

If all recruits were true volunteers, I estimate that the turnover rate could be cut to 17 per cent per year, thereby reducing the demand for new recruits. Even with the lower personnel turnover of a voluntary force, there will be deficits between demands for a desired military level of 2.65 million men and supplies of true volunteers, with the deficit being largest for the Army, the only service which drafted men from 1957 to 1965. Under present conditions, by 1970–75, the Army could expect annual flows of true volunteers of 90 thousand per year. In order to sustain the prescribed force strength (corresponding to a strength of 2.65 million for all four services), an all-volunteer Army would have to attract 144 thousand recruits.

The supply of volunteers could be expanded by various policies including higher base pay, initial enlistment bonuses, guaranteed training programs, or variable terms of service. It was assumed in the Defense study that higher base pay would be the only policy instrument for increasing the supply of enlistment applicants. The responsiveness of supplies of recruits to pay changes was estimated for the defense study.[9] To bridge the projected deficit in Army enlistments, approximately 54 thousand recruits, I estimated that first term pay (over the first three years of service) must be raised by 68 per cent; from $2,500 to $4,200 per year. To prevent inversions in the pay scales (wherein men with four years of service would be earning less than men with fewer years of service), the pay of the career force would also be increased. If the higher pay rates were applied to the entire force of 2.65 million men, the addition to the military payroll budget would be approximately $4 billion per year.

My cost estimate has been criticized as being too low because the demand for recruits was based on the lower turnover of an all-volunteer force. During the transition, more men would have to be recruited (implying higher pay) to replace draft-motivated enlistees as they leave. If, however, the transition were accompanied by declining force strengths, say from 3.2 to 2.7 million men, there would be no transitional difficulties. In an opposing direction, I have neglected many savings resulting from a move to a voluntary force. Lower turnover means that fewer recruits must be trained, producing considerable cost savings since at present there is nearly one trainer for each trainee. Moreover, the higher pay of a volunteer army makes it economical to substitute civilians in many noncombatant positions now staffed by uniformed men, many of whom were drafted or coerced to enlist. The base pay of a new recruit is projected to climb from $100 to $267 per month. It may well be the case that other incentives such as enlistment bonuses or post-service educational benefits could attract recruits at a lower cost. On balance, I am of the opinion that my estimate of $4

Footnotes at end of article.

billion for a voluntary force of 2.7 million men is, if anything, on the high side.

The skeptical reader will notice that my estimate agrees with the low end of the Department of Defense estimates; its "best" estimate was $11 billion and its "high" estimate was $17 billion. The "best" estimate implies that the monthly base pay of a buck private would be $375, while the "high" estimate corresponds to base pay of over $500. The total income including the monetary value of room and board would be even higher. These pay totals seem needlessly high if it is remembered that in the years ahead, 1970–1975, only one man in five must be enlisted to sustain an active duty force of 2.7 million men.

Undesirable social consequences

It is alleged that a professional army attracted *only* by financial incentives (the emotional "tag" is a "mercenary" army) could have undesirable social consequences, producing a military class, an all-Negro army, or an army of social misfits. The threat of a politically powerful military clique could be avoided by limiting tours of duty for officers to 12 to 15 years and by maintaining strict civilian control of the Department of Defense. Under present conditions, an all-Negro force is improbable. Even with its lower personnel turnover, a voluntary force must still demand 330 thousand recruits each year for enlisted ranks. Under present physical and academic standards, only 100 thousand to 120 thousand Negroes could become eligible for military service until the poverty problem is alleviated.

It is sometimes asserted that higher pay would attract only the mercenary to the services. To argue that individuals who receive a competitive wage to work in a particular occupation do so *solely* because of its monetary remuneration is surely a gross overstatement. Although we want dedicated teachers and honest policemen, few of us would advocate the use of a draft to staff undermanned police forces or to assure adequate supplies of qualified teachers. The high reenlistment rate of Negroes who have proven to be excellent members of the armed forces is largely due to the fact that the Negroes' economic position is better in the services where they are subjected to virtually no job discrimination. The payment of competitive wages does not imply an army consisting only of greedy men attracted to it by high pay.[10]

Miscellaneous

Two minor objections deserve brief mention. It is said that the armed forces have never been able to meet their manpower needs on a voluntary basis. The one time when a volunteer system was tried, in 1948–1949, the number of volunteers was sufficient to sustain a force of 1.5 million men—an outcome which is cited as a failure of the system. However, the population base from which these men were recruited was only half the size of that which will be available in 1970–1975. We must engage in an active recruitment program and raise the absurdly low levels of pay before we discover whether enough men can be enlisted on a voluntary basis.

A second minor objection is that a professional army is contrary to the American tradition of a citizen militia. In my view of history, our tradition has been one of a professional army in peacetime backed by a potential civilian militia which can be triggered into existence in times of all-out war.

Proponents of the lottery and opponents of the Vietnamese War vociferously insist that the Selective Service draft is highly inequitable. They are, however, fashionably vague about the nature of this inequity. Moreover, the former group objects to the cost of replacing the draft by a voluntary system of military manpower procurement. Yet the budgetary cost of a professional army is nothing more than a reflection of the real cost of the draft.

To sum up, an all-volunteer force is entirely feasible at a budgetary cost of no more than $4 billion a year. A professional, mercenary army is alleged to have undesirable social consequences. When these are explicitly spelled out and studied, some are found to be factually incorrect while others are easily controllable. The question of flexibility is the potential Achilles heel of a professional force. I believe, however, that in the light of probable future military demands, an all-volunteer army can achieve the requisite flexibility to insure our national security. A yearly increment of 438 thousand men to the active duty forces was sufficient to meet the worst crisis which we have experienced in the last 15 years. A voluntary force backed by a truly ready reserve could easily raise its active duty strength by 400 thousand men.[11] Finally, the budgetary cost of an all-volunteer force simply makes explicit what is now implicit and hidden. It is truly unconscionable that the youths who are coerced to serve must also bear the burden of these hidden taxes.[12] Unless we take steps now, the inequity of the draft will become even more acute as the population of draft eligible youths continues to grow and military demands return to their pre-Vietnamese War levels. As a nation, we cannot afford a draft which exacts such a high, albeit a hidden, cost from a minority of youths compelled to serve in the armed forces.

FOOTNOTES

[1] Walter Y. Oi is a member of the Center for Research in Government Policy and Business in the College of Business Administration at the University of Rochester. He has served as a consultant to the Department of Defense and the Institute for Defense Analyses, and has done research and published in the fields of transportation as well as in labor economics.

[2] In April, 1964, a study group was established in the Office of the Secretary of Defense. A summary of its report was presented by Assistant Secretary of Defense T. D. Morris and can be found in *Review of the Administration and Operation of the Selective Service System*. Hearings before the Committee on Armed Services, House of Representatives (June, 1966), Bulletin, No. 75. See especially pp. 9999–10093.

The National Advisory Commission on Selective Service (the Marshall Commission) was established in July, 1966. See its report, *In Pursuit of Equity: Who Serves When Not All Serve?* (Washington: Government Printing Office, 1967).

[3] Alternatives are discussed in *Current History*, August, 1968.

[4] The waging of wars requires both human and material resources. Human resources can be conscripted via a draft, but the Department of Defense continues to purchase material resources on a competitive basis. Congress through its control over appropriations could cut this flow of materials.

[5] Under a lottery, the probability of being drafted would be the same for all qualified youths who do *not* volunteer for military service. In my paper for the Joint Economic Committee of Congress, I argued that the number of volunteers is likely to be smaller under a lottery. Hence, more men would have to be drafted. For details see "The Dubious Need for a Draft" in *Economic Effects of Vietnam Spending*, Report of the Joint Economic Committee (April, 1967), Vol. I, pp. 300–301.

[6] The men on the lowest rungs of the economic ladder (the less educated, physically handicapped and mentally unqualified) also avoid involuntary military service by acquiring IV–F and I–Y deferments. The low earning capacity of this group assures, however, that they would pay few if any taxes.

[7] It is argued that the draftees of today will be the taxpayers of tomorrow. Hence, each generation takes its turn in bearing the hidden tax of compulsory military service. Unfortunately, the draft does not achieve this felicitous redistribution of the burden among generations. Only one-half of the men born in 1938 fulfilled their military service obligation, and only one-third of the youths reaching draft age by 1970–1975 will be asked to serve.

[8] There was, in addition, a third proposed alternative, equivalent national service wherein some youths could discharge their military service obligation by serving in the Peace Corps, VISTA, highway beautification or other "socially desirable" agencies. Two considerations argue against this option. First, who serves in these agencies and who is drafted into the Army? Second, the cost of enrolling two million men each year into these various programs is prohibitively high. If women are also obliged to serve (and some advocates of this option propose this), the cost becomes even higher.

[9] The method of estimating the statistical supply curve is described in an article by S. H. Altman and A. E. Fechter, "The Supply of Military Personnel in the Absence of a Draft," *American Economic Review*, May, 1967, pp. 19–31.

[10] When National Service prevailed in the United Kingdom before 1960, conscripts were paid less than regular volunteers. In 1965, Australia introduced a draft based on a lottery system of selection. I asked a member of the Australian defense establishment if the Australians were going to follow the British system of lower pay for conscripts. He replied in the negative and added, "Why should we tax patriotism?"

[11] On page 14 of the Marshall Commission report, estimates are given of annual enlistment and draft requirements to sustain alternative hypothetical force strengths which range from 2.0 to 3.5 million men. These hypothetical strengths are indicative of Department of Defense estimates of the range of probable future needs. Although my cost estimates apply to a force of 2.7 million, I believe that we can maintain a force of 3.2 million on a voluntary basis and thus cover the range of probable needs.

[12] There is ample evidence that Congress is embarrassed about the absurdly low levels of military pay. Congress has enacted a variety of post-service benefits for veterans, ranging from educational benefits to subsidized life insurance and mortgage guarantees, and medical care at Veterans Hospitals.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate go into executive session to consider two nominations which were reported earlier today and which, I understand, have been cleared all around.

The motion was agreed to and the Senate proceeded to consider executive business.

The VICE PRESIDENT. The clerk will read the nominations.

ASSISTANT SECRETARY OF AGRICULTURE

The legislative clerk read the nomination of Clarence D. Palmby, of Virginia, to be an Assistant Secretary of Agriculture.

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

UNDER SECRETARY OF AGRICULTURE

The legislative clerk read the nomination of J. Phil Campbell, of Georgia, to be Under Secretary of Agriculture.

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

Mr. MANSFIELD. Mr. President, I ask

unanimous consent that the President be immediately notified of the confirmation of these two nominations.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

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

S. 508—INTRODUCTION OF BILL—A NATIONAL FOUNDATION FOR THE SOCIAL SCIENCES

Mr. HARRIS. Mr. President, I introduce, for appropriate reference, a bill and ask that it may be printed in the RECORD.

Mr. President, late in the 89th Congress, second session, and again at the beginning of the 90th Congress, 20 Senators joined me in cosponsoring this legislation. Now, at the outset of the 91st Congress, there are 32 of us who have associated our names with the bill and many others have indicated their general support. I am privileged to have the following Senators join me in this effort as cosponsors: Mr. BAYH, Mr. BROOKE, Mr. BYRD of West Virginia, Mr. CRANSTON, Mr. FULBRIGHT, Mr. GRAVEL, Mr. HART, Mr. HARTKE, Mr. HATFIELD, Mr. HUGHES, Mr. INOUYE, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MCCARTHY, Mr. MCGEE, Mr. MCGOVERN, Mr. METCALF, Mr. MONDALE, Mr. MONTOYA, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. PASTORE, Mr. PERCY, Mr. RANDOLPH, Mr. TYDINGS, Mr. YARBOROUGH, Mr. YOUNG of Ohio, and Mr. WILLIAMS of New Jersey.

Mr. President, in again introducing the proposed National Social Science Foundation Act, I should like briefly to explain what this legislation would do, discuss the legislative history of the bill, report on the findings of the extensive hearings on it conducted by the Subcommittee on Government Research and tell why we believe that now is the time to modify the way in which social science research, education, training, and scholarship should be supported by the Federal Government.

The bill declares as national policy that the encouragement and support of research, education, training, and scholarship in the social sciences is a matter of great concern to the Federal Government; it underscores the importance of the social sciences in dealing with the concerns of the Nation; and creates a new instrument to effect a rapidly expanded, yet balanced, program of support which would greatly enhance the status and prestige and assist in the development of such sciences.

The Foundation would be comprised of a board of trustees consisting of 24 prominent citizens from the social science community, both academic and practicing. There would, as well, be a director and a deputy director, appointed by the President with the advice and consent of the Senate.

The Foundation would do no in-house research but would, in keeping with the precedent set by the National Science Foundation and the National Foundation for the Arts and Humanities, underwrite, fund and support academic research, education, and training, in this case, in the fields of political science, economics, psychology, sociology, anthropology, history, law, social statistics, demography, geography, linguistics, communication, international relations, education, and other social sciences. The scope of the program of the Foundation will, therefore, allow for support of the social sciences under the broadest possible definition and will particularly include authority to support disciplines that are now receiving only token Federal funding such as political science, history, and law. Funds would be made available to support the development of institutions as well as to support research projects selected on the basis of individual merit.

The legislative history of the NSSF bill began shortly after March 1, 1966, when the Senate Subcommittee on Government Research, of which I am chairman, received its original authority and initiated, largely because of the repercussions after the public disclosures of Project Camelot and similar foreign area research projects funded by the defense and intelligence agencies, an informal inquiry into the support of such research by Federal agencies. The subcommittee shortly thereafter held a set of hearings on "Federal Support of International Social and Behavioral Research." Seventeen witnesses from the Department of State, the academic community, and professional societies and organizations were asked to identify the problems and evaluate procedures relating to Government support of social science research, particularly foreign area studies.

The conclusions reached by the end of the hearings were that it was necessary to create an alternate source of support not only in order to civilianize foreign area research but to foster the overall development of social science capability. We found that, because of inadequate funds, scholars who desire to conduct foreign area research often seek support from defense and intelligence agencies, or, in many cases, do not accomplish their research. Furthermore, neither the National Science Foundation, nor the other relevant Federal agencies, have been able to sustain the level of funding necessary to underwrite the training and the research of increasing numbers of graduate students and postdoctoral researchers.

On October 12, 1966, I introduced S. 3896, together with 20 cosponsors. No subsequent action was taken during the remainder of the 89th Congress, second session, which had all but expired by that time. An identical bill, S. 836, was reintroduced by me in the Senate early in the 90th Congress, first session, and was again cosponsored by 20 Senators.

The subcommittee held hearings for a total of 12 days during the 90th Congress and published the hearing documents, "National Social Science Foundation," parts I, II, and III. Part I contains testimony of key Government officials, while in parts II and III the witnesses were from universities, professional societies and organizations, and nonprofit and private research institutions. Altogether 54 witnesses appeared before the subcommittee during these hearings.

They served to sharpen the focus on the problem; to give shape and substance to the idea of a new foundation, including several valuable suggestions to amend the bill; and to provide a legislative history concerning the intent of Congress which will be of great relevance and import to the Foundation in the formulation of its policies. Additionally, the hearings made a beginning inventory of the kind of social science research that might be done should additional funds become available.

Three major amendments to the original version of the bill are included in its present form. First, the functions of the Foundation have been expanded to include the promotion and support of education and training in addition to research in the social sciences. Second, an annual assessment of the status and health of the social sciences and the Foundation in the form of a report to the President, transmitted to the Congress, is required. Third, a section which would have permitted the transfer of funds from other agencies to the Foundation has been deleted. The purpose of this section was to allow these agencies to continue to support foreign area research and to "civilianize" control by transferring administrative responsibility to the National Social Science Foundation. However, I believe that the international reputation of the Foundation might possibly be damaged by foreign nations believing that the Foundation would be serving as a conduit for the funds of mission-oriented agencies.

The subcommittee identified several key issues during hearings held over the last two sessions of Congress that would begin to be resolved by the creation of such an independent governmental agency designed to nurture and support social science research, education, and training.

First, the social sciences need more Federal support for research and development. In 1966 the social sciences received only 2.4 percent of all basic research funded by the Federal Government. The estimated obligations for 1967 and 1968 were about the same, 2.5 percent for both years. The portion of Federal support for applied social science research out of the total is not much different—3.5 percent in 1966, 3.6 percent in 1967, 3.7 percent in 1968.

Second, the National Science Foundation has given very little or no support at all to certain methodologies and disciplines within the social sciences. For example, NSF has maintained a decidedly hard—that is, natural—science bias toward its social science program. Those proposals most amenable to the use of the scientific method are much more likely to be funded. While this is understandable for an agency with a natural science orientation, what does not follow is that what is good for the natural and physical sciences is necessarily the best

for the social sciences. An adverse consequence is the frequent sacrifice of relevance for rigor and the accumulation of "hard" social data that may well not increase knowledge of the intensifying social problems of our Nation. Also, the National Science Foundation did not start a political science program until 11 years after the beginning of formal support of social science. Incredible as it may seem, law is an even more extreme case. The absence of rigor, in the scientific sense, in these disciplines is a factor contributing to the lack of support afforded them by the Foundation.

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

Mr. HARRIS. Mr. President, I ask unanimous consent to proceed for 3 additional minutes.

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

Mr. HARRIS. Mr. President, third, the social sciences have suffered from insufficient attention to their development, visibility, and prestige, partly because of the low level of Federal funding, the tenuous statutory authority for their encouragement and support by the National Science Foundation and the operating agencies, and the failure to recognize fully the potential importance and significant contribution they can make to the achievement of national goals. A new foundation with specific authority would encourage a quantum leap in funding for the social sciences and revitalize social science research conducted by other Federal agencies.

Fourth, innovative and, perhaps, controversial thinking and research must be encouraged in the social sciences if the Nation expects to meet the challenges of the presssing and growing social problems which face it. The National Science Foundation, with about 90 percent of its basic research budget directed toward the natural sciences, will continue to find it difficult to promote such research in the social sciences. A strong legislative mandate to encourage the support of innovative research will provide the social sciences with the confidence they need and deserve and the authority they must have.

Fifth, interdisciplinary and multidisciplinary research must be conducted on a much greater scale in universities and other research organizations. Many modern problems do not fall neatly within the boundaries of a single discipline. One of the barriers to collaboration and cooperation between the natural and social sciences has, in the past, been the inferior status of the latter. A new Foundation will, by enhancing the status of the social sciences, serve to foster interdisciplinary research and, in the long run, to unify the sciences. At the same time the subcommittee does not conceive of the proposed Foundation becoming the exclusive Federal supporter of social science research. It is intended that all agencies of the Federal Government now supporting social science research, including the National Science Foundation, and the National Foundation for the Arts and Humanities, will continue to support and, indeed, increase their level of support for the social sciences.

Sixth, the Nation cannot adequately confront its myriad social problems without a significant increase in social science knowledge. Social conditions are constantly being altered by rapidly developing science and technology, population growth, the hastening deterioration of urban America made more critical every day by continued outward migration of youth from rural America seeking opportunity in already overburdened cities. We need to learn how and why, for example, discontent and alienation are generated in a society with such a high degree of general affluence and why problems of unemployment and poverty persist despite continually increasing efforts to solve them. Answers to these questions will not come easily but they will come more quickly if support for social science research is sharply increased and if the social sciences are encouraged to probe to the root causes of social problems.

Congress is now, for the first time, comprehensively examining the role of the Federal Government in the support and development of the social sciences but the case for Federal support of the social sciences had not been made as dramatically as it was in the hearings before the Senate Subcommittee on Government Research.

Some argue that the related statistics indicate a proper balance of Federal support for the social and natural sciences and are based on the relative capabilities of each. The subcommittee agrees, however, with Dr. Rensis Likert, director of the Institute of Social Research, University of Michigan, who took the opposite position in our hearings. He said that:

> Such a view is unrealistic in terms of the rapidly increasing number of younger, well-trained social scientists who are prepared to accomplish much or little, depending on the resources we provide for their use.

Dr. Gerald Holton, Department of Physics, Harvard University, underscored this point when, on the basis of a reasonable projection of present trends, he estimated:

> In the next 30 years there will be 10 to 20 times the number of people wanting to do basic research in the social sciences and that they will make a very good case for the meaningful expenditures on the order of 20 to 50 times the amount of 1967 dollars.

Private foundations, although traditionally noted for their support of broader, innovative research, have severely limited funds and cannot keep up with the influx of students and research proposals. The Social Science Research Council, which is almost entirely supported by private foundation funds, for example, can finance only a small percentage of the good research applications they receive. Dr. Austin Ranney, chairman of the Committee on Governmental and Legal Processes, Social Science Research Council, testified that, under a 5-year grant from the Ford Foundation, the council has approximately $60,000 a year to allocate to all research applications under the jurisdiction of his committee and that for the year 1967 they had 53 applications, totaling $590,595, which were considered meritorious and worthy of support.

Even within the social sciences there are "have" and "have not" disciplines and methodologies. Dr. James A. Robinson, director, Mershon Center for Education in National Security and Mershon professor of political science, Ohio State University, identified three approaches to political science research, only one of which is supported by the National Science Foundation:

> Political science may be divided roughly into three parts: non-science, science, and policy. Some of our colleagues do not aspire to science in the narrow meaning of the work and in the usage associated with NSF. The implication of this for political science is that research on norms, science, and policy ought to share in public support for their work on the basis of competence, not on the basis of what is available. Hence, it is regrettable that those concerned with norms are served by one foundation (Humanities), those concerned with science another (NSF), and those concerned with policy none at all.

Creation of the National Social Science Foundation would emphasize that the Federal Government is committed to support all social science disciplines and recognized methodologies on a continuing basis and to provide the social sciences with the recognition they need and deserve. As one argument against a new foundation goes, if no one rocks the boat, the "poor relative" will eventually achieve sufficient status within the existing structure. This position for maintaining the status quo assumes that the social sciences will somehow eventually become the coequals of the natural sciences, which receive the overwhelming preponderance of Federal support. Such gradual equalization by beefing up the social sciences within the National Science Foundation and mission-oriented agencies is not a realistic aspiration nor would it alter in many cases the present reliance of social science on the judgment, understanding, and support of natural and physical scientists. I can find no reason to believe that physical scientists are necessarily endowed with the special insights needed to develop the social sciences, set the priorities, and determine the goals they might validly pursue.

Others have advanced the arguments that a separate social science foundation would encourage the National Science Foundation and the mission-oriented agencies of the Government to decrease support for social science research. The subcommittee disagrees, and experience supports our view. Though the recently created National Foundation for the Arts and Humanities shares overlapping responsibility with the National Science Foundation to support several areas of scholarships, including history and linguistics, during the period these two Foundations have shared such jurisdiction the National Science Foundation has actually increased its support for research in these areas. Moreover, Dr. Leland J. Haworth, Director of the Foundation, testified that it is his intention to continue to increase and expand the Foundation's support for such research. Similar testimony was heard from almost every official who testified

on behalf of the mission-oriented agencies of the Federal Government.

Such a "credit-debit" view of Government operations, which maintains that an increase in social science research funds from one agency means a reduction from another, is simplistic and is unsupported by fact or history.

With the passage of this bill, the social sciences will receive a strong statutory base, something they have not had before, and a place in the higher councils of Government. We agree with Dr. Launor Carter, vice president, Systems Development Corp., who testified that:

Senior members of the social sciences profession (will) be in key positions in Government so that the role and potential contribution of social science can be forcefully presented in administrative councils.

The National Social Science Foundation bill is also designed to encourage the social sciences to develop to their full potential. Dr. Vincent Davis, associate professor, Graduate School of International Studies, University of Denver, testified:

It is often the case in the social sciences and in all other fields of scholarly endeavor that some one school of thought or approach will become fashionable and, therefore, dominant from time to time. If there were to be only one primary centralized source of research to support, that source would likely be dominated by the prevailing school of thought . . . Diversified sources of support provide a number of places where dissenting minority groups can seek help. Diversified sources, therefore, represent within the scientific and scholarly world a crudely approximate equivalent to the checks and balances provided within our political system by having more than one political party. This is especially important if the social sciences are to produce the kind of "innovative, bold, original, and controversial" thinking that Senator Harris has repeatedly called for.

There is a crucial need for more social science research to close the widening interval between the increased capabilities of science and technology and the ability of society to assimilate it. This, the cultural lag theory of history, was underscored and dramatized by many who wrote articles in the National Economic Review of the January 6, 1969, issue of the New York Times and by several leading spokesmen of the scientific community at the December 1968 meeting of the American Association for the Advancement of Science in Dallas, Tex.

Dr. Joe B. Frantz, professor of history, University of Texas, also stressed this when he testified:

Now the last thing which we wish to do is to close the floodgate of scientific knowledge, but we have . . . to turn the raging flood into a controlled stream which can be handled and utilized to irrigate and cleanse the minds and spirits of harried men in a pellmell world.

Again and again we hear those concerned about any potential challenge to "conventional wisdom" speaking out against grappling with the root causes and the complexities of our festering social problems. The presence of complexity does not justify inaction but instead offers even more reason to move ahead vigorously and innovatively. The degree of difficulty should not cause us to turn away from attempting better basic understanding of the problems. We have learned from our massive space effort, for example, that the success of an operational program is significantly dependent upon the scope and comprehensiveness of the underlying research activities. As Dr. Ross Stagner, chairman of the Department of Psychology, Wayne State University, has said:

We have been spending (justifiably) millions of dollars on urban renewal. But we have made little use of the expertise of economists, sociologists, and psychologists with respect to planning for human welfare, not just for buildings. Again let me note that I do not suggest that social scientists should have final jurisdiction as to execution of such programs; I do, however, feel very strongly that the knowledge of social scientists ought to be given much higher consideration than it has. My main point, however, is that we simply have not investigated the problems of urban renewal from the viewpoint of neighborhood unity, of social supports for behavior codes, of communication networks, of leader-follower relations, and a mass of other important factors. There is still so much ignorance, and so much misinformation disguised as "commonsense", that one can hardly be surprised at the unsatisfactory consequences of these programs.

As strong as the case has been for swift passage of this legislation, events in the Congress and elsewhere subsequent to the hearings of the subcommittee have made favorable arguments even more compelling.

A report of the Panel of Defense Social and Behavioral Sciences released in 1967 and calling for, among other things, more emphasis on "peacefare" research, prompted the chairman of the Senate Foreign Relations Committee, the Senator from Arkansas, to engage in an exchange of letters with Dr. John S. Foster, Director, Defense Research and Engineering. In Foster's reply to the letter and in subsequent hearings on the matter he clearly asserted that:

Some of the work (in the social sciences) which we support would not be required if the information were available or were being developed outside the Department of Defense . . .

In consonance with the above statement Foster also indicated that:

If other agencies expanded their programs in areas relevant to our needs, we would reconsider our effort.

Obviously, such statements open the way for a viable alternative of support of social science research. But a shift of the funding pattern of social science research does not come about automatically with any degree of permanency without a congressional mandate. Without a mandate the social sciences even may be more vulnerable to criticism and attack than before. The executive branch may not be able to bypass the legislative branch on such a delicate matter.

That a spokesman for the social sciences in the form of a new agency is needed now more than ever before was also demonstrated during the Senate appropriation hearings on the National Science Foundation for fiscal year 1969 when their authority to support the social sciences was questioned in particular with respect to the controversial discipline, political science. As I pointed out earlier, when, as in the case of the social sciences, a very small percentage of an agency's total research budget can threaten the major share of their funds, then the agency's course of action is only natural—support noncontroversial, noninnovative, lackluster and possibly irrelevant research in the social sciences.

Some argue that the act reorganizing the National Science Foundation, which was passed into law last session, significantly enhances the position of the social sciences and dramatically alters the former "permissive but not mandatory" mandate the Foundation had for supporting social science research. I disagree, not with the motives of the very able congressional Members most responsible for the enactment of the legislation, but with the premise upon which the change is based; that is, that the National Science Foundation is the best home for the social sciences.

The reports from both the House and the Senate on the National Science Foundation Act illustrate, I believe, the dilemma a legislator faces when trying to provide for equitable support of the social sciences within the National Science Foundation. Both reports are essentially the same on this point and exemplify the vague mandate the Foundation still has for supporting the social sciences. I quote from the House report:

The Foundation is enjoined in this bill to give support to the social as well as the physical sciences. The authority for such support already exists, but the bill spells it out more specifically by way of emphasis. The intent of the amendments is by no means to direct a disproportionate amount of total NSF support for the social sciences, but to insure that an adequate effort is made to permit the advancement in other scientific areas which, while still relatively primitive, are extremely important to human welfare.

So the mandate to support the social sciences is not only vague, but the legislative history specifically directs the National Science Foundation not to give "a disproportionate amount" of support. The increasing demands on the social sciences cannot be met by an agency thus limited. Even under the most favorable developments imaginable for the social sciences within the National Science Foundation, it will be many years before the established institutional arrangements between the scientific community and the Federal Government which presently insures that the natural and physical sciences command all but a small share of Federal research money can be modified.

In conclusion, I would ask the question: "Who was the spokesman for the social sciences when the research and development budget was severely cut last year?" The answer is "No one." Who in the Federal Government will be looking out for the best interests of the social sciences during another year of apparently keen competition for funds? No one, unless a separate agency is created.

The extensive congressional interest in the social sciences since the Camelot affair of 1965 has given them more visibility; but, ironically, not the type envisioned in the National Social Science Foundation Act. The social sciences have been gradually moved out from under the protective umbrella of the natural sciences. But they continue to be treated as poor relatives and the absence of a congressional mandate has made it impossible for them to improve their posi-

tion. Therefore, the key issue is one that must be answered in the near future: Will the social sciences retain their second-class citizenship or will the Congress rise to the occasion and realize that it must enact legislation designed to guarantee a healthy and viable growth of the social sciences on a continuing basis? Such a goal is achievable with the passage of the National Foundation for the Social Sciences Act of 1969.

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

The bill (S. 508) to provide for the establishment of the National Foundation for the Social Sciences in order to promote research, education, training, and scholarship in such sciences, introduced by Mr. HARRIS, for himself and other Senators, was received, read twice by its title, referred to the Committee on Labor and Public Works, and ordered to be printed in the RECORD, as follows:

S. 508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Foundation for the Social Sciences Act of 1969".

DECLARATION OF PURPOSE

SEC. 2. The Congress hereby finds and declares—

(1) that the encouragement and support of research, education, and training in the social sciences is an appropriate matter of concern to the Federal Government;

(2) that democracy demands knowledge and insight into the problems that man and nations face in interacting one with the other;

(3) that it is necessary and appropriate for the Federal Government to support, complement, assist, and add to programs for the advancement of the development of research, education, and training capability and basic knowledge in the social sciences as a means to increase understanding of our society, and the societies of other nations of the world;

(4) that it is necessary and appropriate for the Federal Government to support, complement, and assist the accomplishment of social science research, education, and training which is undertaken entirely separate from the operating departments and agencies of the United States Government;

(5) that it is necessary and appropriate for the Federal Government to help sustain among social scientists a climate encouraging freedom of thought, imagination, and inquiry based on the democratic belief that the long-range interests of our Nation will best be served by a free and independent academic community;

(6) that leadership cannot rest solely upon superior power, wealth, or technology, but must be solidly founded upon our Nation's ability to maintain leadership in the realm of knowledge and ideas; and

(7) that in order to implement these findings, it is desirable to establish a National Foundation for the Social Sciences as an independent agency of the Government for the purpose of promoting research, education, training, and scholarship in the social sciences.

DEFINITION OF SOCIAL SCIENCES

SEC. 3. As used in this Act, the term "social sciences" includes political science, economics, psychology, sociology, anthropology, history, law, social statistics, demography, geography, linguistics, communication, international relations, education, and other social sciences.

ESTABLISHMENT OF FOUNDATION

SEC. 4. (a) There is hereby established an independent agency to be known as the National Foundation for the Social Sciences (hereinafter referred to as the "Foundation").

(b) The Foundation shall be subject to the supervision and direction of a Board of Trustees (hereinafter referred to as the "Board"), which shall consist of twenty-four members, to be appointed by the President, by and with the advice and consent of the Senate, and from among those individuals of the American public who are recognized for their knowledge of, or experience in, the social sciences or related fields of public affairs, and who, collectively, will provide an appropriate balance of representation among such sciences and fields. In making such appointments, the President is requested to give due consideration to the recommendations for nomination submitted to him by professional organizations or other qualified sources in such sciences and fields.

(c) The term of office of each trustee of the Foundation shall be four years; except that the terms of one-fourth of the trustees first taking office after the enactment of this Act shall expire, as designated by the President at the time of appointment, at the end of each of the first four years. A trustee may not be eligible to serve more than two consecutive terms, but shall be eligible after a lapse of four years from the end of his second term. A vacancy shall be filled only for the unexpired portion of any term. The members of the Board shall receive compensation at the rate of $100 per diem while engaged in the business of the Foundation, pursuant to authorization of the Foundation, and shall be allowed travel expenses as authorized in section 5703 of title 5, United States Code.

(d) The President shall call the first meeting of the trustees of the Foundation, at which the first order of business shall be the election of a chairman and a vice chairman, who shall serve until one year after the date of enactment of this Act. Thereafter, each chairman and vice chairman shall be elected for a term of two years in duration. The vice chairman shall perform the duties of the chairman in his absence. In case a vacancy occurs in the chairmanship or vice chairmanship, the Foundation shall elect an individual from among the trustees to fill such vacancy.

(e) The Board shall meet at least once every six months and at such other times the chairman may determine, but he should also call a meeting at the written request of at least one-third of the members of the Board.

(f) Each member of the Board shall be given notice, by registered mail, certified mail, or telegram to his last known address of record, not less than fifteen days prior to any meeting, of the call of such meeting.

DIRECTOR AND DEPUTY DIRECTOR

SEC. 5. (a) There shall be a Director and a Deputy Director for the Foundation, who shall each be appointed by the President, by and with the advice and consent of the Senate. In such appointments, the President is requested to give due consideration to any recommendations submitted to him by the Board. The Director shall serve as an ex officio, nonvoting trustee of the Foundation. In addition, he shall be the chief executive officer of the Foundation. The Director shall receive compensation at the rate prescribed for level II of the executive schedule under section 5313 of title 5, United States Code, and the Deputy Director shall receive compensation at the rate prescribed for level III of such schedule under section 5314 of such title. Each shall serve for a term of six years, unless previously removed by the President. The Deputy Director shall perform such functions as the Director, with the approval of the Foundation, may prescribe, and be acting Director during the absence or disability of the Director, or in the event of a vacancy in the office of the Director.

(b) The Director shall carry out the programs and policies of the Foundation, and such other functions as the Foundation may delegate to him, consistent with the provisions of this Act.

AUTHORITY OF THE FOUNDATION

SEC. 6. The Foundation is authorized to—

(1) develop and encourage the pursuit of national policies for the promotion of programs of research, education, training and scholarship in the social sciences;

(2) initiate and support research, education, and training programs to strengthen the activities and potential of the United States in the social sciences, and to promote such research in foreign countries, by making arrangements (including grants, contracts, or other arrangements and modifications thereof) with individuals or groups, including other government or international agencies for such purposes;

(3) make grants or other arrangements for scientific research, education, and training to utilize appropriations available therefor in such manner as will, in its discretion, best realize the objectives of (A) strengthening the social science research staffs of private institutions and particularly of institutions of higher learning in the States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions; (B) aiding institutions of higher learning, nonprofit research organizations and foundations, which, if aided, will advance the social science research, education, and training activities and potential of the United States; (C) encouraging social science research by individuals, university faculties, interdisciplinary teams of researchers, nonprofit and foundation researchers, and (D) avoiding the concentration of research grants in any one State or geographic region;

(4) foster the interchange of information in the social sciences by disseminating the results of research projects in such sciences not otherwise published, providing at least annually a listing and description of all projects which are receiving assistance from the Foundation, and maintaining a current register of social scientists; and

(5) conduct a periodic survey of the social sciences, to assess their condition and status and to produce a report that would include recommendations for ways that the Federal Government and the Nation can act to more decisively and effectively develop and exploit the potential of the social sciences.

CORRELATION AND COORDINATION OF PROGRAMS

SEC. 7. (a) The Foundation shall correlate and coordinate programs carried out pursuant to this Act, insofar as practicable, with existing Federal programs and with programs being carried out by other public agencies or private groups and shall develop the programs carried out pursuant to this Act, with due regard to the national interest and the contribution to the purposes of this Act, which can be made by other Federal agencies under existing programs.

(b) In the administration of this Act no department, agency, officer, or employee of the United States shall exercise any direction, supervision, or control over the policy determination, personnel, or curriculum, or the administration or operation of any school or other non-Federal agency, institution, organization, or association.

(c) The Foundation shall be independent of all other agencies of the Executive Branch of the Federal Government except as may be otherwise provided for herein.

INTERNATIONAL COOPERATION AND COORDINATION WITH FOREIGN POLICY

SEC. 8. (a) In carrying out projects pursuant to this Act the Foundation may support international activities in the social sciences, consistent with the purposes of this Act, and the national objectives of the United States.

(b) No project pursuant to this Act shall be carried out in any foreign country (1) until the government of such country has

been given notice of such project, and (2) at any time if such government objects to such project.

(c) If, in carrying out the provisions of this Act, any negotiations with the government of a foreign country becomes necessary, such negotiations shall be carried out by the Secretary of State.

PATENT RIGHTS AND FREEDOM OF INFORMATION

SEC. 9. (a) The results of research, supported in whole or in part by the Foundation, shall be made freely available to the public.

(b) The Foundation shall not use any security classification nor may any research, or the results thereof, carried out pursuant to this Act, be placed under any security classification.

ADMINISTRATIVE PROVISIONS

SEC. 10. (a) In addition to any authority vested in it by other provisions of this Act, the Foundation in carrying out its functions shall have the authority—

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

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

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

(4) appoint and fix the compensation of such employees as may be necessary to carry out its functions, define their duties, and supervise and direct their activities;

(5) procure and utilize from time to time, as appropriate, the services of experts and consultants, including panels of experts in accordance with section 3109 of title 5, United States Code;

(6) accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed without compensation;

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

(8) make any other expenditures necessary to carry out the purposes of this Act.

(b) The Foundation, in carrying out its function, shall not have the authority—

(1) to operate any laboratories, educational facilities or pilot plants of any type;

(2) to contract for any research to be accomplished for its own purposes;

(3) to conduct research on its own, except insofar as it is required to conduct periodic reviews of the condition and status of the social sciences.

(c) It is the intent of the Congress that the Foundation shall not be a research organ, but rather be a sponsor of research.

AUTHORIZATION FOR USE OF PUBLIC LAW 480 FUNDS

SEC. 11. Section 104 of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704), is amended (1) by striking out "and" at the end of subsection (j); (2) by striking out the colon at the end of subsection (k) and inserting in lieu thereof "; and", and (3) by adding after subsection (k) a new subsection as follows:

"(1) For supporting projects and providing assistance, in such amounts as may be specified in appropriation Acts, in accordance with the provisions of the National Foundation for the Social Sciences Act of 1969:".

AUTHORIZATION

SEC. 12. (a) For the purpose of carrying out the provisions of this Act, Federal funds are authorized to be appropriated not to exceed $20,000,000 for the fiscal year ending June 30, 1970, and for each succeeding fiscal year plus such amounts as are provided for pursuant to section 11.

(b) Appropriations made pursuant to the authority provided in subsection (a) of this section shall remain available until expended.

Mr. HARRIS. I hope, Mr. President, that with the enactment of this legislation those questions can be answered by the newly created National Social Science Foundation.

Mr. President, I ask unanimous consent that the remarks of the junior Senator from Minnesota (Mr. MONDALE), who is a cosponsor of the bill concerning the National Social Science Foundation, be inserted at this point in the RECORD.

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

SENATOR WALTER F. MONDALE COSPONSORS NATIONAL SOCIAL SCIENCE FOUNDATION ACT

Mr. President, only months before his tragic death, Dr. Martin Luther King made the following observation about the historic human rights struggle he led:

"One reason some advances were made in the South during the past decade was the discovery by northern whites of the brutal facts of southern segregated life. It was the Negro who educated the nation by dramatizing the evils through nonviolent protest. The social scientist played little or no role in disclosing truth."

Just six months after Dr. King's assassination, in a rather remarkable address on "The Social Responsibilities of Business to Urban America," Mr. David Rockefeller made this statement:

"Direct liaison with academics and intellectuals could help business to identify looming social problems before they reach such proportions that they can be remedied only by expensive and often inefficient 'crash programs'. Advanced thinkers will not always tell us what we want to hear, and social prediction is a chancy art. But let's face an awkward truth: had the businessmen of 20 years ago heeded the voices of sociologists concerned with the lot of the Negro in America, much might have been done to forestall the racial tensions that currently torment the nation. Equally, had business listened more closely to conservationists and ecologists in decades past, we might not now find ourselves waging quite so desperate a battle against pollution."

Those two statements concerning the utility of social research knowledge in coping with the major social and environmental disorders of our time are clearly worlds apart. To some these statements undoubtedly represent extreme judgments; I frankly believe that they also represent the truth. For the fact is that the growing body of social science knowledge developed in recent years by sociologists, psychologists, political scientists, anthropologists, and members of all the other disciplines which comprise modern social science has been applied very unevenly and with mixed results to the process by which public attitudes and policies are formulated in America.

I rise this afternoon, Mr. President, to join in the sponsorship of the legislation which my distinguished colleague and friend, Senator Harris, has just introduced. I am very pleased to do so—principally because I believe its enactment would resolve the seeming paradox between the statements cited above in a most fruitful way.

As Senator Harris recalls, I joined with him in 1967 when his proposal to create a National Foundation for the Social Sciences was first brought to the attention of the Senate. I thought it was an excellent and creative suggestion at the time and today, mindful of the turbulent months through which we have just passed, I am convinced that the creation of such an institution is not only desirable but urgently necessary. I am delighted to once again lend my support to Senator Harris in his efforts to develop a functional, flexible institution designed to stimulate greater progress in all forms of social science research, scholarship and training.

There was a time when the social sciences were held by many to be graceful, humane disciplines eminently suited to cultivating the more noble instincts of man. Though useful in liberal educations, such disciplines were considered of minimal value in making the practical judgments required daily of Government policy-makers. More recently, especially in the years since 1965, members of both the Governmental and academic communities have indicated growing interest in developing a more mutually rewarding relationship. Statistics tell only a small portion of any story, of course, but they are particularly revealing in appraising the growing ties which link the social sciences and the Federal Government. One estimate suggests that in 1961 Federal funds for psychological and social research totalled $95 million while total expenditures for similar activities were set at $333 million in 1968.

Far more impressive than such tremendous increases in the Federal support of the social sciences is the flurry of recent activity aimed at stimulating more reliable social science research and in making use of that knowledge to improve Federal social policies. Senator Harris' introduction of S. 836 in the 90th Congress, the precursor of the bill introduced here today, was one such event which signalled a new age of creativity in the relationship of the social and behavioral sciences and the Federal Government. All who are curious about the present status of the Government—Social Science relationship or of the needs and promises of the social sciences, or of the significance of the work being done in these disciplines today, or of the type of social research which is urgently needed by policymakers, will find informative responses in the Hearings conducted by the Senate Subcommittee on Government Research, chaired by Senator Harris, in 1967. The hearing record on S. 836 is an unusually persuasive document; in my judgment, none who read it can fail to recognize the urgent need which exists for early Congressional approval of Senator Harris' proposal.

On the same day Senator Harris first proposed the National Foundation for the Social Sciences, I introduced legislation in the Senate designed to systematically utilize the findings of the social research generated by such a Foundation in the identification, understanding and resolution of our country's social disorders. That bill, the proposed Full Opportunity Act, would have created a Council of Social Advisers in the Executive Office of the President composed of and staffed by eminent social scientists and charged with the on-going responsibility for keeping the President, the Congress and the country apprised of the progress—or lack of it—being made in the attainment of full social opportunity for every American.

Preparation of the Annual Social Report required by the bill would have necessarily strengthened the bonds between the Federal Government and the social sciences, as would evaluation of the Report by the Joint Congressional Committee on the Social Report created by the bill. I have had Senator Harris' enthusiastic support for this proposal from the day it was introduced and I reintroduced the Full Opportunity Act in the 91st Congress because I sincerely believe that creation of a National Foundation for the

Social Sciences will generate the harder, more reliable social data which a Council of Social Advisers could use to assist the President and the Congress in shaping enlightened, practical policies for combatting America's social shortcomings and for fulfilling her promise.

Subsequent to the introduction of these proposals early in 1967, a variety of as-yet unconnected impulses related to utilization of the social sciences in the policymaking process have appeared: among these are—

The work of the Social Indicators' Panel in the Department of Health, Education, and Welfare culminating in the issuance of a prototype Social Report, as well as similar efforts now underway in a host of private research-oriented foundations;

Increased support of the social and behavioral sciences by the National Science Foundation; and

Intensified efforts by the Department of Defense to seek ways to apply its expertise in social technology to ameliorate problems in education, urban housing and manpower training.

Mr. President, I am greatly encouraged by all of these developments. Yet my encouragement does not diminish my concern about all of the desperate, life-demeaning conditions which Senator Harris and I have spoken about so frequently in the past several months. I believe now—as I believed on February 6, 1967, when both the National Foundation for the Social Sciences Act and the Full Opportunity Act were first introduced in the Senate—that America's hour for making good on her promises is late, but not over. I believe still that the steps Senator Harris has suggested for encouraging and supporting research, scholarship and training in the behavioral and social sciences are well designed and worthy of support. I believe, too, that the creation of a National Social Science Foundation will provide proper recognition for the social sciences at the Federal level of Government, enlarge the applied research effort to meet the burgeoning need for new knowledge on the full range of social and political processes, and promote the widest circulation of new research conclusions.

Similarly, I am today more convinced than ever that we stand very much in need of a formal Federal structure capable of ingesting all available and relevant social research data, examining it with arms-length detachment, and producing a cogent, circumspect, and critical report annually summarizing progress actually being made in providing minimal conditions for the fullest possible development of every individual in America. I will, therefore, continue my efforts to gain approval for the Full Opportunity Act and I am delighted to have Senator Harris' continuing support in this endeavor.

Mr. President, I enthusiastically endorse Senator Harris' proposal to create a National Foundation for the Social Sciences. I urge other members of the Senate who share my concern—and Senator Harris' concern—about present conditions, and my hope—and his—for the future, to join with Senator Harris, myself and other co-authors in the sponsorship of this urgently needed, unusually promising, carefully prepared, and innovative proposal.

S. 492—INTRODUCTION OF BILL—A POSTAL CORPORATION—FOR THE GOOD OF THE NATION

Mr. HANSEN. Mr. President, I introduce, for the good of the Nation, a bill to establish a postal corporation, and for other purposes.

This bill includes measures to provide adequate and uniform postal services, to provide needed equipment and facilities to postal users, to provide adequate facilities and equipment for the use of officers and employees of the Corporation, and to provide employment to individuals on the basis of merit without political consideration.

This bill, in its main intent, was introduced last October in the 90th Congress. I did not at that time introduce that bill with expectations that the Members of Congress would, without long deliberation, rush it into law. The bill was introduced at that time to allow the Members adequate time to study the bill and to weigh its merits for consideration in the 91st Congress.

The economy of our Nation relies heavily on efficiency of the U.S. mail. The work of the Post Office Department is one of the most important influences on every citizen. It would be hard to exaggerate the significance of this influence. Nor can we underestimate the impact of inefficiency in this service to our taxpayers, or to the well-being of the United States. This is an urgent matter, worthy of the full consideration of every Member of the Congress.

The bill I introduce calls for some dramatic changes in the operation of our postal department. I am convinced these changes will improve the service, increase efficiency, and lower unit costs.

I would hope that the 91st Congress will expedite passage of this bill so the big job of renovating the postal system can get underway at the earliest possible time.

A principal section of this bill would take the politics out of the post office. It would provide that the men hired to carry out this important work are hired for their ability to do the work.

Postal reform certainly is not a partisan issue. President Johnson, in his state of the Union message on January 14, 1969, said—and I quote:

> To meet our long-standing commitment to make government as efficient as possible, I believe we should reorganize our postal system along the lines of the Kappel Report.

This bill I offer incorporates the recommendations of the Kappel Commission. That Commission was appointed by President Johnson. Its chairman is a very distinguished American and business leader.

Former Postmaster General Lawrence O'Brien recognized the need for reform of the system. I borrow the following words from Mr. O'Brien:

> By the time a Postmaster General learns something of what his job is all about, he leaves for one reason or another. The department renders a daily service to every American, in good times and in bad, yet it is subject to the ebb and flow of federal budget crises without regard to the continuing need for its service and the growth of its volume.
>
> The rate-making process is horrifying. The research and development investment is laughable. The physical plants are 30 years behind the times. Mechanization is just getting out of its infancy. Personnel policies are substandard and stultifying. Management training is almost non-existent. The 535 members of Congress constitute the board of directors and congressional relations is a major preoccupation of every postal manager. The management changes with the party in power.

It would appear from this analysis by Mr. O'Brien that the mail carrier is the only instrument of the postal system that emerges with its image untarnished. And it is just that the great image of the hard-working and dedicated mail carrier remain. But his great dedication cannot overcome the inadequacies of the outdated system of which he and all of us are victims.

One of the earliest tributes to the postman of which I am aware was recorded by the fifth century, B.C., Greek historian, Herodotus:

> The Persian messengers travel with a velocity which nothing human can equal . . . Neither snow, nor rain, nor heat, nor darkness, are permitted to obstruct their speed.

This tradition carried forth into the frontier days of our nation when the heroic Pony Express was charged with the mission of tying East to West through expeditious delivery of the mail. I recall an old trail song, whose author remains unknown. It goes:

> Through the rain and the sleet, and the snow and the hail,
> They never did stop and they never did fail,
> The pony express, they carried the mail.

This pride of mission, I am proud to say, carries forth in the philosophy of our mail carriers today. Most of us have witnessed our carriers late on a Christmas eve, or early on a Christmas morning—while we are gathered with our families—bringing late packages to gladden the heart of some small child.

Such dedication deserves to be part of a more efficient system. We of the Congress are in a position to create that system. We are at fault if we do not. We owe this to our citizens.

Going to Proverbs, the old friend of the politician, in the Old Testament of the Holy Bible, we find:

> Withhold not good from them to whom it is due, when it is in the power of thine hand to do it.

The members of the National Chamber of Commerce have recognized the importance of a better postal system to the economy of our Nation. This organization has conducted a survey of its membership; the reply to the survey showed overwhelmingly support for establishment of a postal corporation. Members of the U.S. Chamber of Commerce are businessmen who know through experience what is important to the steady flow of business. They have so recognized this importance in the U.S. Post Office.

I do not need to remind you that our new Postmaster General, Winton (Red) Blount, is immediate past president of the Chamber of Commerce. While Mr. Blount has at this time taken no position on this bill, he has made this observation:

> With the help of the Congress, I think we will be able to make significant contributions towards what must be our common goal—a most efficient and effective postal system.

The Chamber of Commerce of the United States is not the first to recognize the importance of efficient postal service to the strength of our Nation. It is one of many, of course. Edward Everett, who lived from 1794 to 1865, had great respect for the mission of the Post Office. In his Mount Vernon Papers, he said:

> When I contemplate the extent to which the moral sentiments, the intelligence, the affections of so many millions of people—sealed up by a sacred charm within the cover of a letter—daily circulate through a coun-

try, I am compelled to regard the Post-Office, next to Christianity, as the right arm of our modern civilization.

Efficient and speedy mail service is of importance to the morale of all our people. More especially, it often is the only tie our men in uniform have with home and family. I have received heavy mail from servicemen—some on the field of battle—and I know all of you have, urging that they be provided a better mail service. I would like to read from a letter sent me by Lt. Col. James E. Banks of the U.S. Air Force, stationed currently in the Philippines:

As a member of the Armed Forces stationed overseas, I am acutely conscious of the morale value of fast, efficient mail service. Moreover, I observe daily the paralyzing effects on the economy and life of a nation (the Republic of the Philippines) whose postal service cannot guarantee delivery of an ordinary letter across town, let alone from one city to another.

The Commission's recommendations seem sensible and I hope you will see fit to support the legislation.

Colonel Banks was speaking of the situation in Manila. In Washington, D.C., the problem unfortunately is similar in some instances. On January 14, 1969, I received at my office across the street a letter from the Congressional Quarterly Service. According to the postmark, that letter was mailed from 1735 K Street NW., on December 30, 1968.

It has been suggested that Members of Congress do not think fondly of the post office. It is the demon that puts piles of constituent mail on our desks each morning, and we must burn the midnight oil answering these letters. Yet, in the final analysis, we all know that it is through these letters that we are guided to seek to achieve that which the people we represent want and need—and we are thankful for it.

Because we are elected officials, we would not dare the experiment of Napoleon Bonaparte. We recall how Napoleon spent the last years of his life. And it is not farfetched to assume that his experiment contributed toward his ending up on the isle of Elba. The story is that Napoleon directed his aide to leave all his letters unopened for 3 weeks, and then observed with satisfaction how large a part of the correspondence had thus disposed of itself and no longer required an answer.

I would not like to think that I missed receiving a single letter from a constituent because of nondelivery brought about by inadequacies in our postal system.

The East and West Pavilions of the Post Office of Washington, D.C., bear inscriptions which can bring to our minds daily the importance of the U.S. Post Office and the need to seek reform in its operation. The words, from the pen of Charles William Eliot, are these:

Carrier of news and knowledge
Instrument of trade and commerce
Promoter of mutual acquaintance
Among men and nations and hence
Of peace and good will.
Carrier of love and sympathy
Messenger of friendship
Consoler of the lonely
Servant of the scattered family
Enlarger of the public life.

Mr. President, this bill is introduced on behalf of myself, Mr. FANNIN, Mr. BAKER, Mr. GOLDWATER, Mr. WILLIAMS of Delaware, and Mr. COOK.

I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

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

The bill (S. 492) to establish a postal corporation, and for other purposes, introduced by Mr. HANSEN, for himself and other Senators, was received, read twice by its title, referred to the Committee on Post Office and Civil Service, and ordered to be printed in the RECORD, as follows:

S. 492

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Postal Corporation Act".

POSTAL SERVICE

SEC. 2. Title 39, United States Code, is amended to read as follows:

"TITLE 39—THE POSTAL SERVICE

"§ 101. Definitions

"As used in this title—

"(1) 'Corporation' means the Postal Corporation;

"(2) 'board' means the board of directors of the Corporation; and

"(3) 'commissioners' means the three rate commissioners of the Corporation.

"§ 102. Application

"This title shall have the same force and effect within Guam as within other possessions of the United States.

"CHAPTER 3—ESTABLISHMENT AND PURPOSES

"§ 301. Establishment

"There is hereby created a body corporate to be known as the Postal Corporation. The Corporation shall have perpetual succession unless dissolved by Act of Congress.

"§ 302. Purposes

"The Corporation shall—

"(1) develop, promote, and provide adequate, efficient and uniform postal services at reasonable and equitable rates and fees;

"(2) provide facilities and equipment which will meet the needs of postal users;

"(3) employ individuals on the basis of merit and without regard to any political consideration; and

"(4) provide adequate facilities and equipment for use by officers and employees of the Corporation in carrying out their duties.

"CHAPTER 5—BOARD OF DIRECTORS AND CHIEF EXECUTIVE OFFICER

"§ 501. Composition; powers; delegation of authority

"(a) The Corporation shall have a board of directors consisting of nine members. Six of the members shall be appointed by the President, by and with the advice and consent of the Senate, and without regard to political affiliation. Such six members shall appoint a seventh member who shall also serve as chairman of the board and as the chief executive officer of the Corporation. The chairman and the six members of the board shall appoint the eighth and ninth members, one of whom shall be designated as the chief operating officer of the Corporation and the other as an officer of the Corporation. The titles and the nature of the duties of the eighth and ninth members shall be determined by all the members of the board.

"(b) The board shall exercise all powers necessary to carry out the purposes, functions, powers, and duties of the Corporation. The board may delegate to any officer, employee, or agency of the Corporation such powers vested in the board or in any other officer or employee of the Corporation as the board deems appropriate.

"§ 502. Terms of office

"(a) The six members of the board appointed by the President pursuant to section 501(a) of this title shall serve as directors for six years except that—

"(1) the terms of the six members first taking office shall expire as designated by the President at the time of appointment, one at the end of one year, one at the end of two years, one at the end of three years, one at the end of four years, one at the end of five years, and one at the end of six years, following their appointments; and

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

"(b) The member serving as chairman of the board and chief executive officer shall serve for such term as the six members of the board appointed by the President shall determine. The eighth and ninth members shall serve for such terms as such six members and the member serving as chairman of the board and chief executive officer shall jointly determine.

"§ 503. Compensation

"The six members of the board appointed by the President shall each receive $5,000 annually plus $300 for each meeting of the board attended, and shall be reimbursed for necessary travel and subsistence expenses incurred in attending such meetings. Such members shall fix the rate of compensation of the member serving as chairman of the board and chief executive officer and of the eighth and ninth members serving as officers of the Corporation.

"§ 504. Vacancies; quorum

"(a) Vacancies in the board, as long as there are five members in office, shall not impair the powers of the board to execute the purposes, functions, and duties of the Corporation.

"(b) Five of the members in office shall constitute a quorum for the transaction of business, except that—

"(1) in the appointment of the member serving as chairman of the board and chief executive officer, three of the six members appointed by the President shall constitute a quorum for such appointment; and

"(2) in the appointment of the eighth or ninth member of the board, serving as an officer of the Corporation, any four members from among the member serving as chairman of the board and chief executive officer and the six members appointed by the President shall constitute a quorum for any such appointment.

"§ 505. Board committees

"The board is authorized to establish such committees of the board, and delegate such powers to any committee, as the board deems appropriate to carry out its functions and duties.

"CHAPTER 7—RATEMAKING

"Sec.

"701. Authority to establish rates; uniformity.

"702. Free and subsidized mail.

"703. Rate manager; responsibility; staff.

"704. Rate commissioners and staff.

"705. Responsibility of rate commissioners.

"706. Adoption of changes.

"707. Complaints.

"§ 701. Authority to establish rates; uniformity

"(a) Except as otherwise provided in this title, the Corporation shall have authority to establish reasonable classes of mail and reasonable and equitable rates of postage and fees.

"(b) Postal services for each class of mail shall be available throughout the United States. Except as provided in section 702 of this title, the rates of postage and fees for each class shall be uniform.

"§ 702. Free and subsidized mail

"(a) The Congress shall have the sole authority to determine which postal users shall be allowed to send mail of any class free of postage or at rates less than those established by the Corporation for other users of such class. The rates of all users receiving reduced rates shall be established by the Corporation so that the amount of postal revenues received from them, plus the amount received from the postal surcharge provided for in subsection (b) of this section, shall equal the amount of postal revenues that would have been received from users allowed to mail free of charge and at reduced rates if they had not been entitled to free or reduced rates.

"(b) Except for those postal users authorized to mail free of postage or at reduced rates in accordance with the provisions of subsection (a) of this section, the rates of postal users shall be adjusted to include a surcharge to replace revenues lost as the result of free postage and reduced rates authorized in accordance with such subsection. The estimated receipts from such surcharge shall not exceed three percent of the postal revenues estimated to be received, excluding the estimated receipts from the surcharge, from the mail users paying the surcharge.

"§ 703. Rate manager; responsibility; staff

"(a) Within the Corporation there shall be an officer known as the rate manager. He shall have the responsibility for initiating and recommending to the board any changes in (1) rates of postage or fees, (2) classes of postal users, or (3) the rate structure and design.

"(b) The rate manager shall be provided an adequate staff of rate experts, statisticians, economists, engineers, accountants, market analysts, and clerical assistants. He and his staff shall be subject to the general supervision of the board only.

"§ 704. Rate commissioners and staff

"(a) There is hereby established within the Corporation a panel of three rate commissioners appointed by the board. One of the commissioners shall be designated by the board as chief commissioner.

"(b) The Commissioners shall serve for terms of nine years except that—

"(1) the terms of the commissioners first taking office shall expire as designated by the board at the time of appointment, one at the end of three years, one at the end of six years, and one at the end of nine years; following their appointment; and

"(2) any such commissioner appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term.

"(c) The board shall provide the commissioners with a small professional and clerical staff and facilities appropriate and reasonable to carry out their functions under this chapter. The staff shall be responsible solely to the commissioners.

"(d) The commissioners shall promulgate rules and regulations and establish procedures to carry out their responsibilities under this chapter. Such rules, regulations, and procedures shall not be subject to any change or supervision by the board.

"(e) The chief commissioner shall have the administrative responsibility for assigning the business of the commissioners to the various commissioners and to members of the staff.

"§ 705. Responsibility of rate commissioners

"Any change, recommended by the rate manager and proposed to be adopted by the board, shall be forwarded to the commissioners. They shall have the proposed change published in the Federal Register together with a notice of the time and place of hearings on such change. The commissioners shall thereupon conduct hearings on the change and render an opinion. The opinion, together with the record, shall be referred to the board.

"§ 706. Adoption of changes

"(a) Upon receiving the opinion and record from the commissioners relating to a proposed change, as provided in section 705 of this title, and after careful consideration of the opinion and record, the board may adopt with or without modification any change it deems appropriate.

"(b)(1) Except as provided in subsection (c), the board shall transmit a change adopted by it to both Houses of the Congress on the same day and to each House while it is in session. The change shall become effective at the end of the first period of 60 calendar days of continuous session of the Congress after the date on which the change is transmitted unless, between the date of transmittal and the end of the 60-day period, either House passes a resolution stating in substance that such House does not favor the change.

"(2) The continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

"(3) The proposed change may include a provision that the change shall become effective at a time later than the day on which the change would otherwise become effective.

"(c) Rates adopted by the board for the following postal services, or similar postal services which the Corporation may establish, shall become effective, on such day as may be specified by the board, without submission to the Congress:

"(1) the registry of mail;

"(2) the insurance of mail, or other indemnifications of senders thereof for articles damaged or lost;

"(3) securing a signed receipt upon the delivery of mail and returning such receipt to sender;

"(4) certified mail service;

"(5) collect-on-delivery service;

"(6) special-delivery service;

"(7) special-handling service;

"(8) receipt or certificate showing mailing of registered, insured, certified, collect-on-delivery, and ordinary mail;

"(9) the issue of money orders;

"(10) notice to publisher, addressee, or sender of undeliverable mail, and for notice of change of address;

"(11) for returning undeliverable letters and parcels from the dead letter office to senders;

"(12) the issuance of a permit for prepayment of postage without stamps;

"(13) the entry, re-entry, or additional entry of a periodical publication; and

"(14) the registry of a news agent.

"(d) A change under this section which is effective shall be printed in the Federal Register.

§ 707. Complaints

"Any complaint by a postal user involving the mails, except one involving a change in rates or fees, classes of postal users, or the rate structure and design, shall be referred to the commissioners for their consideration, and they shall hold a hearing if the commissioners deem necessary. The commissioners shall make a report to the board on the complaint, and the board shall take such action on the complaint and report as it deems appropriate. A complaint involving a change in rates or fees, classes of postal users, or the rate structure or design shall be referred to the rate manager for his consideration and shall be considered in accordance with the provisions of sections 703–706 of this title.

"CHAPTER 9—PERSONNEL

"Sec.

"901. Appointment, promotion, and separation.

"902. Nonmanagerial and nonprofessional employees; terms of employment.

"903. Managerial and professional employees; terms of employment.

"904. Armed Forces postal clerks.

"905. Oath of office.

"906. Personnel not to receive fees.

"907. Dual employment and extra duties.

"§ 901. Appointment, promotion, and separation

"The Corporation shall have the power to appoint such officers and employees, including postal inspectors, and to vest them with such powers and duties, as it deems necessary. Such appointments shall be without regard to the provisions of title 5, governing appointments in the competitive service. All appointments, promotions, and separations shall be made on the basis of merit and efficiency, and no political tests or qualifications shall be permitted or considered.

"§ 902. Nonmanagerial and nonprofessional employees; terms of employment

"(a) Rates of pay, hours of employment, employee benefits, and other conditions of employment of nonmanagerial and nonprofessional employees shall be determined by collective bargaining.

"(b) In the event that no agreement is reached through collective bargaining, or a dispute arises out of a collective bargaining agreement or its interpretation, and the parties are unwilling to submit to binding arbitration or other means of reaching a decision which shall be binding, the disagreement or dispute shall be referred to the President. He shall settle the disagreement or dispute in the manner he deems appropriate, and such settlement shall be final and binding on all parties.

"§ 903. Managerial and professional employees; terms of employment

"Rates of pay, hours of employment, benefits, and other conditions of employment of managerial and professional officers and employees shall be determined by the board.

"§ 904. Armed Forces postal clerks

"(a) Upon selection by the Secretaries of the departments concerned, the Corporation may designate Armed Forces postal clerks, and assistant Armed Forces postal clerks, from enlisted personnel of the—

"(1) Army of the United States;

"(2) United States Navy;

"(3) Air Force of the United States;

"(4) United States Marine Corps; and

"(5) United States Coast Guard;

including their reserve components.

"(b) Armed Forces postal clerks and assistant Armed Forces postal clerks designated under authority of subsection (a) of this section shall—

"(1) receive and open all pouches and sacks of mail addressed to the post offices, stations, vessels and installations of the organizations listed in subsection (a) of this section;

"(2) make delivery of the mail;

"(3) receive matter for transmission in the mail;

"(4) receipt for registered mail;

"(5) sell postage stamps;

"(6) make up and dispatch mail; and

"(7) perform any other postal duties that may be authorized by the Corporation in accordance with such regulations as may be prescribed by the appropriate authority of the organizations listed in subsection (a) of this section. "(c) Each clerk or assistant clerk appointed under authority of this section shall—

"(1) take the oath of office prescribed by the Corporation;

"(2) be covered by a bond in such penal sum as the Corporation deems sufficient for the faithful performance of his duties as postal clerk or assistant postal clerk, unless bonding is waived by the Secretary of the department concerned; and

"(3) be amenable in all respects to the discipline of their respective services, except as provided in subsection (d) of this section.

"(d) The commanding officer having jurisdiction over a post office, station, vessel, or installation where Armed Forces postal clerks or assistant Armed Forces postal clerks are stationed shall require them to be governed by the postal laws and the postal regulations. Whenever he deems it necessary a commanding officer may require any assistant Armed Forces postal clerk to perform the duties of an Armed Forces postal clerk.

"(e) The Secretary of the department concerned may terminate any bond covering any Armed Forces postal clerk or assistant Armed Forces postal clerk without affecting the liability of any person of surety thereunder for losses or shortages occurring prior to such termination.

"(f) The Departments of the Army, Navy, Air Force, and Transportation shall reimburse the Corporation annually in an amount of money equal to—

"(1) funds and the value of other accountable postal stock embezzled by, or lost through the negligence, errors, of defalcations on the part of—

"(A) unbonded Armed Forces postal clerks or assistant Armed Forces postal clerks or persons acting in that capacity; or

"(B) commissioned or warrant officers of the Army, Navy, Air Force, Marine Corps, and Coast Guard who have been designated custodians of postal effects by the appropriate commanding officer; and

"(2) funds expended by the Corporation in payment of claims arising through negligence, errors, losses, or defalcations by persons listed in paragraph (1) of this subsection.

"(g) The Secretaries of the Army, Navy, Air Force, and Transportation shall take action to recover from the persons responsible for the losses or shortages the amounts paid under the provisions of this section.

"§ 905. Oath of office

"Before entering upon their duties, and before receiving any salary, all officers and employees of the Corporation, in addition to any other oath or affirmation required by law, shall respectively take and subscribe the following oath or affirmation:

" 'I, do hereby solemnly swear (or affirm, as the case may be) that I will faithfully perform all the duties required of me and abstain from everything forbidden by the laws in relation to the establishment of post offices and post roads within the United States; and that I will honestly and truly account for and pay over any money belonging to the said United States which may come into my possession or control; and I also further swear (or affirm) that I will support the Constitution of the United States; so help me God.'

"A person authorized to administer oaths by the laws of the United States, including section 2903 of title 5, or of a State or territory, or an officer, civil or military, holding a commission under the United States may administer and certify the oath or affirmation.

"§ 906. Personnel not to receive fees

"An officer or employee of the Corporation may not receive any fee or perquisite from a patron of the Corporation on account of the duties performed by virtue of his appointment, except as authorized by law.

"§ 907. Dual employment and extra duties

"(a) The Corporation may appoint an employee to more than one position and it shall pay compensation at the rate agreed to for each position, without regard to the provisions of sections 5531–5537 of title 5.

"(b) The Corporation, with the consent of the Administrator of General Services, may appoint custodial employees working under the jurisdiction of the General Services Administration at Federal buildings occupied in part by the Corporation to positions in the Corporation to perform postal duties in addition to their regular duties as custodial employees, and it shall pay compensation to them at the rate agreed to without regard to the provisions of sections 5531–5537 of title 5.

"CHAPTER 11—DELIVERY AND TRANSPORTATION SERVICES

"Subchapter I—Delivery

"Subchapter II—Authority to transport mail

"Subchapter III—Transportation of mail by railroad

"Subchapter IV—Transportation of mail by air

"Subchapter V—Transportation by sea

"Subchapter I—Delivery

"§ 1101. Free delivery of mail

"The Corporation shall provide delivery service for the free delivery of mail, as frequently as the public business may require, and serving as nearly as practicable the entire population of the United States.

"§ 1102. Receiving boxes

"(a) When the public convenience requires, the Corporation may provide receiving boxes for the deposit of mail and for the collection of mail deposited therein.

"(b) The Corporation may not place a receiving box inside a building except a railroad station, a public building, or a building which is freely open to the public during business hours. The Corporation may declare that chutes or other devices approved by him which are connected with receiving boxes are part thereof and under the exclusive care and custody of the Corporation.

"Subchapter II—Authority to transport mail

"§ 1111. Provisions for carrying the mail

"(a) The Corporation shall provide for the transportation of mail by land, air, or water as often as it deems proper under the circumstances—

"(1) within, among, and between, the United States, its territories, territories under trusteeship, possessions, the Commonwealth of Puerto Rico, and Armed Forces; and

"(2) between the United States, its territories, territories under trusteeship, possessions, the Commonwealth of Puerto Rico, or its Armed Forces, and any foreign country.

"(b) The Corporation shall provide for the transportation of mail to the courthouse of every county in the United States.

"§ 1112. Agreements to provide for mail transportation

"The Corporation may enter into any agreement it deems appropriate in order to provide necessary domestic or foreign transportation of mail, except that—

"(1) transportation of mail by railroad shall be procured as provided in sections 1121–1134 of this title and otherwise provided by law; and

"(2) transportation of mail by air shall be obtained in accordance with 1151–1155 of this title.

"§ 1113. Emergency mail service in Alaska

"The Corporation may provide difficult or emergency mail service in Alaska, including the establishment and equipment of relay stations, in such manner as it deems advisable, without advertising therefor, at a total annual cost not exceeding $25,000.

"§ 1114. Transportation of mail of adjoining countries through the United States

"The Corporation, by and with the advice and consent of the President, may make arrangements to allow the mail of countries adjoining the United States to be transported over the territory of the United States from one point in that country to any other point therein, at the expense of the country to which the mail belongs, upon obtaining a like privilege for the transportation of the United States mail through the country to which the privilege is granted. The President or Congress may annul the privilege at any time. The privilege shall terminate one month succeeding the day on which notice of the act of the President or Congress is given to the chief executive or head of the post office department of the country whose privilege is to be annulled.

"§ 1115. Mails to be carried on United States registered vessels

"Mail of the United States shall, insofar as practicable, be carried on vessels of United States registry between ports between which it is lawful under the navigation laws for a vessel not documented under the laws of the United States to carry merchandise.

"§ 1116. Establishment of post roads

"The following are post roads—

"(1) the waters of the United States, during the time the mail is carried thereon;

"(2) railroads or parts of railroads and air routes in operation;

"(3) canals, during the time the mail is carried thereon;

"(4) public roads, highways, and toll roads

during the time the mail is carried thereon; and

"(5) letter-carrier routes established for the collection and delivery of mail.

"§ 1117. Discontinuance of service on post roads

"The Corporation may discontinue service on a post road or part thereof when, in its opinion—

"(1) the postal service cannot safely be continued;

"(2) the revenues cannot be collected;

"(3) the laws cannot be maintained; or

"(4) the public interest so requires.

"Subchapter III—Transportation of mail by Railroad

"§ 1121. Definition

"As used in this subchapter, unless otherwise specified, 'railroad' means a railway common carrier, including an electric urban and interurban railway common carrier.

"§ 1122. Service by railroad

"This subchapter applies to mail transportation performed by a railroad by rail or combination of mail and vessel, or by motor vehicle as provided by section 1132 of this title.

"§ 1123. Authorization of service by railroad

"(a) The Corporation may establish railroad mail routes and authorize mail transportation service thereon. The Corporation may transport its equipment and supplies as mail thereon.

"(b) A railroad shall transport mail, including equipment and supplies of the Corporation, offered for transportation by the United States in the manner, under the conditions, and with the service prescribed by the Corporation. It is entitled to receive fair and reasonable compensation for the transportation and services connected therewith.

"(c) The Corporation shall determine the trains upon which mail shall be transported.

"(d) A railroad shall transport with due speed, on any train it operates, such mail, including equipment and supplies of the Corporation, as the Corporation directs.

"(e) A railroad engaged in the transportation of mail shall transport on any train it operates upon exhibiting their credentials and without extra charge therefor—

"(1) persons in charge of the mail when on duty and traveling to and from duty; and

"(2) accredited agents and officers, including postal inspectors, of the Corporation while traveling on official business.

"§ 1124. Facilities provided by railroads

"(a) If the Corporation shall so request, a railroad engaged in the transportation of mail shall provide the following equipment and facilities:

"(1) cars or parts of cars used in the transportation and distribution of mail;

"(2) facilities for protecting and handling mail in its custody;

"(3) station space and rooms for handling, storing, and transfering mail in transit, including the separation thereof by packages for connecting lines, and for distribution of registered mail in transit; and

"(4) when required by the Corporation, offices for employees engaged in postal transportation service at stations in which mail from station boxes may be distributed if additional space is not required therefor.

"(b) Railway post office cars or parts thereof used for mail transportation and distribution must be of such construction, style, length, and character, and must be equipped in such manner as the Corporation requires. They must be constructed, equipped, maintained, heated, lighted, and cleaned by and at the expense of the railroad. The Corporation may not pay for full and apartment railway post office car service unless the car furnished therefor is sound in material and construction, equipped with sanitary drinking water containers and toilet facilities, and regularly and thoroughly cleaned. The Corporation may not accept or pay for service by a full railway post office car unless the car is constructed of steel, steel underframe, or equally indestructible material.

"(c) A railroad shall place cars used for full or apartment railway post office car service in stations at such times before the departure of the trains as the Corporation directs.

"§ 1125. Changes in service

"The Corporation may authorize, according to the need therefor, new or additional mail transportation service by railroad at the rates or compensation fixed pursuant to this subchapter. It may reduce or discontinue service with pro rata reductions in compensation. The Corporation need not pay for additional service which it has not specifically authorized.

"§ 1126. Evidence of service

"A railroad shall submit evidence of the performance of mail transportation service, signed by an authorized official in such form and at such times as the Corporation requires. Mail transportation service is considered that of the railroad performing it regardless of the ownership of the property used by the railroad.

"§ 1127. Fines and deductions

"(a) For refusal to perform mail transportation service required by the Corporation at rates or method of compensation established under this subchapter, the Corporation shall fine—

"(1) an electric urban or interurban railroad, $100; and

"(2) any other railroad, $1,000. Each day of refusal constitutes a separate offense.

"(b) The Corporation shall fine a railroad an amount it deems reasonable for—

"(1) failure or refusal to transport mail, equipment, and supplies on any train it operates when required by the Corporation;

"(2) failure or refusal to furnish cars or apartments in cars for distribution purposes when required by the Corporation;

"(3) failure or refusal to construct, equip, maintain, heat, light, and clean cars or apartments in cars for distribution purposes;

"(4) failure or refusal to furnish appliances for use in case of accident, as required by the Corporation, in cars or apartments in cars used for distribution purposes; or

"(5) other delinquencies in mail transportation and the service connected therewith.

"(c) The Corporation may make deductions from the compensation of a railroad for failure to perform mail transportation service as authorized and, if the failure to perform is due to the fault of the railroad, it may deduct a sum not exceeding three times the compensation applying to such service.

§ 1128. Interstate Commerce Commission to fix rates

"(a) The Interstate Commerce Commission shall determine and fix from time to time the fair and reasonable rates or compensation for the transportation of mail by railroad and the service connected therewith and prescribe the method for computing such rates or compensation. The Commission shall publish its orders stating its determination under this section which shall remain in force until changed by it after notice and hearing.

"(b) For the purpose of determining and fixing rates or compensation under this section, the Commission may make just and reasonable classifications of railroads and, where just and equitable, fix general rates applicable to railroads in the same classification.

"(c) In determining and fixing fair and reasonable rates under this section, the Commission shall consider the relation between the Government and railroads as public service corporations, and the nature of public service as distinguished, if there is a distinction, from the ordinary transportation business of the railroads.

"§ 1129. Procedures

"(a) At any time after six months from the entry of an order stating the Commission's determination under section 1128 of this title, the Corporation or an interested railroad may apply for a re-examination and substantially similar proceedings as have theretofore been had shall be followed with respect to the rates for services covered by the application. At the conclusion of the hearing the Commission shall enter an order stating its determination.

"(b) Except as authorized by sections 1130 and 1133 of this title, the Corporation shall pay a railroad the rates or compensation so determined and fixed for application at such stated times as named in the order.

"(c) The Corporation may file with the Commission a comprehensive plan, stating—

"(1) its requirements for the transportation of mail by railroad;

"(2) the number, equipment, size, and construction of the cars necessary for the transaction of the business;

"(3) the character and speed of the trains which are to carry the various kinds of mail;

"(4) the service, both terminal and en route, which carriers are to render;

"(5) what it believes to be the fair and reasonable rates or compensation for the services required;

"(6) all other information which may be material to the inquiry, but such other information may be filed at any time in the discretion of the Commission.

"(d) When a comprehensive plan is filed, the Commission shall give notice of not less than thirty days to each railroad required by the Corporation to transport mail. A railroad may file its answer at the time fixed by the Commission, but not later than thirty days after the expiration date fixed by the Commission in the notice, and the Commission shall proceed with the hearing.

"§ 1130. Special rates

"(a) Upon petition by the Corporation, the Commission shall determine and fix carload or less-than-carload rates for the transportation of packages not being handled and delivered as high priority mail and of periodical mail. A railroad shall perform the service at the rates so determined when requested to do so and under the conditions prescribed by the Corporation.

"(b) The Corporation may make special arrangements with railroads for the transportation of mail in freight trains at rates not in excess of the usual and just freight rates in accordance with classifications and tariffs filed with or prescribed by the Commission.

"§ 1131. Discrimination in transporting publications

"(a) The Corporation may not transport a publication by freight if this method of mail transportation results in unfair discrimination against the owner of the publication.

"(b) When the owner of a publication required by order of the Corporation to be transported by freight believes that this method of transportation unfairly discriminates against him, he may file a written application with the Corporation for a hearing. Thereafter he shall be given an opportunity for a hearing before the Corporation. Pending final determination no change may be made in the method of transportation of the publication as ordered by the Corporation.

"(c) Prior to the entry of an order stating the Corporation's determination, the Corporation shall cause the testimony in the hearing under this section to be reduced to writing and filed with the Corporation.

"(d) If the Corporation after the hearing determines by order that there is no unfair discrimination, the publisher may, within a period of twenty days after the date of the order, petition the United States Court of

Appeals for the District of Columbia for review of the order, by filing in the court a written petition praying that the order be set aside. The clerk of the court shall transmit a copy of the petition to the Corporation and thereupon the Corporation shall file in the court the record as provided in section 2112 of title 28. Upon the filing of the petition the court shall have jurisdiction to examine, set aside or modify the order of the Corporation.

"(e) The jurisdiction of the United States Court of Appeals for the District of Columbia to affirm, set aside, or modify the orders of the Corporation is exclusive.

"(f) The United States Court of Appeals for the District of Columbia shall give precedence to proceedings under this section over other pending cases and they shall be expedited in every way.

"§ 1132. Transportation by motor vehicle.

"The Corporation may permit a railroad to perform mail transportation by motor vehicle over highways in lieu of service by rail at rates or compensation not exceeding those allowable for similar service by rail.

"§ 1133. Special contracts

"The Corporation may enter into special contracts with railroads. The Corporation may contract to pay lower rates or compensation, or where in its judgment conditions warrant, higher rates or compensation, than those determined and fixed by the Interstate Commerce Commission.

"§ 1134. Railroad operations, receipts, and expenditures

"The Corporation shall request all railroad companies transporting the mails to furnish, under seal, such data relating to the operations, receipts and expenditures of such roads as may, in its judgment, be deemed necessary to enable it to ascertain the cost of mail transportation and the proper compensation to be paid for the same. The Corporation shall, in its annual report to Congress, make such recommendations, founded on the information obtained under this section, as shall, in its opinion, be just and equitable.

"Subchapter IV—Transportation of mail by air

"§ 1151. Rules and regulations

"The Corporation may make such rules, regulations, and orders not inconsistent with sections 1301–1542 of title 49, or any order, rule, or regulation made by the Civil Aeronautics Board thereunder, as may be necessary for the safe and expeditious carriage of mail by aircraft.

"§ 1152. Special arrangement in Alaska

"(a) When in the opinion of the Corporation transportation of mail by aircraft in Alaska is required, and where transportation of mail by aircraft has not been authorized by the Civil Aeronautics Board under sections 1371–1386 of title 49, the Corporation, notwithstanding any other provision of law, may contract for the carriage of any class of mail by aircraft. The transportation of mail under contracts entered into under this section, is not, except for sections 1371(k) and 1386 (b) of title 49 and 'air transportation' as that term is defined in section 1301 of title 49, and the rates of compensation therefor may not be fixed under sections 1301–1542 of title 49. The Corporation shall cancel such a contract upon the issuance by the Board of an authorization under sections 1371–1386 of title 49 to any air carrier to engage in the transportation of mail by aircraft between any of the points named in the contract.

"(b) An air carrier authorized by the Civil Aeronautics Board under sections 1371–1386 of title 49 to engage in the transportation of mail by aircraft in Alaska, may be required by the Corporation to transport, within the limits of the authorization, any class of mail. The Board shall determine and fix the rates of compensation to be paid for the transportation in accordance with the provisions of sections 1301–1542 of title 49.

"§ 1153. Air routes

"(a) The Corporation may contract for the transportation of any class of mail by aircraft upon routes—

"(1) whenever it finds such contract to be in the public interest because of the nature of the terrain or the impracticability or inadequacy of surface transportation; and

"(2) where the cost is reasonably compatible with the service to be performed.

"(b) Prior to seeking any contract, the Corporation shall obtain from the Civil Aeronautics Board a certification that the proposed route does not conflict with the development of air transportation as contemplated under sections 1301–1542 of title 49. Upon receipt of a request from the Corporation for certification, the Board shall—

"(1) promptly publish in the Federal Register and send to such persons as the Board by regulation determines, a notice describing the proposed air route;

"(2) thereafter afford interested persons a reasonable opportunity to submit written data, views, or arguments with or without the opportunity to present them orally;

"(3) consider all relevant matter presented; and

"(4) grant, not less than thirty days after notice, the requested certification upon finding that the proposed route does not conflict with the development of air transportation as contemplated under sections 1301–1542 of title 49. The Board may grant the requested certification upon less notice if it for good cause finds that thirty days advance notice is impracticable, unnecessary, or contrary to the public interest, and incorporates this finding and a brief statement of the reasons therefor in its order granting the certification.

"(c) The Corporation shall cancel a contract made under this section upon the issuance by the Board of an authorization under sections 1371–1386 of title 49 to an air carrier to engage in the transportation of mail by aircraft between any of the points named in the contract.

"(d) Sections 1371–1376, 1380, 1381, and 1385 of title 49 do not apply to the transportation of mail under this section.

"§ 1154. Fines on aircraft carriers transporting the mails

"The Corporation may impose or remit fines on contractors or carriers transporting mail by air on routes extending beyond the borders of the United States for—

"(1) unreasonable or unnecessary delay to mail; and

"(2) other delinquencies in the transportation of the mail.

"§ 1155. Airmail Flyer's Medal of Honor

"The President may present, but not in the name of the Congress, an Airmail Flyer's Medal of Honor, of appropriate design, with accompanying ribbon, to any person who, while serving as a pilot in the airmail service distinguished himself by heroism or extraordinary achievement. The President may not award more than one medal to any one person, but for each additional act or achievement sufficient to justify the award of a medal he may award a bar or other suitable device to be worn as he directs. If the individual who distinguished himself dies before the award is made, the President may present the medal, bar, or other device, to such representative of the deceased as the President designates. A medal, bar, or other device may not be awarded or presented to an individual whose entire service subsequent to the time he distinguished himself has not been honorable.

"Subchapter V—Transportation by sea

"§ 1171. Sea post service

"The Corporation may maintain sea postal service on ocean vessels conveying mail to and from the United States.

"§ 1172. Termination of contracts for foreign transportation

"Contracts for the transportation of mail by vessel between the United States and a foreign port shall be made subject to cancellation by the Corporation, the President, or the Congress.

"§ 1173. Transportation of mail by vessel as freight or express

"(a) The Corporation may require that mail be transported by vessel as freight or express when—

"(1) there is no competition on a water route and the rate of compensation asked is excessive; or

"(2) no proposal is received.

"(b) A common carrier by water that refuses to transport the mail when required to do so under this section shall be fined not more than $500 for each day of refusal.

"§ 1174. Fines on ocean carriers

"The Corporation may impose or remit fines on carriers transporting mail by vessel on routes extending beyond the borders of the United States for—

"(1) unreasonable or unnecessary delay to the mail; and

"(2) other delinquencies in the transportation of the mail.

"CHAPTER 13—MISCELLANEOUS

"§ 1301. Postal Corporation Fund

"(a) There is established within the Treasury of the United States a Postal Corporation Fund which shall be available to the Corporation, without fiscal-year limitation, to carry out the purposes, functions, and powers of this title.

"(b) The Fund shall be credited with—

"(1) postage and fees received from postal services;

"(2) amounts received from notes, debentures, or other obligations issued by the Corporation;

"(3) amounts appropriated for use by the Corporation;

"(4) interest which may be earned on investments of the Fund; and

"(5) receipts from any other sources which may, from time to time, be credited to the Fund.

"(c) If the Corporation determines that the moneys of the Fund are in excess of current needs, it may request the investment of such amounts as it deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

"§ 1302. Obligations of Corporation

"(a) The Corporation is authorized to issue such notes, debentures, or other obligations as it determines necessary to carry out the purposes of this title. Such obligations shall not exceed $2,000,000,000 outstanding at any one time. Such obligations shall pledge the full faith and credit of the Corporation, but shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the United States. The proceeds realized by the Corporation from issuance of obligations and from other sources shall not be subject to apportionment under the provisions of section 3679 of the Revised Statutes, as amended (31 U.S.C. 665).

"(b) The obligations of the Corporation shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than fifty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the

Corporation in such manner and at such times and redemption premiums, may be entitled to such relative priorities of claim on the assets of the Corporation with respect to principal and interest payments, and shall be subject to such other terms and conditions as the Corporation may determine. At least fifteen days before selling each issue of obligations hereunder the Corporation shall advise the Secretary of the Treasury of the amount, proposed date of sale, maturities, terms, and conditions and expected rates of interest of the proposed issue in the fullest detail possible and, if the Secretary shall so request, shall consult with him or his designee thereon, but the sale and issuance of such obligations shall not be subject to approval by the Secretary of the Treasury except as to the time of issuance and the maximum rates of interest of the obligations. If the Secretary of the Treasury does not give such approval within seven working days following the date on which he is advised of the proposed sale, the Corporation may issue to the Secretary interim obligations in the amount of the proposed issue, which the Secretary is directed to purchase. If the Corporation determines that a proposed issue cannot be sold on reasonable terms, it may issue to the Secretary interim obligations which the Secretary is authorized to purchase. Notwithstanding the foregoing provisions of this subsection, not more than $500,000,000 in obligations issued by the Corporation to the Secretary shall be outstanding at any one time. They shall mature on or before one year from date of issue, and shall bear interest equal to the average rate (rounded to the nearest one-eighth of a percent) on outstanding marketable obligations of the United States with maturities from dates of issue of one year or less as of the close of the month preceding the issuance of the obligations of the Corporation. If agreement with the Secretary of the Treasury concerning the date of issuance or interest rate of any obligations is not reached within eight months, the Corporation may nevertheless proceed to sell such obligations on any date thereafter without approval by the Secretary in amount sufficient to retire the interim obligations issued to him and such interim obligations shall be retired from the proceeds of such obligations. For the purpose of any purchase of the Corporation's obligations the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the applicable provisions of chapter 12 of title 31 and the purposes for which securities may be issued under such chapter are extended to include any purchase of the Corporation's obligations hereunder.

"(c) The Corporation may—

"(1) sell obligations by negotiation or on the basis of competitive bids, subject to the right, if reserved, to reject all bids;

"(2) designate trustees, registrars, and paying agents in connection with such obligations and the issuance thereof;

"(3) arrange for audits of its accounts and for reports concerning its financial condition and operations by certified public accounting firms (which audits and reports shall be in addition to those required by sections 105 and 106 of the Government Corporation Control Act (31 U.S.C. 850, 851); and

"(4) subject to any covenants contained in any agreements entered into with the purchasers or holders of its obligations, invest the proceeds from the sale of its obligations and other funds under its control in any securities approved for investment of national bank funds and deposit said proceeds and other funds, subject to withdrawal by check or otherwise, in accordance with section 302 of the Government Corporation Control Act (31 U.S.C. 867).

"(d) Obligations issued by the Corporation hereunder shall contain a recital that they are issued pursuant to this section, and such recital shall be conclusive evidence of the regularity of the issuance and sale of such obligations and of their validity.

"(e) Obligations issued by the Corporation shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the obligations of the Corporation acquired by them under this subsection.

"§ 1303. General powers

"The Corporation shall have the following powers:

"(1) to adopt, alter, and use a corporate seal;

"(2) to adopt, amend, and repeal bylaws, rules, and regulations governing the manner of its operations, organization, and personnel and the performance of the powers and duties granted to or imposed upon it by law;

"(3) to provide for the collection, handling, transportation, delivery, forwarding, returning, holding, and disposing (as undeliverable) of mail;

"(4) except as provided in chapter 27 of this title, to prescribe the manner in which postage is to be paid;

"(5) to determine the need for post offices, postal and training facilities and equipment and to provide such offices, facilities, and equipment;

"(6) to issue postage stamps and other stamped paper, cards, and envelopes as may be necessary;

"(7) to provide philatelic services;

"(8) to establish, change, or abolish registry, insurance, collection-on-delivery, and money order systems, or similar systems;

"(9) establish dead letter offices for the examination and treatment of mail;

"(10) except as otherwise provided, to determine and keep its own system of accounts and the forms and contents of its contracts and other business documents;

"(11) to prepare a budget in the manner the board deems appropriate (and, except as otherwise specifically provided in the Postal Corporation Act, the Government Corporation Control Act, or except for funds to be appropriated to the Corporation, any such budget shall not be required to be submitted to the United States Government, or to be included in the budget of the United States Government);

"(12) to sue and be sued in its corporate name, except that nothing herein shall be construed to exempt the Corporation from the application of sections 517, 547, and 2679 of title 28;

"(13) to have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, or decedent's estates;

"(14) to acquire by purchase, lease, condemnation, or in any other lawful manner, any real or personal property, tangible or intangible, or any interest therein; to hold, maintain, use, and operate the same; to provide services in connection therewith, and to charge therefor; and to sell, lease, or otherwise dispose of the same at such time, in such manner, and to the extent deemed necessary or appropriate by the board for the conduct of the business of the Corporation and to carry out the corporate purposes;

"(15) to construct, operate, lease, and maintain buildings, facilities, and other improvements, on the property transferred to it pursuant to section 6 of the Postal Corporation Act, as may be required to carry out the purposes of this title, and to charge for the use of the foregoing;

"(16) to accept gifts or donations of services or personal property, tangible or intangible, in aid of any of the purposes of the Corporation;

"(17) to obtain the services of experts and consultants on such terms as the Corporation deems appropriate;

"(18) to enter into any contract or other arrangement or modification thereof, with any government, any agency or department of the United States, or with any person, firm, association, or corporation, and such contract or other arrangement, or modification thereof, including a contract, arrangement, or modification providing for the transportation or delivery of the mail, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

"(19) to determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title;

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

"(21) to execute, in accordance with its bylaws, rules, and regulations, all instruments necessary or appropriate in the exercise of any of its powers;

"(22) to settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation; and

"(23) to take such action as may be necessary to carry out the responsibilities and powers conferred upon the Corporation.

"§ 1304. Principal office; venue

"(a) The principal office of the Corporation shall be in the District of Columbia.

"(b) For purposes of venue in civil actions, the Corporation shall be deemed to be a resident of the District of Columbia.

"§ 1305. Taxation

"The Corporation, its property, assets, income, and obligations (including principal and interest) are exempt from taxation in any manner or form by the United States, a State, or political subdivision thereof, the District of Columbia, or territory or possession of the United States except for estate, inheritance, or gift taxes assessed against obligations of the Corporation.

"§ 1306. Annual report

"The Corporation shall, as soon as practicable, after the end of each corporate fiscal year, make a report in writing for submission to the Congress on its activities during the preceding corporate fiscal year.

"§ 1307. Printing of illustrations of United States stamps

"(a) When requested by the Corporation, the Public Printer shall print as a public document for sale by the Superintendent of Documents, illustrations in black and white or in color of postage stamps of the United States, together with such descriptive, historical, and philatelic information with regard to the stamps as the Corporation deems suitable.

"(b) Notwithstanding the provisions of section 505 of title 44, stereotype or electrotype plates, or duplicates thereof, used in the publications authorized to be printed by this section may not be sold or otherwise disposed of.

"PART II—GENERAL

"CHAPTER 21—INTERNATIONAL AGREEMENTS

"§ 2101. International postal arrangements

"(a) For the purpose of making better

postal arrangements with other countries, or to counteract their adverse measures affecting our postal intercourse with them, the Corporation, by and with the advice and consent of the President, may negotiate and conclude postal treaties or conventions, and may reduce or increase the rates of postage or other charges on mail matter conveyed between the United States and other countries. The decisions of the Corporation construing or interpreting the provisions of any treaty or convention which has been or may be negotiated and concluded shall, if approved by the President, be final and conclusive upon all officers of the United States.

"(b) The Corporation shall transmit a copy of each postal convention concluded with other governments to the Secretary of State, who shall furnish a copy of the same to the Public Printer for publication. The Corporation shall revise the printed proof sheets of all such conventions.

"§ 2102. International money-order exchanges

"The Corporation may make arrangements with other governments, with which postal conventions are or may be concluded, for the exchange of sums of money by means of postal orders. It shall fix the rates of exchange.

"§ 2103. Transportation of international mail by air carriers of the United States

"(a) The Corporation may offset against any balances due another country resulting from the transaction of international money order business, or otherwise, amounts due from that country to the United States, or to the United States for the account of air carriers of the United States transporting mail of that country, when—

"(1) the Corporation puts into effect rates of compensation to be charged another country for transportation; and

"(2) the United States is required to collect from another country the amounts owed for transportation for the account of the air carriers.

"(b) When the Corporation has proceeded under authority of subsection (a), it shall—

"(1) give appropriate credit to the country involved;

"(2) pay to the air carrier the portion of the amount so credited which is owed to the air carrier for its services in transporting the mail of the other country; and

"(3) deposit with the Corporation that portion of the amount so credited which is due the United States on its own account.

"(c) The Corporation, from time to time may advance to an air carrier, out of funds available for payment of balances due other countries, the amounts determined by him to be due from another country to an air carrier for the transportation of its mails when—

"(1) collections are to be made by the United States for the account of air carriers; and

"(2) the Corporation determines that the balance of funds available is such that the advances may be made therefrom.

Collection from another country of the amount so advanced shall be made by offset, or otherwise, and the appropriation from which the advance is made shall be reimbursed by the collections made by the United States.

"(d) If the United States is unable to collect from the debtor country an amount paid or advanced to an air carrier within twelve months after payment or advance has been made, the United States may deduct the uncollected amount from any sums owed by it to the air carrier.

"(e) The Corporation shall adopt such accounting procedures as may be necessary to conform to and effect the purposes of this section.

"CHAPTER 23—PRIVATE CARRIAGE OF LETTERS

"Sec.
"2301. Letters carried out of the mail.
"2302. Foreign letters out of the mail.
"2303. Searches authorized.
"2304. Seizing and detaining letters.
"2305. Searching vessels for letters.
"2306. Disposition of seized mail.

"§ 2301. Letters carried out of mail

"(a) A letter may be carried out of the mails when—

"(1) it is enclosed in an envelope;

"(2) the amount of postage which would have been charged on the letter if it had been sent by mail is paid by stamps, or postage meter stamps, on the envelope;

"(3) the envelope is properly addressed;

"(4) the envelope is so sealed that the letter cannot be taken from it without defacing the envelope;

"(5) any stamps on the envelope are canceled in ink by the sender; and

"(6) the date of the letter, of its transmission or receipt by the carrier is endorsed on the envelope in ink.

"(b) Notwithstanding the provisions of subsection (a) of this section, an organization may carry a letter out of the mails when—

"(1) the letter originates in the organization and is to be delivered within the organization; and

"(2) upon application and evidence of the organization, and approval of the application by the commissioners, that the Corporation is unable to provide adequate service for delivery of a letter within the organization.

"(c) Mail carriers and contractors for the transportation of mail may convey, out of the mail, newspapers for sale or distribution to subscribers.

"(d) the Corporation may suspend the operation of any part of subsection (a) of this section upon any mail route where the public interest requires the suspension.

"§ 2302. Foreign letters out of the mails

"(a) Except as provided in section 2301 of this title, the master of a vessel departing from the United States for foreign ports may not receive on board or transport any letter which originated in the United States that—

"(1) has not been regularly received from a United States post office; or

"(2) does not relate to the cargo of the vessel.

"(b) The officer of the port empowered to grant clearances, shall require from the master of such a vessel, as a condition of clearance, an oath that he does not have under his care or control, and will not receive or transport, any letter contrary to the provisions of this section.

"(c) Except as provided in section 1699 of title 18, the master of a vessel arriving at a port of the United States carrying letters not regularly in the mails shall deposit them in the post office at the port of arrival.

"§ 2303. Searches authorized

"The Corporation, by letter of authority filed in the Corporation in advance, may authorize any postal inspector or other officer of the Corporation to make searches for mailable matter transported in violation of law. When the authorized officer has reason to believe that mailable matter transported contrary to law may be found therein, he may open and search any—

"(1) vehicle passing, or having lately passed, from a place at which there is a post office of the United States;

"(2) article being, or having lately been, in the vehicle;

"(3) store or office, other than a dwelling house, used or occupied by a common carrier or transportation company, in which an article may be contained.

"§ 2304. Seizing and detaining letters

"A postal inspector, customs officer, or United States marshal or his deputy, may seize at any time, letters and bags, packets or parcels containing letters which are being carried contrary to law on board any vessel or on any post road. The officer who makes the seizure shall convey the articles seized to be the nearest post office; or by direction of the Corporation or the Secretary of the Treasury, he may detain them until two months after the final determination of all suits and proceedings which may be brought within six months after the seizure against any person for sending or carrying the letters.

"§ 2305. Searching vessels for letters

"A postal inspector, when instructed by the Corporation to make examinations and seizures, and any customs officer without special instructions shall search vessels for letters which may be on board, or which may have been conveyed contrary to law.

"§ 2306. Disposition of seized mail

"Every package or parcel seized by a postal inspector, customs officer, or United States marshal or his deputies, in which a letter is unlawfully concealed, shall be forfeited to the United States. The same proceedings may be used to enforce forfeitures as are authorized in respect of goods, wares, and merchandise forfeited for violation of the revenue laws. Laws for the benefit and protection of customs officers making seizures for violating revenue laws apply to officers making seizures for violating the postal laws.

"CHAPTER 25—NONMAILABLE MATTER

"Sec.
"2501. Nonmailable matter.
"2502. Nonmailable motor vehicle master keys.
"2503. Mail bearing a fictitious name or address.
"2504. Delivery of mail to persons not residents of the place of address.
"2505. False representations; lotteries.
"2506. 'Unlawful' matter.
"2507. Detention of mail for temporary periods.
"2508. Communist political propaganda.
"2509. Prohibition of pandering advertisements in the mails.

"§ 2501. Nonmailable matter.

"(a) Matter, the deposit of which in the mails is punishable under sections 1302, 1341, 1342, 1461, 1463, 1714, 1715, 1716, 1717, or 1718 of title 18, is nonmailable.

"(b) Except as provided in subsections (c) and (d) of this section, nonmailable matter which reaches the office of delivery, or which may be seized or detained for violation of law, shall be disposed of as the Corporation shall direct.

"(c) (1) Matter which—

"(A) exceeds the size and weight limits prescribed by the Corporation for the particular class of mail; or

"(B) is of a character perishable within the period required for transportation and delivery;

is nonmailable.

"(2) Matter made nonmailable by this subsection which by inadvertence reaches the office of destination may be delivered in accordance with its address, if the party addressed furnishes the name and address of the sender. If the person addressed refuses to furnish the information, the package shall be disposed of as the Corporation shall direct.

"(d) Matter otherwise legally acceptable in the mails which—

"(1) is in the form of, and reasonably could be interpreted or construed as, a bill, invoice, or statement of account due; but

"(2) constitutes, in fact, a solicitation for the order by the addressee of goods or services, or both;

is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Corporation directs, unless such matter bears on its face, in conspicuous and

legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Corporation shall prescribe—

"(A) the following notice: 'This is a solicitation for the order of goods and/or services and not a bill, invoice, or statement of account due. You are not under obligation to make any payments on account of this offer unless you accept this offer.'; or

"(B) in lieu thereof, a notice to the same effect in words which the Corporation may prescribe.

"§ 2502. Nonmailable motor vehicle master keys

"(a) Except as provided in subsection (b) of this section, any motor vehicle master key, any pattern, impression, or mold from which a motor vehicle master key may be made, and any advertisement for the sale of any such key, pattern, impression, or mold, is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Corporation shall direct.

"(b) The Corporation is authorized to make such exemptions from the provisions of subsection (a) of this section as it deems necessary.

"(c) For the purposes of this section, 'motor vehice master key' means any key (other than the key furnished by the manufacturer with the motor vehicle, or the key furnished with a replacement lock, or an exact duplicate of such keys) designed to operate two or more motor vehicle ignition, door, or trunk locks of different combinations.

"§ 2503. Mail bearing a fictitious name or address

"(a) Upon evidence satisfactory to the Corporation that any person is using a fictitious, false or assumed name, title, or address in conducting, promoting, or carrying on or assisting therein, by means of the postal service of the United States, an activity in violation of sections 1302, 1341, and 1342 of title 18, the Corporation may—

"(1) withhold mail so addressed from delivery; and

"(2) require the party claiming the mail to furnish proof to him of the claimant's identity and right to receive the mail.

"(b) The Corporation may issue an order directing that mail, covered by subsection (a), be forwarded to a dead letter office as fictitious matter, or be returned to the senders when the—

"(1) party claiming the mail fails to furnish proof of his identity and right to receive the mail; or

"(2) the Corporation is satisfied that the mail is addressed to a ficititious, false or assumed name, title or address.

"§ 2504. Delivery of mail to persons not residents of the place of address

"Whenever the Corporation is satisfied that letters or parcels sent in the mail are addressed to places not the residence or regular business address of the person for whom they are intended, to enable the person to escape identification, it may deliver the mail only upon identification of the persons so addressed.

"§ 2505. False representations; lotteries

"(a) Upon evidence satisfactory to the Corporation that any person is engaged in conducting a scheme or device for obtaining money or property through the mail by means of false representations, or is engaged in conducting a lottery, gift enterprise, or scheme for the distribution of money or of real or personal property, by lottery, chance, or drawing of any kind, the Corporation may issue an order which—

"(1) directs any postmaster at an office at which registered or certified letters or other letters or mail arrive, addressed to such a person or to his representative, to return such letters or mail to the sender appropriately marked as in violation of this section, if such person, or his representative, is first notified and given reasonable opportunity to be present at the receiving post office to survey such letters or mail before the postmaster returns such letters or mail to the sender; and

"(2) forbids the payment by a postmaster to such a person or his representative of any money order or postal note drawn to the order of either and provide for the return to the remitters of the sum named in the money order or postal note.

"(b) The public advertisement by a person engaged in activities covered by subsection (a) of this section, that remittances may be made by mail to a person named in the advertisement, is prima facie evidence that the latter is the agent or representative of the advertiser for the receipt of remittances on behalf of the advertiser. The Corporation is not precluded from ascertaining the existence of the agency in any other legal way satisfactory to it.

"(c) As used in this section and section 2506 of this title the term 'representative' includes an agent or representative acting as an individual or as a firm, bank, corporation, or association of any kind.

"§ 2506. Unlawful matter

"Upon evidence satisfactory to the Corporation that a person is obtaining or attempting to obtain remittances of money or property of any kind through the mail for an obscene, lewd, lascivious, indecent, filthy, or vile article, matter, thing, device, or substance, or is depositing or causing to be deposited .n the United States mail information as to where, how, or from whom the same may be obtained, the Corporation may—

"(1) direct any postmaster at an office at which registered letters or other letters or mail arrive, addressed to such a person or to his representative, to return the registered letters or other letters or mail to the sender marked 'Unlawful'; and

"(2) forbid the payment by a postmaster to such a person or his representative of any money order or postal note drawn to the order of either and provide for the return to the remitters of the sums named in the money orders or postal notes.

"§ 2507. Detention of mail for temporary periods

"(a) In preparation for or during the pendency of proceedings under sections 2505 and 2506 of this title, the United States district court in the district in which the defendant receives his mail shall, upon application therefor by the Corporation and upon a showing of probable cause to believe either such section is being violated, enter a temporary restraining order and preliminary injunction pursuant to rule 65 of the Federal Rules of Civil Procedure directing the detention of the defendant's incoming mail by the postmaster pending the conclusion of the statutory proceedings and any appeal therefrom. The district court may provide in the order that the detained mail be open to examination by the defendant and such mail be delivered as is clearly not connected with the alleged unlawful activity. An action taken by a court hereunder does not affect or determine any fact at issue in the statutory proceedings.

"(b) This section does not apply to mail addressed to publishers of newspapers and other periodical publications, or to mail addressed to the agents of those publishers.

"§ 2508. Communist propaganda

"(a) Mail matter, except sealed letters, which originates or which is printed or otherwise prepared in a foreign country and which is determined by the Secretary of the Treasury pursuant to rules and regulations to be promulgated by him to be 'Communist political propaganda', shall be detained by the Corporation upon its arrival for delivery in the United States, or upon its subsequent deposit in the United States domestic mails, and the addressee shall be notified that such matter has been received and will be delivered only upon the addressee's request, except that such detention shall not be required in the case of any matter which is furnished pursuant to subscription or which is otherwise ascertained by the Corporation to be desired by the addressee. If no request for delivery is made by the addressee within a reasonable time, which shall not exceed sixty days, the matter detained shall be disposed of as the Corporation shall direct.

"(b) For the purposes of this section, the term 'Communist political propaganda' means political propaganda, as defined in section 1 (j) of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 (j)), issued by or on behalf of any country with respect to which there is in effect a suspension or withdrawal or tariff concessions pursuant to section 5 of the Trade Agreements Extension Act of 1951 or section 231 of the Trade Expansion Act of 1962, or any country from which any type of foreign assistance is withheld pursuant to section 620(f) of the Foreign Assistance Act of 1961, as amended.

"(c) The provisions of this section shall not be applicable with respect to (1) matter addressed to any United States Government agency, or any public library, or to any college, university, graduate school, or scientific or professional institution for advanced studies, or any official thereof, or (2) material whether or not 'communist political propaganda' addressed for delivery in the United States pursuant to a reciprocal cultural international agreement under which the United States Government mails an equal amount of material for delivery in any country described in subsection (b).

"§ 2509. Prohibition of pandering advertisements in the mails

"(a) Whoever for himself, or by his agents or assigns, mails or causes to be mailed any pandering advertisement which offers for sale matters which the addressee in his sole discretion believes to be erotically arousing or sexually provocative shall be subject to an order of the Corporation to refrain from further mailings of such materials to designated addressees thereof.

"(b) Upon receipt of notice from an addressee that he has received such mail matter, determined by the addressee in his sole discretion to be of the character described in subsection (a) of this section, the Corporation shall issue an order, if requested by the addressee, to the sender thereof, directing the sender and his agents or assigns to refrain from further mailings to the named addressees.

"(c) The order of the Corporation shall expressly prohibit the sender and his agents or assigns from making any further mailings to the designated addressees, effective on the thirtieth calendar day after receipt of the order. The order of the Corporation shall also direct the sender and his agents or assigns to delete immediately the names of the designated addressees from all mailing lists owned or controlled by the sender or his agents or assigns and, further, shall prohibit the sender and his agents or assigns from the sale, rental, exchange, or other transaction involving mailing lists bearing the names of the designated addressees.

"(d) Whenever the Corporation believes that the sender or anyone acting on his behalf has violated or is violating the order given under this section, it shall serve upon the sender, by registered or certified mail, a complaint stating the reasons for its belief and request that any response thereto be filed in writing with the Corporation within fifteen days after the date of such service. If the Corporation, after appropriate hearing if requested by the sender, and without a hearing if such a hearing is not requested, thereafter determines that the order given has been or is being violated, it is authorized to request the Attorney General to make

application, and the Attorney General is authorized to make application, to a district court of the United States for an order directing compliance with such notice.

"(e) Any district court of the United States within the jurisdiction of which any mail matter shall have been sent or received in violation of the order provided for by this section shall have jurisdiction, upon application by the Attorney General, to issue an order commanding compliance with such notice. Failure to observe such order may be punished by the court as contempt thereof.

"(f) Receipt of mail matter thirty days or more after the effective date of the order provided for by this section shall create a rebuttable presumption that such mail was sent after such effective date.

"(g) Upon request of any addressee, the order of the Corporation shall include the names of any of his minor children who have not attained their nineteenth birthday, and who reside with the addressee.

"(h) The provisions of subchapter II of chapter 5 (relating to administrative procedure) and chapter 7 (relating to judicial review) of part I of title 5, shall not apply to any provisions of this section.

"(i) For the purposes of this section—

"(1) mail matter, directed to a specific address covered in the order of the Corporation, without designation of a specific addressee thereon, shall be considered as addressed to the person named in the Corporation's order; and

"(2) the term 'children' includes natural children, stepchildren, adopted children, and children who are wards of or in custody of the addressee or who are living with such addressee in a regular parent-child relationship.

"CHAPTER 27—PENALTY AND FRANKED MAIL

"§ 2701. Definitions

"As used in this chapter—

"'penalty mail' means official mail, other than franked mail, which is authorized by law to be transmitted in the mail without prepayment of postage;

"'penalty cover' means envelopes, wrappers, labels, or cards used to transmit penalty mail;

"'frank' means the autographic or facsimile signature of persons authorized by sections 2710–2716 and 2718 of this title to transmit matter through the mail without prepayment of postage or other indicia contemplated by sections 733 and 907 of title 44;

"'franked mail' means mail which is transmitted in the mail under a frank; and

"'Members of Congress' includes Senators, Representatives, Delegates, and Resident Commissioners.

"§ 2702. Penalty mail

"(a) Subject to the limitations imposed by sections 2704 and 2707 of this title, there may be transmitted as penalty mail—

"(1) official mail of—

"(A) officers of the United States Government other than Members of Congress;

"(B) the Smithsonian Institution;

"(C) the Pan American Union;

"(D) the Pan American Sanitary Bureau;

"(E) the United States Employment Service and the system of employment offices operated by it in conformity with the provisions of sections 49–49c, 49d, 49e–49k of title 29, and all State employment systems which receive funds appropriated under authority of those sections; and

"(F) any college officer or other person connected with the extension department of the college as the Secretary of Agriculture may designate to the Corporation to the extent that the official mail consists of correspondence, bulletins, and reports for the furtherance of the purposes of sections 341–343, 344–348 of title 7;

"(2) mail relating to naturalization to be sent to the Immigration and Naturalization Service by clerks of courts addressed to the Department of Justice or the Immigration and Naturalization Service, or any official thereof;

"(3) mail relating to a collection of statistics, survey or census authorized by title 13 and addressed to the Department of Commerce or a bureau or agency thereof;

"(4) mail of State agriculture experiment stations pursuant to sections 325 and 361f of title 7; and

"(5) articles for copyright deposited with postmasters and addressed to the Register of Copyrights pursuant to section 15 of title 17.

"(b) A department or officer authorized to use penalty covers may enclose them with return address to any person from or through whom official information is desired. The penalty cover may be used only to transmit the official information and endorsements relating thereto.

"(c) This section does not apply to officers who receive a fixed allowance as compensation for their services, including expenses of postage.

"§ 2703. Endorsements on penalty covers

"(a) Except as otherwise provided in this section, penalty covers shall bear, over the words 'Official Business' an endorsement showing the name of the department, bureau or office from which, or officer from whom, it is transmitted. The penalty for the unlawful use of all penalty covers shall be printed thereon.

"(b) The Corporation shall prescribe the endorsement to be placed on covers mailed under paragraph (1)(E), (2), and (3) of section 2702(a) of this title.

"§ 2704. Restrictions on use of penalty mail

"(a) Except as otherwise provided in this section, an officer, executive department or independent establishment of the Government of the United States may not mail, as penalty mail, any article or document unless—

"(1) a request therefor has been previously received by the department or establishment; or

"(2) its mailing is required by law.

"(b) Subsection (a) does not prohibit the mailing, as penalty mail, by an officer, executive department or independent agency of—

"(1) enclosures reasonably related to the subject matter of official correspondence;

"(2) informational releases relating to the census of the United States and authorized by title 13;

"(3) matter concerning the sale of Government securities;

"(4) forms, blanks, and copies of statutes, rules, regulations, instructions, administrative orders, and interpretations necessary in the administration of the department or establishment;

"(5) agricultural bulletins;

"(6) lists of public documents offered for sale by the Superintendent of Documents;

"(7) announcements of the publication of maps, atlases, and statistical and other reports offered for sale by the Federal Power Commission as authorized by section 825k of title 16; or

"(8) articles or documents to educational institutions or public libraries, or to Federal, State, or other public authorities.

"§ 2705. Accounting for penalty covers

"Executive departments and agencies, independent establishments of the Government, and organizations and persons authorized by law to use penalty mail, shall account for all penalty covers through the Corporation as it prescribes.

"§ 2706. Reimbursement for penalty mail service

"(a) Except as provided in subsections (b) and (c) of this section, executive departments and agencies, independent establishments of the Government, and Government corporations concerned shall transfer to the Corporation as postal revenue out of any appropriations or funds available to them, as a necessary expense of the appropriations or funds and of the activities concerned, the equivalent amount of postage due, as determined by the Corporation, for matter sent in the mails by or to them as penalty mail under authority of section 2702 of this title.

"(b) The Department of Agriculture shall transfer to the Corporation as postal revenues out of any appropriation made to it for that purpose the equivalent amount of postage, as determined by the Corporation, for penalty mailings under paragraphs (1)(F) and (4) of subsection (a) of section 2702 of this title.

"(c) The Library of Congress shall transfer to the Corporation as postal revenues out of any appropriations made to it for that purpose the equivalent amount of postage, as determined by the Corporation, for penalty mailings under paragraph (5) of subsection (a) of section 2702 of this title.

"§ 2707. Limit of weight of penalty mail; postage on over-weight matter

"(a) Penalty mail is restricted to articles not in excess of the weight and size prescribed for that class of mail receiving high priority in handling and delivery, except—

"(1) stamped paper and supplies sold or used by the postal service; and

"(2) books and documents published or circulated by order of Congress when mailed by the Superintendent of Documents.

"(b) A penalty mail article which is—

"(1) over four pounds in weight;

"(2) not in excess of the weight and size prescribed for fourth class matter; and

"(3) otherwise mailable;

is mailable at rates for that class of mail entitled to the lowest priority in handling and delivery, even though it may include written matter and may be sealed. The postage on such an article is payable in the manner prescribed by the Corporation.

"§ 2708. Shipment by most economical means

"Shipments of official matter other than franked mail shall be sent by the most economical means of transportation practicable. The Corporation may refuse to accept official matter for shipment by mail when in its judgment it may be shipped by other means at less expence, or it may provide for its transportation by freight or express, whenever a saving to the Government will result therefrom without detriment to the public service.

"§ 2709. Executive departments to supply information

"Persons and governmental organizations authorized to use penalty mail shall supply all information requested by the Corporation necessary to carry out the provisions of this chapter as soon as practicable after request therefor.

"§ 2710. Official correspondence of Vice President and Members of Congress

"The Vice President, Members and Members-elect of Congress, the Secretary of the Senate, and the Sergeant at Arms of the Senate until the thirtieth day of June following the expiration of their respective terms of office, may send as franked mail—

"(1) matter, not exceeding four pounds in weight, upon official or departmental business, to a Government official; and

"(2) correspondence, not exceeding four ounces in weight, upon official business to any person.

In the event of a vacancy in the office of Secretary of the Senate or Sergeant at Arms of the Senate, any authorized person may exercise this privilege in the officer's name during the period of the vacancy.

"§ 2711. Public documents

"The Vice President, Members of Congress, the Secretary of the Senate, Sergeant at Arms of the Senate, and the Clerk of the House of Representatives, until the thirtieth day of June following the expiration of their respective terms of office, may send and receive as franked mail all public documents printed by order of Congress.

"§ 2712. Congressional Record under frank of Members of Congress

"Members of Congress may send as franked mail the Congressional Record, or any part thereof, or speeches or reports therein contained.

"§ 2713. Seeds and reports from Department of Agriculture

"Seeds and agricultural reports emanating from the Department of Agriculture may be mailed—

"(1) as penalty mail by the Secretary of Agriculture; and

"(2) until the 30th day of June following the expiration of their terms of office as franked mail by Members of Congress.

"§ 2714. Mailing privilege of former Presidents

"A former President may send all his mail within the United States and its territories and possessions as franked mail.

"§ 2715. Lending or permitting use of frank unlawful

"A person entitled to use a frank may not lend it or permit its use by any committee, organization, or association, or permit its use by any person for the benefit or use of any committee, organization, or association. This section does not apply to any committee composed of Members of Congress.

"§ 2716. Reimbursement for franked mailings

"(a) The postage on mail matter sent and received through the mails under the franking privilege by the Vice President, Members, and Members-elect of Congress, the Secretary of the Senate, Sergeant at Arms of the Senate, and the Clerk of the House of Representatives, including registry fees if registration is required, and postage on correspondence sent by the surviving spouse of a Member under section 2718 of this title, shall be paid by a lump-sum appropriation to the legislative branch for that purpose, and then paid to the Corporation as postal revenue.

"(b) The postage on mail matter sent through the mails under the franking privilege by former Presidents shall be paid by reimbursement of the postal revenues each fiscal year out of the general funds of the Treasury in an amount equivalent to the postage which would otherwise be payable on the mail matter.

"§ 2717. Correspondence of members of diplomatic corps and consuls of countries of Postal Union of Americas and Spain

"Correspondence of the members of the diplomatic corps of the countries of the Postal Union of the Americas and Spain stationed in the United States may be reciprocally transmitted in the domestic mails free of postage, and be entitled to free registration without right to indemnity in case of loss. The same privilege is accorded consuls and vice consuls when they are discharging the function of consuls of countries stationed in the United States, for official correspondence among themselves, and with the Government of the United States.

"§ 2718. Franked mail for surviving spouses of Members of Congress

"Upon the death of a Member of Congress during his term of office, the surviving spouse of such Member may send, for a period not to exceed one hundred and eighty days after his death, as franked mail, correspondence relating to the death of the Member.

"CHAPTER 29—OPENING MAIL

"§ 2901. Opening mail

"Only an employee opening dead mail by authority of the Corporation, or a person holding a search warrant authorized by law, may open any letter or parcel, entitled to high priority in handling and delivery, which is in the custody of the Corporation.

"§ 2901. Dead letter treatment of high priority mail

"(a) The Corporation shall send mail entitled to high priority in handling and delivery, which cannot be delivered either to the addressee or sender, to a dead letter office. The Corporation shall cause enclosures of value, other than correspondence, to be recorded. When the sender or addressee cannot be identified, it shall hold the letters or parcels for reclamation for a period of one year after which they shall be disposed of as it directs. Letters and parcels without valuable enclosures may be disposed of by it without record and not held for reclamation.

"(b) The Corporation shall return to the senders ordinary dead letters containing $10 or more in cash, and parcels entitled to high priority in handling and delivery which apparently contain matter valued at $10 or more. Any fees incurred shall be collected at the time of delivery.

"PART III—EXISTING CLASSES OF MAIL AND RATES

"CHAPTER 51—CONTINUING EFFECT OF EXISTING CLASSES AND RATES

"§ 5101. Continuing effect.

"The provisions of this part shall remain in effect until changed in accordance with the provisions of part I of this title.

"CHAPTER 53—CLASSES AND RATES

"Subchapter I—first class mail

"Subchapter II—air mail and air parcel post

"Subchapter III—second-class mail and controlled circulation publications

"Second-Class Mail

"Controlled Circulation Publications

"Subchapter IV—Third-class mail

"Subchapter V—Fourth-class mail

"Supchapter VI—Miscellaneous mail matter

"Subchapter I—First-class mail

"§ 5301. Definition

"(a) First-class mail consists of mailable (1) postal cards, (2) post cards, (3) matter wholly or partially in writing or typewriting, except as provided in sections 5333, 5353, and 5375 of this title, (4) bills and statements of account, and (5) matter closed against postal inspection.

"(b) A postal card is a card supplied by the Corporation with a postage stamp printed or impressed on it for the transmission of messages, orders, notices and other communications, either printed or written in pencil or ink.

"(c) Post cards are privately printed mailing cards for the transmission of messages. They may not be larger than the size fixed

by the Convention of the Universal Postal Union in effect and shall be of approximately the same form, quality and weight as postal cards.

"§ 5302. Size and weight limits

"The maximum size of first-class mail is one hundred inches in length and girth combined and the maximum weight is seventy pounds.

"§ 5303. Postage rates on first-class mail

"(a) Postage on first-class mail is computed separately on each letter or piece of mail. Except as otherwise provided in this section, the rate of postage on first-class mail weighing thirteen ounces or less is 6 cents for each ounce or fraction of an ounce.

"(b) First-class mail weighing more than thirteen ounces shall be mailed at the rates of postage established by section 5313(d) of this title and shall be entitled to the most expeditious handling and transportation practicable.

"(c) The rate of postage for each single postal card and for each portion of a double postal card, including the cost of manufacture, and for each post card and the initial portion of each double post card conforming to section 5301(c) of this title is 5 cents.

"(d) The rate of postage on business reply mail is the regular rate prescribed in this section, together with an additional charge thereon of 2 cents for each piece weighing two ounces or less and 5 cents for each piece weighing more than two ounces. The postage and charge shall be collected on delivery.

"§ 5034. Business reply mail

"The Corporation may accept for transmission in the mails, without prepayment of postage, business reply cards, letters, and business reply envelopes, and any other matter under business reply labels.

"Subchapter II—Air mail and air parcel post

"§ 5311. Definition

"As used in this subchapter—

"(1) 'domestic air mail' means matter bearing postage at the rates of postage prescribed in sections 5313 and 5314 of this title which is mailed within facilities of the Corporation for transporation by air and delivery by the Corporation; and

"(2) 'air parcel post' means domestic air mail or any class weighing in excess of seven ounces.

"§ 5312. Treatment of air mail

"(a) Except with respect to the postage required, domestic air mail, other than air parcel post, shall be treated as first class mail.

"(b) The Corporation shall prescribe the conditions under which air parcel post shall be—

"(1) forwarded or returned to the sender;

"(2) charged with forwarding or return postage; and

"(3) registered, insured, or given C.O.D. service.

"§ 5313. Postage rates on air mail

"(a) Except as provided in section 5314 of this title and subsection (b) of this section, the rate of postage on domestic airmail weighing not more than 7 ounces is 10 cents for each ounce or fraction thereof.

"(b) The rate of postage on each postal card and post card sent as domestic airmail is 8 cents.

"(c) The rate of postage on letters in business reply cards sent as domestic air mail is the regular rate prescribed in subsection (a) or (b) together with an additional charge thereon of 2 cents for each piece weighing 2 ounces or less and 5 cents for each piece weighing more than 2 ounces. The postage and charge shall be collected on delivery.

"(d)(1) The rates of postage on air parcel post are based on the eight zones described in section 5373, or prescribed pursuant to section 5378 of this title, in accordance with the following tables:

	"Zones					
	Local 1, 2, and 3	4	5	6	7	8
Not over 1 lb.	$0.80	$0.80	$0.80	$0.80	$0.80	$0.80
Over 1 lb. but not over 1½ lbs.	.98	1.02	1.07	1.14	1.18	1.24
Over 1½ lbs. but not over 2 lbs.	1.16	1.23	1.34	1.47	1.55	1.68
Over 2 lbs. but not over 2½ lbs.	1.40	1.48	1.62	1.79	1.91	2.08
Over 2½ lbs. but not over 3 lbs.	1.64	1.73	1.90	2.11	2.27	2.48
Over 3 lbs. but not over 3½ lbs.	1.88	1.98	2.18	2.43	2.63	2.88
Over 3½ lbs. but not over 4 lbs.	2.12	2.23	2.46	2.75	2.99	3.28
Over 4 lbs. but not over 4½ lbs.	2.36	2.48	2.74	3.07	3.35	3.68
Over 4½ lbs. but not over 5 lbs.	2.60	2.73	3.02	3.39	3.71	4.08

For each pound or fraction of a pound in excess of five pounds in weight, the additional postage is as follows:

"Zones	Rates
Local and zones 1, 2, and 3	$0.48
Zone 4	.50
Zone 5	.56
Zone 6	.64
Zone 7	.72
Zone 8	.80

"(2) In addition to parcels to which it is otherwise applicable, the eighth zone includes, for purposes of this section only, except as provided by paragraph (3) of this subsection, parcels transported between the United States, its territories and possessions or the Commonwealth of Puerto Rico, and the Canal Zone.

"(3) The rates of postage on air parcel post transported between the United States, its territories and possessions or the Commonwealth of Puerto Rico, and the Canal Zone, and Army, Air Force, and fleet post offices, shall be the applicable zone rates shown in paragraph (1) of this subsection for mail between the place of mailing or delivery within the United States, its territories or possessions or the Commonwealth of Puerto Rico, and the Canal Zone, and the city of the postmaster serving the Army, Air Force, or fleet post office concerned, except that the rate of postage applicable to air parcel post transported directly between (1) Hawaii, Alaska, or the territories and possessions of the United States in the Pacific area, and (2) an Army, Air Force, or fleet post office service by the postmaster at San Francisco, California, or Seattle, Washington, shall be the rate which would be applicable if the parcel were in fact mailed from or delivered to that city, as the case may be.

"(4) There shall be transported by air, between Armed Forces post offices located outside the forty-eight contiguous States of the United States, or between any such Armed Forces post office and the point of embarkation or debarkation within the fifty States of the United States, the territories and possessions of the United States in the Pacific area, the Commonwealth of Puerto Rico, the Virgin Islands or the Canal Zone, on a space available basis, on scheduled United States air carriers at rates fixed and determined by the Civil Aeronautics Board in accordance with section 406 of the Federal Aviation Act of 1958 (49 U.S.C. 1376), the following categories of mail matter:

"(A)(i) first-class letter mail (including postal cards and post cards),

"(ii) sound-recorded communications having the character of personal correspondence, and

"(iii) parcels of any class of mail not exceeding five pounds in weight and sixty inches in length and girth combined, which are mailed at or addressed to any such Armed Forces post office;

"(B) second-class publications published once each week or more frequently and featuring principally current news of interest to members of the Armed Forces and the general public which are mailed at or addressed to any such Armed Forces post office (i) in an overseas area designated by the President under section 5395 of this title or (ii) in an isolated, hardship or combat support area overseas, or where adequate surface transportation is not available; and

"(C) parcels of any class of mail exceeding five pounds but not exceeding seventy pounds in weight and not exceeding one hundred inches in length and girth combined, including surface-type official mail, which are mailed at or addressed to any such Armed Forces post office where adequate surface transportation is not available.

Whenever adequate service by scheduled United States air carriers is not available to provide transportation of mail matter by air in accordance with the foregoing provisions of this paragraph, the transportation of such mail matter may be authorized by aircraft other than scheduled United States air carriers. This paragraph shall not affect the operation of section 5395(a) of this title.

"(5) Paragraphs (3) and (4) of this subsection shall be administered under such conditions and regulations as the Corporation and the Secretary of Defense severally may prescribe to carry out their respective functions under such paragraphs.

"(e) Air parcel post of light weight in relation to size is subject to such surcharge as the Corporation determines to be warranted by reason of the extra space and care required in handling and transporting it.

"(f) The Department of Defense shall reimburse the Corporation, out of any appropriations or funds available to the Department of Defense, as a necessary expense of the appropriations or funds and of the activities concerned, sums equal to the expenses incurred by the Corporation, as determined by it, in providing air transportation of mail between Armed Forces post offices which are not located within the fifty States of the United States, the territories and possessions of the United States in the Pacific area, the Commonwealth of Puerto Rico, or the Virgin Islands, or between any such Armed Forces post office and the point of embarkation or debarkation within the fifty States, the territories and possessions of the United States in the Pacific area, the Commonwealth of Puerto Rico, or the Virgin Islands.

"§ 5314. Postage on Alaskan air mail

"Notwithstanding the provisions of section 5313 of this title, the Corporation may fix the postage at rates not exceeding 30 cents per ounce or 15 cents per one-half ounce for airmail sent to, from, or within Alaska.

"§ 5315. Size and weight limits

"The maximum size and weight of domestic airmail and air parcel post is 100 inches in length and girth combined and 70 pounds.

"Subchapter III—Second class mail and controlled circulation publications

"Second-Class Mail

"§ 5321. Definition

"Second-class mail embraces newspapers and other periodical publications when entered and mailed in accordance with sections 5322–5327 of this title.

"§ 5322. Entry as second-class mail

"(a) Upon application in the form prescribed by it, the Corporation shall enter as

second class mail, at the post Office where the office of publication is maintained, any publication which is entitled under sections 5323–5327 of this title to be classified as second-class mail. A publication entered at one post office may also upon application be entered by the Corporation at another post office.

"(b) The Corporation may revoke the entry of a publication as second class mail whenever it finds, after a hearing, that the publication is no longer entitled to be entered as second class mail.

"(c) The Corporation may not accept for mailing as second class mail any publication having more than 75 percent advertising in more than one-half of its issues during any twelve-month period and it shall revoke its entry. A charge made solely for the publication of transportation schedules, fares, and related information is not considered as advertising under this subsection.

"§ 5323. Entry of foreign publications

"Foreign newspapers and other periodicals of the same general character as domestic publications entered as second class mail may be accepted by the Corporation, on application of the publishers thereof or their agents, for transmission through the mail at the same rates as if published in the United States. This section does not authorize the transmission through the mail of a publication which violates a copyright granted by the United States.

"§ 5324. Conditions for entry of publications

"(a) Generally a mailable periodical publication is entitled to be entered and mailed as second class mail if it—

"(1) is regularly issued at stated intervals as frequently as four times a year and bears a date of issue and is numbered consecutively;

"(2) is issued from a known office of publication;

"(3) is formed of printed sheets;

"(4) is originated and published for the dissemination of information of a public character, or devoted to literature, the sciences, arts, or a special industry; and

"(5) has a legitimate list of subscribers.

"(b) For the purpose of this section, the word 'printed' does not include reproduction by the stencil, mimeograph or hectograph processes or reproduction in imitation of typewriting.

"(c) A periodical publication designed primarily for advertising purposes or for free circulation or for circulation at nominal rates is not entitled to be admitted as second class mail under this section.

"§ 5325. Conditions for entry of publications of certain organizations

"(a) Mailable periodical publications meeting the first three conditions of section 5324(a) of this title are entitled to be entered and mailed as second class mail when they do not contain advertising other than that of the publisher and if they are—

"(1) published by a regularly incorporated institution of learning;

"(2) published by a regularly established State institution of learning supported in whole or in part by public taxation;

"(3) a bulletin issued by a State board of health, or a State industrial development agency;

"(4) a bulletin issued by a State conservation or fish and game agency or department;

"(5) a bulletin issued by a State board or department of public charities and corrections;

"(6) published by or under the auspices of a benevolent or fraternal society or order organized under the lodge system and having a bona fide membership of not less than 1,000 persons;

"(7) published by or under the auspices of a trades union;

"(8) published by a strictly professional, literary, historical, or scientific society;

"(9) published by a church or church organization;

"(10) published by any public or nonprofit private elementary or secondary institution of learning or its administrative or governing body; or

"(11) program announcements of guides published by an educational radio or television agency of a State or political subdivision thereof or by a nonprofit educational radio or television station.

"(b) A publication containing advertising of persons other than the publisher but otherwise qualifying under items (6) through (9) of subsection (a) of this section is entitled to be entered and mailed as second class mail if—

"(1) the publication is not designed or published primarily for advertising purposes;

"(2) the publication is originated and published to further the objects and purposes of the publisher;

"(3) the circulation is limited to copies sent to members who pay either as a part of their dues or assessments, or otherwise, not less than 50 percent of the regular subscription price; to other actual subscribers; to exchanges; and 10 percent of the circulation as sample copies.

Individual subscriptions or receipts are not required when members pay for publications, to which this subsection applies, as a part of their dues or assessments.

"§ 5326. Conditions for entry of publications of State departments of agriculture

"A mailable periodical publication issued by a State department of agriculture may be entered and mailed as second class mail if it—

"(1) is issued from a known place of publication;

"(2) is issued at stated intervals as frequently as four times a year;

"(3) is published only for the purpose of furthering the objects of the departments; and

"(4) does not contain advertising matter.

"§ 5327. Fees for entry and registration

"(a) The fees for entry as second class mail are as follows:

"(1) for a publication having a circulation of not more than 2,000 copies, $30.

"(2) for a publication having a circulation of more than 2,000 copies but not more than 5,000 copies, $60;

"(3) for a publication having a circulation of more than 5,000 copies, $120.

"(b) The fee for re-entry of a publication as second class mail on account of change in title, frequency of issue, office of publication or for other reasons is $15. The fee for each additional entry is $15, except that if the additional entry is made within zones 3 to 8, inclusive (determined from the office of publication and entry), of the zones established for purposes of fourth-class mail, such fee shall be $50.

"(c) The fee for registry of a news agent is $25.

"(d) The applicant shall pay the fees fixed by this section at the time of application.

"§ 5328. Rates of postage; preferred

"(a) Except as provided in subsection (b), the rate of postage on publications admitted as second-class mail when addressed for delivery within the county in which they are published and entered is as follows:

"[In cents]

	"Mailed during calendar year 1969	Mailed after Dec. 31, 1969
Rate per pound	1.4	1.5
Minimum charge per piece	.2	.2

"(b) The rate of postage on the following publications admitted as second-class mail when mailed for delivery, within the county in which they are published and entered, by letter carrier at the office of mailing, shall be—

"(1) publications issued more frequently than weekly, one cent a copy;

"(2) publications issued less frequently than weekly—

"(A) weighing two ounces or less, one cent a copy;

"(B) weighing more than two ounces, two cents a copy.

"(c) When copies of a publication are mailed at a post office where it is entered for delivery by letter carrier at a different post office within the delivery limits of which the headquarters or general business office of the publisher is located the rate of postage is—

"(1) the rate that would be applicable if the copies were mailed at the latter post office, or

"(2) the pound rates from the office of mailing if those rates are higher.

"(d)(1) Except as provided in paragraph (2), the rates of postage on publications mailed in accordance with section 5329(a) of this title, of qualified nonprofit organizations, are as follows:

"[In cents]

	"During calendar year 1969	During calendar year 1970	During calendar year 1971	During calendar year 1972	During calendar year 1973 and thereafter
Rate per pound:					
Advertising portion:					
Zones 1 and 2	2.9	3.45	4.0	4.55	5.1
Zone 3	3.3	4.05	4.8	5.55	6.3
Zone 4	4.1	5.25	6.4	7.55	8.7
Zone 5	4.9	6.45	8.0	9.55	11.1
Zone 6	5.2	6.9	8.6	10.3	12.0
Zone 7	5.2	6.9	8.6	10.3	12.0
Zone 8	5.2	6.9	8.6	10.3	12.0
Nonadvertising portion	2.0	2.1	2.1	2.1	2.1
Minimum charge per piece	.15	.2	.2	.2	.2

"(2) The postage on an issue of a publication referred to in paragraph (1), the advertising portion of which does not exceed 10 percent of such issue, shall be computed without regard to the rates applicable to the advertising portion prescribed in such paragraph.

"(e) The postage on classroom publications, mailed in accordance with section 5329(a) of this title, is 60 percent of the postage computed in accordance with section 5329(b) of this title.

"(f) The postage shall be 4.2 cents per pound on the advertising portion of publications (1) which are mailed for delivery in zones 1 and 2 in accordance with section 5329(a) of this title, (2) which are devoted to promoting the science of agriculture, and (3)

when the total number of copies of the publications furnished during any twelve-month period to subscribers residing in rural areas consists of at least 70 percent of the total number of copies distributed by any means for any purpose.

"(g) In lieu of the minimum charge per piece prescribed by section 5329 (b) of this title, the minimum charge per piece for publications (other than publications to which subsections (d) and (e) of this section are applicable), when fewer than five thousand copies are mailed outside the county of publication, is 0.7 cent per piece when mailed during the calendar year 1969, and 0.8 cent per piece when mailed thereafter.

"(h) The publisher of a classroom publication, of a publication referred to in subsection (f) of this section, or of a publication of a nonprofit organization, before being entitled to the rates for the publications, shall furnish such proof of qualifications as the Corporation prescribes.

"(i) For the purposes of the application of this section with respect to each publication having original entry at an independent incorporated city, an incorporated city which is situated entirely within a county, or which is situated contiguous to one or more counties in the same State, but which is politically independent of such county or counties, shall be considered to be within and a part of the county with which it is principally contiguous.

"(j) As used in this section—

"(1) 'classroom publication' means a religious, educational, or scientific publication entered as second-class mail and designed specifically for use in classrooms or in religious instruction classes;

"(2) 'a publication of a qualified nonprofit organization' means a publication published by and in the interest of one of the following types of organizations or associations if it is not organized for profit and none of its net income inures to the benefit of any private stockholder or individual: religious, educational, scientific, philanthropic, agricultural, labor, veterans', fraternal, and associations of rural electric cooperatives, program announcements or guides published by an educational radio or television agency of a State or political subdivision thereof or by a nonprofit educational radio or television station, and not to exceed one publication published by the official highway or development agency of a State which meets all of the requirements of section 5324 and which contains no advertising;

"(3) 'zones' means the eight zones described in section 5373, or prescribed pursuant to section 5373, of this title;

"(k) The rates of postage prescribed by subsections (a) and (b) of this section shall apply only to mailings within the county in which the publications have original entry.

"§ 5329. Rates of postage; regular

"(a) Except as provided in sections 5328 and 5330 of this title, the rates of postage set out in this section are applicable to copies of publications entered as second class mail when (1) mailed by the publisher thereof from the post office of publication and entry or other post office where entry is authorized and (2) when mailed by news agents, registered as such under regulations prescribed by the Corporation, to actual subscribers thereto or to other news agents for the purpose of sale and (3) sample copies to the extent of 10 percent of the weight of copies mailed to subscribers during the calendar year.

"(b) Except as otherwise provided in this section and section 5328 of this title, the rates of postage on publications mailed in accordance with subsection (a) are as follows:

"[In cents]

	"Mailed during calendar year 1969	Mailed after Dec. 31, 1969
Rate per pound:		
Advertising portion:		
Zones 1 and 2	4.9	5.2
Zone 3	6.0	6.4
Zone 4	8.3	8.8
Zone 5	10.5	11.1
Zone 6	12.8	13.6
Zone 7	13.7	14.5
Zone 8	16.0	17.0
Nonadvertising portion	3.2	3.4
Minimum charge per piece	1.2	1.3

"(c) For the purpose of this section and section 5328 of this title, the portion of a publication devoted to advertisements shall include all advertisements inserted in the publication and attached permanently thereto.

"(d)(1) Publications mailed in accordance with subsection (a), upon request by the publisher or news agent, may be transported by air on a space-available basis, on scheduled United States air carriers at rates fixed and determined by the Civil Aeronautics Board in accordance with section 406 of the Federal Aviation Act of 1958 (49 U.S.C. 1376). The Corporation may authorize the transportation of publications by air pursuant to this subsection only when such transportation does not impede the transportation of airmail, air parcel post, or air transportation of first-class mail on a space-available basis.

"(2) The Corporation shall prescribe from time to time charges to be collected for matter transported by air pursuant to this section. The charges—

"(A) shall be in addition to the payment of lawfully required postage;

"(B) may not be adjusted more frequently than once every two years; and

"(C) when prescribed or adjusted, shall equal, as nearly as practicable, the amount by which the allocated cost incurred by the Corporation for the delivery of such matter by air is in excess of the allocated cost which would have been incurred by the Corporation had such matter been delivered by surface transportation, but the total of such charges and the lawfully required postage shall not be less than 4 cents per piece.

"(e) As used in this section the term 'zones' means the eight zones described in section 5373, or prescribed pursuant to section 5378, of this title.

"§ 5330. Transient postage rate

"The rate of postage on copies of publications having second class entry mailed—

"(1) by persons other than the publishers or registered news agents;

"(2) as sample copies by the publishers in excess of the 10 percent permitted to be mailed at the pound rates; and

"(3) copies mailed by the publishers to persons who may not be included in the required legitimate list of subscribers;

is five cents for the first two ounces and one cent for each additional ounce or fraction thereof. When postage at the rates prescribed for fourth class mail is lower, the latter applies. The rates are computed on each individually addressed copy or package of unaddressed copies.

"§ 5331. Separation by mailer of second-class mail

"The Corporation may require publishers and news agents to separate, make up, and address second-class matter in such manner as it directs in accordance with a 5-digit ZIP code system.

"§ 5332. Information to be furnished by mailer

"With the first mailing of each issue of a publication mailed as second class mail, the publisher shall file a copy of the issue together with a statement containing such information as the Corporation prescribes for determining the postage to be paid.

"§ 5333. Permissible marks and enclosures

"(a) Second class mail may contain no writing, print, or sign thereon or therein, in addition to the original print except—

"(1) the name and address of the person to whom the mail is sent and directions for transmission, delivery, forwarding or return;

"(2) index figures of subscription book either printed or written;

"(3) the printed title of the publication and the place of its publication;

"(4) the printed or written name and address without addition of advertisement of the publisher or sender, or both;

"(5) written or printed words or figures, or both, indicating the date on which the subscription to the matter will end;

"(6) the correction of typographical errors;

"(7) a mark except written or printed words to designate a word or passage to which it is desired to call attention;

"(8) the words 'sample copy' when the matter is sent as such; and

"(9) the words 'marked copy' when the matter contains a marked item or article.

"(b) Publishers and news agents may enclose in their publications receipts and orders for subscriptions.

"(c) This section does not prohibit the insertion in periodicals of advertisements permanently attached thereto.

"(d) In addition to other matter authorized by this section to be contained, enclosed, or inserted in second-class mail, there may be included, in accordance with uniform regulations which the Corporation shall prescribe, on the envelopes, wrappers, and other covers in which copies of publications are mailed, messages and notices of a civic or public-service nature, if no charge is made for the inclusion of such messages and notices on such envelopes, wrappers and covers.

"§ 5334. Permissible supplements

"Publishers may fold a supplement within the regular issue of a publication entered as second-class mail if the supplement is—

"(1) germane to the publication;

"(2) needed to supply matter omitted from the regular issue for want of space, time or greater convenience; and

"(3) issued with the regular issue.

"§ 5335. Marking of advertising matter

"Editorial or other reading matter contained in publications entered as second class mail and for the publication of which a valuable consideration is paid, accepted or promised, shall be marked plainly 'advertisement' by the publisher.

"§ 5336. Affidavits relating to mailings; second class mail

"The Corporation may require when it deems necessary—

"(1) a publisher of a second class publication;

"(2) a news agent who distributed the publication; or

"(3) an employee of the publisher or news agent to make an affidavit in the form prescribed by the Corporation stating that he will not send or knowingly permit to be sent through the mails a copy of the publication without prepayment of postage thereon at the rate prescribed by law.

"§ 5337. Filing of information relating to publications of the second class

"(a) Each owner of a publication having second-class mail privileges under section

5324 of this title shall furnish to the Corporation at least once a year, and such publish in such publication once a year, information in such form and detail and at such time as the Corporation may require respecting—

"(1) the identity of the editor, managing editor, publishers, and owners;

"(2) the identity of the corporation and stockholders thereof, if the publication is owned by a corporation;

"(3) the identity of known bondholders, mortgagees, and other security holders;

"(4) the extent and nature of the circulation of the publication, including, but not limited to, the number of copies distributed, the methods of distribution, and the extent to which such circulation is paid in whole or in part; and

"(5) such other information as he may deem necessary to determine whether the publication meets the standards for second-class mail privileges.

The Corporation shall not require the names of persons owning less than 1 percent of the total amount of stocks, bonds, mortgages, or other securities.

"(b) Each publication having second-class mail privileges under section 5325 (b) of this title shall furnish to the Corporation information in such form and detail, and at such times, as it requires to determine whether the publication continues to qualify thereunder. In addition, the Corporation may require each publication which has second-class mail privileges under section 5325 (a) or 5326 of this title to furnish information, in such form and detail and at such times as it may require, to determine whether the publication continues to qualify thereunder.

"(c) The Corporation shall make appropriate rules and regulations to carry out the purposes of this section, including provision for suspension or revocation of second-class mail privileges for failure to furnish the required information.

"§ 5338. Delivery of newspapers by postal transportation service

"The Corporation may provide by order the terms upon which the Corporation will receive directly from publishers or news agents in charge thereof, packages of newspapers and other periodicals not received from or intended for delivery at any post office and deliver them as directed, if presented and called for at the mail car or steamer.

"Controlled Circulation Publications

"§ 5345. Definition

"Controlled circulation publications are those publications which—

"(1) contain twenty-four pages or more;

"(2) are issued at regular intervals of four or more times a year;

"(3) devote 25 percent or more of their pages to text or reading matter and not more than 75 percent to advertising matter;

"(4) may be circulated free or mainly free; and

"(5) are not owned and controlled by one or several individuals or business concerns and conducted as an auxiliary to and essentially for the advancement of the main business or calling of those who own or control them.

"§ 5346. Rates of postage

"The rates of postage on controlled circulation publications found by the Corporation to meet the definition contained in section 5345 of this title when mailed in the manner prescribed by the Corporation are as follows:

"[In cents]

	"Mailed during calendar year 1969	Mailed after Dec. 31, 1969
Rate per pound	14.5	15.0
Minimum charge per piece	2.9	3.8

"Subchapter IV—Third-class mail

"§ 5351. Definition

"(a) Third class mail consists of mailable matter which is—

"(1) not mailed or required to be mailed as first class mail;

"(2) not entered as second class mail; and

"(3) less than sixteen ounces in weight.

"(b) Circulars, including printed letters which according to internal evidence are being sent in identical terms to several persons, are third class mail. A circular does not lose its character as such when the date and name of the addressee and of the sender are written therein, nor by the correction in writing of mere typographical errors.

"(c) Printed matter within the limit of weight set forth in subsection (a) of this section is third class mail. For the purpose of this subsection, printed matter is paper on which words, letters, characters, figures or images, or any combination thereof, not having the character of actual and personal correspondence, have been reproduced by any process other than handwriting or typewriting.

"§ 5352. Postage rates

"(a) Except as otherwise provided in this section, the postage rates of third-class mail are as follows:

"Type of mailing	Rates (cents)	Unit
(1) Individual piece	6.0	First 2 ounces or fraction thereof.
	2.0	Each additional ounce or fraction thereof.
(2) Bulk mailings under subsection (c) of this section of—		
(A) Books and catalogs of 24 pages or more, seeds, cuttings, bulbs, roots, scions, and plants.	16.0	Each pound or fraction thereof.
(B) Other matter	22.0	Do.
(C) Minimum charge of.	4.0	Per piece.

"In lieu of the minimum charge per piece specified in the foregoing table, a person who mails for himself, or on whose behalf there is a mailing, under subsection (e) of this section, shall pay a minimum charge per piece of 3.8 cents on the first 250,000 pieces mailed during a year. For such purpose, the number of pieces mailed during a year shall be the aggregate of the pieces mailed under item (2) (A), (B), and (C) of the above table.

"(b) Matter mailed in bulk under subsection (e) by qualified nonprofit organizations is subject to a minimum charge for each piece equal to 40 per centum of the minimum charge per piece provided in the table under subsection (a), rounded off to the nearest one-tenth cent.

"(c) The pound rates on matter mailed in bulk under subsection (e) by qualified nonprofit organizations are 50 per centum of the pound rates provided by subsection (a).

"(d) The term 'qualified nonprofit organization' as used in this section means religious, educational, scientific, philanthropic, agricultural, labor, veterans, or fraternal organizations or associations not organized for profit and none of the net income of which inures to the benefit of any private stockholder or individual. Before being entitled to the preferential rates set out in this section, the organization or association shall furnish proof of its qualifications to the Corporation.

"(e) Upon payment of a fee of $30 for each calendar year or portion thereof, any person may mail in the manner directed by the Corporation separately addressed, identical pieces of third-class mail in quantities of not less than fifty pounds or of not less than two hundred pieces subject to pound rates of postage applicable to the entire bulk mailed at one time.

"§ 5353. Permissible marks and enclosures

"Only marks and enclosures permissible in the case of fourth-class mail, pursuant to section 5375 of this title, may be placed on or enclosed in third-class mail.

"Subchapter V—Fourth-class mail

"§ 5371. Definition

"Fourth-class mail consists of mailable matter—

"(1) not mailed or required to be mailed as first-class mail;

"(2) within the size and weight limits prescribed for fourth-class mail; and

"(3) not entered as second-class mail.

"§ 5372. Size and weight limitations

"(a) Except as provided in subsection (c), the minimum weight of fourth-class mail is sixteen ounces, and the maximum weight is forty pounds.

"(b) Except as provided in subsection (c), the maximum size of fourth-class mail is—

"(1) seventy-two inches in girth and length combined on matter mailed before July 1, 1970;

"(2) seventy-eight inches in girth and length combined on matter mailed on or after July 1, 1970, but before July 1, 1971; and

"(3) eighty-four inches in girth and length combined on matter mailed on or after July 1, 1971.

"(c) The maximum size on fourth-class mail is one hundred inches in girth and length combined, and the maximum weight is seventy pounds for parcels—

"(1) mailed at, or addressed for delivery at, a second-, third-, or fourth-class post office or on a rural or star route;

"(2) containing baby fowl, live plants, trees, shrubs, or agricultural commodities but not the manufactured products of those commodities;

"(3) consisting of books, films, and other materials mailed under section 5374 of this title;

"(4) addressed to or mailed at any Armed Forces post office outside the fifty States; and

"(5) addressed to or mailed in the Commonwealth of Puerto Rico, the States of Alaska and Hawaii, or a possession of the United States including the Canal Zone and the Trust Territory of the Pacific Islands.

"§ 5373. Postal zones

"(a) For the purposes of fourth-class mail the United States, its possessions, and the Commonwealth of Puerto Rico are divided into units of area thirty minutes square, identical with a quarter of the area formed by the intersecting parallels of latitude and meridians of longitude, represented on postal maps or plans.

"(b) The units of area are the basis of eight postal zones, as follows:

"(1) the first zone includes all territory within the quadrangle in conjunction with every contiguous quadrangle, representing an area having a mean radial distance of approximately fifty miles from the center of a given unit of area.

"(2) the second zone includes all units of area outside the first zone lying in whole or in part within a radius of approximately one hundred and fifty miles from the center of a given unit of area.

"(3) the third zone includes all units of area outside the second zone lying in whole or in part within a radius of approximately three hundred miles from the center of a given unit of area.

"(4) the fourth zone includes all units of area outside the third zone lying in whole or in part within a radius of approximately six hundred miles from the center of a given unit of area.

"(5) the fifth zone includes all units of area outside the fourth zone lying in whole or in part within a radius of approximately one thousand miles from the center of a given unit of area.

"(6) the sixth zone includes all units of area outside the fifth zone lying in whole or in part within a radius of approximately one thousand four hundred miles from the center of a given unit of area.

"(7) the seventh zone includes all units of area outside the sixth zone lying in whole or in part within a radius of approximately one thousand eight hundred miles from the center of a given unit of area.

(8) the eighth zone includes all units of area outside the seventh zone.

"(c) The Corporation shall use units of area containing postal sectional center facilities as the basis of a postal zone as described in subsection (b) of this section. The zone shall be measured from the center of the unit of area containing the dispatching sectional center facility. A post office of mailing and a post office of delivery shall have the same zone relationship as their respective sectional center facilities, but this sentence shall not cause two post offices to be regarded as within the same local zone.

"(d) In addition to the eight zones described in subsections (b) and (c) of this section, there is a local zone as defined by the Corporation from time to time.

"(e) The foregoing provisions of this section are subject to section 5378 of this title.

"§ 5374. Books, films, and other materials; preferred rates

"(a) Except as provided in subsection (b) of this section, the postage rate is 12 cents for the first pound or fraction thereof and 6 cents for each additional pound or fraction thereof, except that the rate now or hereafter prescribed for third- or fourth-class matter shall apply in every case where such rate is lower than the rate prescribed in this subsection on—

"(1) books, including books issued to supplement other books, consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations, and containing no advertising matter other than incidental announcements of books;

"(2) 16-millimeter or narrower width films, and catalogs of such films, except when sent to or from commercial theaters;

"(3) printed music, whether in bound form or in sheet form;

"(4) printed objective test materials and accessories thereto used by or in behalf of educational institutions in the testing of ability, aptitude, achievement, interests, and other mental and personal qualities with or without answer, test scores, or identifying information recorded thereon in writing, or by mark;

"(5) sound recordings, including incidental announcements of recordings and guides or scripts prepared solely for use with such recordings;

"(6) playscripts and manuscripts for books, periodicals and music;

"(7) printed educational reference charts, permanently processed for preservation; and

"(8) looseleaf pages, and binders therefor, consisting of medical information for distribution to doctors, hospitals, medical schools, and medical students.

"(b)(1) Matter designated in paragraph (2) of this subsection may be mailed at the regular third or fourth class postage rates or at the rate of 5 cents for the first pound or fraction thereof and 2 cents for each additional pound or fraction thereof when loaned or exchanged (including cooperative processing by libraries) between—

"(A) schools, colleges, or universities;

"(B) public libraries, museums and herbaria, religious, educational, scientific, philanthropic, agricultural, labor, veterans', or fraternal organizations or associations, not organized for profit and none of the net income of which inures to the benefit of any private stockholder or individual, or between such organizations, and their members, readers or borrowers.

"(2) The materials mailable under the rates prescribed in paragraph (1) of this subsection are—

"(A) books consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations and containing no advertising matter other than incidental announcements of books;

"(B) printed music, whether in bound form or in sheet form;

"(C) bound volumes of academic theses in typewritten or other duplicated form;

"(D) periodicals, whether bound or unbound;

"(E) sound recordings;

"(F) other library materials in printed, duplicated or photographic form or in the form of unpublished manuscripts; and

"(G) museum materials, specimens, collections, teaching aids, printed matter, and interpretative materials intended to inform and to further the education work and interests of museums and herbaria.

"(3) Before being entitled to the preferential rates under this subsection, the Corporation may require an organization or association to furnish satisfactory evidence to it that none of the net income inures to the benefit of any private stockholder or individual.

"(c) 16-millimeter or narrower width films, filmstrips, transparencies for projection, slides, microfilms, sound recordings, museum materials, specimens, collections, teaching aids, printed matter, and interpretative materials intended to inform and to further the educational work and interests of museums and herbaria, scientific or mathematical kits, instruments, or other devices and catalogs of those items, and guides or scripts prepared solely for use with such materials may be mailed at the rates prescribed in subsection (b)(1) of this section when sent to or from the institutions, organizations or associations listed in clauses (A) and (B) of subsection (b)(1).

"(d) The limit of weight on parcels mailed under this section is 70 pounds.

"(e) Articles may be mailed under this section in quantities of one thousand or more in a single mailing, as defined by the Corporation, only in the manner directed by it.

"§ 5375. Permissible marks and enclosures

"(a) The sender may not place on or enclose in fourth-class mail marks that have the character of personal correspondence, but the following marks and enclosures may be placed on or in fourth-class mail when space is left on the address side sufficient for a legible address and necessary stamps—

"(1) the sender's name, occupation, and address, preceded by the word 'from', and directions for transmission, delivery, forwarding, or return;

"(2) marks other than by written or printed words to call attention to words or passages in the text;

"(3) correction of typographical errors;

"(4) a simple manuscript dedication or inscription not of the nature of personal correspondence on the blank leaves or cover of a book or other printed matter;

"(5) matter mailable as third-class mail printed on the wrapper, envelope, tag or label;

"(6) marks, numbers, names or letters for the purpose of description printed or written on the wrapper or cover;

"(7) the words 'Please Do Not Open Until Christmas' or words to that effect on the package, wrapper or envelope enclosing the same or on a tag or label attached thereto;

"(8) corrections on proof sheets;

"(9) manuscript accompanying proof sheets;

"(10) matter mailable as third-class mail; and

"(11) invoices, whether or not also serving as bills, if they relate solely to the matter with which they are mailed.

"(b) There may be enclosed with, attached to, or endorsed upon third- and fourth-class mail, either in writing or otherwise, the instructions and directions for the use thereof.

"§ 5376. Postage rates on parcel post

"(a) Except as otherwise provided in this section and subject to section 5378 of this title, the rates of postage on fourth-class parcel post are based on the zones described in section 5373 of this title in accordance with the following table:

"[Cents per parcel]

"Pounds	Local delivery	Zones 1st and 2d	3d	4th	5th	6th	7th	8th
2	40	50	50	55	60	70	75	80
3	40	55	60	65	75	85	95	105
4	45	60	65	75	85	100	119	125
5	45	65	70	80	95	110	130	145
6	45	70	80	90	105	125	145	165
7	50	80	85	100	115	140	160	185
8	50	85	90	105	130	150	175	200
9	55	90	95	115	140	165	190	220
10	55	95	105	120	150	175	210	240
11	55	100	110	130	160	190	225	260
12	60	105	115	135	170	200	240	275
13	60	110	120	145	180	210	255	295
14	65	115	130	150	190	225	270	310
15	65	120	135	160	200	235	285	330
16	65	125	140	165	210	245	300	345
17	70	130	145	175	220	260	315	365
18	70	135	150	180	230	270	330	380
19	75	140	160	190	240	285	345	400
20	75	140	165	195	250	295	360	415
21	75	145	170	205	260	305	375	435

"Pounds	Local delivery	Zones 1st and 2d	3d	4th	5th	6th	7th	8th
22	80	150	175	210	265	315	390	450
23	80	155	180	215	275	330	405	465
24	85	160	185	220	285	340	415	485
25	85	160	190	230	290	350	430	500
26	85	165	195	235	300	360	445	520
27	90	170	195	240	310	370	460	535
28	90	175	200	250	320	385	475	550
29	95	180	205	255	325	395	485	570
30	95	180	210	260	335	405	500	585
31	95	185	215	265	345	415	515	605
32	100	190	220	275	350	425	530	620
33	100	195	225	280	360	440	545	635
34	100	195	230	285	370	450	555	655
35	105	200	235	290	375	460	570	670
36	105	205	240	300	385	470	585	690
37	110	210	245	305	395	480	600	705
38	110	215	250	310	405	495	615	720
39	110	215	255	320	410	505	625	740
40	115	220	260	325	420	515	640	755
41	115	225	265	330	430	525	655	770

"[Cents per parcel]

"Pounds	Zones							
	Local delivery	1st and 2d	3d	4th	5th	6th	7th	8th
42	115	230	270	353	435	535	670	790
43	120	230	275	345	445	550	685	805
44	120	235	275	350	455	560	695	820
45	125	240	280	355	460	570	710	835
46	125	245	285	365	470	580	725	850
47	125	250	290	370	480	590	740	870
48	130	250	295	375	490	605	755	885
49	130	255	300	380	495	615	765	900
50	130	260	305	390	505	625	780	915
51	135	265	310	395	515	635	795	930
52	135	265	315	400	520	645	805	950
53	140	270	320	405	530	660	820	965
54	140	270	325	410	535	670	835	980
55	140	275	330	420	545	680	845	995
56	145	280	335	425	555	690	860	1,010

"Pounds	Zones							
	Local delivery	1st and 2d	3d	4th	5th	6th	7th	8th
57	145	280	340	430	560	700	870	1,030
58	150	285	345	435	570	715	885	1,045
59	150	290	350	440	575	725	900	1,060
60	150	290	350	450	585	735	910	1,075
61	155	295	355	455	595	745	925	1,090
62	155	300	360	460	600	755	935	1,110
63	155	300	365	465	610	770	950	1,125
64	160	305	370	470	615	780	965	1,140
65	160	305	375	480	625	790	975	1,155
66	165	310	380	485	635	800	990	1,170
67	165	315	385	490	640	810	1,000	1,190
68	165	315	390	495	650	825	1,015	1,205
69	170	320	395	500	655	835	1,030	1,220
70	170	325	400	510	665	845	1,040	1,235

"(b) Subject to section 5378 of this title, parcels weighing less than ten pounds and measuring more than eighty-four inches but not more than one hundred inches in length and girth combined are subject to a minimum postage rate equal to the postage rate for a ten-pound parcel for the zone to which the parcel is addressed.

"(c) Subject to section 5378 of this title, the postage rate on gold mailed within Alaska or from Alaska to other States and possessions of the United States, including the Canal Zone and the Trust Territory of the Pacific Islands, and the Commonwealth of Puerto Rico is 2 cents for each ounce or fraction thereof regardless of zones.

"§ 5377. Postage rates on catalogs

"(a) Subject to section 5378 of this title, the rates of postage on fourth-class catalogs, having twenty-four or more pages at least twenty-two of which are printed and weighing sixteen ounces or more but not exceeding ten pounds, are based on the zones described in section 5373 of this title in accordance with the following table:

"CATALOGS

"[In cents]

"Weight (pounds)	Zones							
	Local	1 and 2	3	4	5	6	7	8
1.5	23	29	30	31	33	35	38	41
2	24	30	32	33	36	39	42	46
2.5	25	32	33	36	39	42	46	51
3	26	33	35	38	42	46	51	57
3.5	27	35	37	40	44	49	55	62
4	28	36	39	42	47	53	59	67
4.5	29	38	41	45	50	56	64	72
5	30	39	42	46	53	60	68	77
6	32	42	46	51	59	67	77	88
7	34	45	50	56	64	74	85	98
8	36	48	53	60	70	81	94	109
9	38	51	57	65	76	88	104	119
10	39	54	60	69	81	95	112	129

"(b) Subject to section 5378 of this title, the rates of postage on catalogs conforming to subsection (a) of this section, when mailed in quantities of not less than three hundred individually addressed pieces at one time and when prepared and mailed in accordance with conditions established by the Corporation consist of a piece rate in addition to a bulk rate per pound, based on the zones described in section 5373 of this title, in accordance with the following table:

"[In cents]

"Zone	Piece rate	Bulk pound rate
Local	17	1.9
1 and 2	21	3.0
3	21	3.6
4	21	4.6
5	21	5.7
6	21	7.1
7	21	8.7
8	22	10.4

"§ 5378. Reformation of conditions of mailability

"(a) Whenever the Corporation finds that, as a continuing situation—

"(1) the acceptance, as fourth-class mail, of mail matter otherwise legally acceptable in the mails is being prevented, or

"(2) the revenue from the fourth-class mail service is less than the cost of such service or that the revenue from such service is greater than the cost thereof, or

"(3) any other condition exists with respect to the fourth-class mail service which is impairing the efficient and economical operation of such service,

by reason of—

"(A) the rates of postage on fourth-class mail (other than the rates prescribed by sections 5346, 5374, and 5391 to 5393, inclusive, of this title), or

"(B) the classification of articles mailable as fourth-class mail, or

"(C) the postal zone structure or the method used in establishing such structure, or

"(D) any other condition of mailability as fourth-class mail (other than size and weight limits),

it shall file with the Interstate Commerce Commission a request to—

"(i) increase or decrease, as he deems advisable, any rate or rates of postage on fourth-class mail (other than the rates prescribed by sections 5346, 5374, and 5391 to 5393, inclusive, of this title), or

"(ii) reform any condition or conditions of mailability within the purview of subparagraphs (B), (C), and (D) of this subsection, or

"(iii) take both such actions.

"(b) The request of the Corporation under subsection (a) of this section for an increase or decrease in any rate or rates of postage or for reformation of any other condition or conditions of mailability, or both, shall be deemed approved on the thirtieth day following the date on which the Corporation files such request with the Interstate Commerce Commission, and shall become effective in accordance with the terms of the request, unless, prior to the expiration of such thirtieth day—

"(1) such request is rejected by the Commission, or

"(2) the Commission orders an investigation of such request.

If final determination by the Commission, on the basis of such investigation, is not made prior to the expiration of the one hundred and eightieth day after the date of the filing of such request with the Commission, such request shall be deemed approved at the close of such one hundred and eightieth day and shall become effective in accordance with its terms.

"§ 5379. Air transportation of parcels mailed at or addressed to Armed Forces post offices

"Any parcel, other than a parcel mailed airmail or as air parcel post, not exceeding thirty pounds in weight and sixty inches in length and girth combined, which is mailed at or addressed to any Armed Forces post office shall be transported by air on a space available basis, on scheduled United States air carriers at rates fixed and determined by the Civil Aeronautics Board in accordance with section 406 of the Federal Aviation Act of 1958 (49 U.S.C. 1376), upon payment, in addition to the regular surface rate of postage, of a special fee to be prescribed by the Corporation for such transportation by air. Whenever adequate service by scheduled United States air carriers is not available to provide transportation or mail matter by air in accordance with the foregoing provisions of this section, the transportation of such mail matter may be authorized by aircraft other than scheduled United States air carriers.

"Subchapter VI—miscellaneous mail matter

"§ 5391. Keys and other small articles

"(a) Any person may mail without prepayment of postage a key, identification card, identification tag, or similar identification device, or small article which the Corporation by regulation designates, which bears, contains, or has attached securely thereto—

"(1) a complete, definite, and legible post office address, including any street address or box or route number; and

"(2) a notice directing that it be returned to the address, and guaranteeing the payment, on delivery, of the postage due thereon.

"(b) Postage at the rate of 14 cents for the first two ounces or fraction thereof, and 7 cents for each additional two ounces or fraction thereof, shall be collected on delivery.

"§ 5392. Matter for blind and other handicapped persons

"(a) The matter described in subsection (b) (other than matter mailed under section 5393 of this title) may be mailed free of postage, if—

"(1) the matter is for the use of the blind

or other persons who cannot use or read conventionally printed material because of a physical impairment who are certified by competent authority as unable to read normal reading material in accordance with the provisions of the first section of the Act of July 30, 1966 (Public Law 89–522; 80 Stat. 330);

"(2) no charge, or rental, subscription, or other fee, is required for such matter or a charge, or rental, subscription, or other fee is required for such matter not in excess of the cost thereof;

"(3) the matter may be opened by the Corporation for inspection;

"(4) the matter contains no advertising; and

"(5) the matter is mailed subject to size and weight limitations prescribed by the Corporation.

"(b) The free mailing privilege provided by subsection (a) is extended to—

"(1) reading matter and musical scores;

"(2) sound reproductions;

"(3) paper, records, tapes, and other material for the production of reading matter, musical scores, or sound reproductions;

"(4) reproducers or parts thereof, for sound reproductions; and

"(5) Braille writers, typewriters, educational or other materials or devices, or parts thereof, used for writing by, or specifically designed or adapted for use of, a blind person or a person having a physical impairment as described in subsection (a)(1) of this section.

"§ 5393. Unsealed letters sent by blind or physically handicapped persons

"Unsealed letters sent by a blind person or a person having a physical impairment, as described in section 5392(a)(1) of this title, in raised characters or sight-saving type, or in the form of sound recordings, may be mailed free of postage.

"§ 5394. Markings

"All matter relating to blind or other handicapped persons mailed under sections 5392 or 5393 of this title, shall bear the words 'Free Matter for the Blind or Handicapped', or words to that effect specified by the Corporation, in the upper right-hand corner of the address area.

"§ 5395. Mailing privilege of members of United States Armed Forces and of friendly foreign nations

"(a) First-class letter mail, including postal cards and post cards, and sound-recorded communications having the character of personal correspondence shall be carried, at no cost to the sender, in the manner provided by section 5313(d)(5) of this title, when mailed by—

"(1) a member of the Armed Forces of the United States on active duty as defined in sections 101(4) and 101(22) of title 10, and addressed to a place within the delivery limits of a United States post office, if—

"(A) the letter or sound-recorded communication is mailed by the member at an Armed Forces post office which has been established in an overseas area, as designated by the President, where the Armed Forces of the United States are engaged in action against an enemy of the United States, engaged in military operations involving armed conflict with a hostile foreign force, or serving with a friendly foreign force in an armed conflict in which the United States is not a belligerent; or

"(B) the member is hospitalized in a facility under the jurisdiction of the Armed Forces of the United States as a result of disease or injury incurred as a result of service in an overseas area designated by the President under clause (A); or

"(2) a member of an armed force of a friendly foreign nation at an Armed Forces post office and addressed to a place within the delivery limits of a United States post office, or a post office of the nation in whose armed forces the sender is a member, if—

"(A) the member is accorded free mailing privileges by his own government;

"(B) the foreign nation extends similar free mailing privileges to a member of the Armed Forces of the United States serving with, or in, a unit under the control of a command of that foreign nation;

"(C) the member is serving with, or in, a unit under the operational control of a command of the Armed Forces of the United States;

"(D) the letter or sound-recorded communication is mailed by the member—

"(i) at an Armed Forces post office which has been in an overseas area, as designated by the President, where the Armed Forces of the United States are engaged in action against an enemy of the United States, engaged in military operations involving armed conflict with a hostile foreign force, or serving with a friendly foreign force in an armed conflict in which the United States is not a belligerent; or

"(ii) While hospitalized in a facility under the jurisdiction of the Armed Forces of the United States as a result of disease or injury incurred as a result of services in an overseas area designated by the President under clause (D)(i); and

"(E) the nation in whose armed forces the sender is a member has agreed to assume all international postal transportation charges incurred.

"(b) The Department of Defense shall transfer to the Corporation as postal revenue, out of any appropriations or funds available to the Department of Defense, as a necessary expense of the appropriations or funds and of the activities concerned, the equivalent amount of postage due, as determined by the Corporation, for matter sent in the mails under authority of subsection (a) of this section.

"(c) Subsections (a) and (b) of this section shall be administered under such conditions, and under such regulations, as the Corporation and the Secretary of Defense jointly may prescribe.

"§ 5396. Mailing privilege of members of United States Armed Forces and of friendly foreign nations in the Canal Zone

"(a) For the purposes of sections 5313(d)(4), 5379, and 5395(a) of this title, each post office in the Canal Zone postal service, to the extent that it provides mail service for members of the United States Armed Forces and of friendly foreign nations, shall be considered to be an Armed Forces post office.

"(b) The Department of Defense shall reimburse the postal service of the Canal Zone, out of any appropriations or funds available to the Department of Defense, as a necessary expense of the appropriations or funds and of the activities concerned, the equivalent amount of postage due, and sums equal to the expenses incurred by, the postal service of the Canal Zone, as determined by the Governor of the Canal Zone, for matter sent in the mails, and in providing air transportation of mail, under such sections."

AMENDMENTS TO TITLE 5, UNITED STATES CODE

SEC. 3. (a) Title 5, United States Code, is amended as follows:

(1) section 101 is amended by repealing the line: "The Post Office Department.";

(2) section 305(a) is amended—

(A) by striking out "or" at the end of clause (7);

(B) by striking out the period at the end of clause (8) and inserting in lieu thereof a semicolon and "or"; and

(C) by adding at the end thereof the following new clause:

"(9) the Postal Corporation.";

(3) the introductory matter preceding clause (1) of section 3304a(a) is amended by striking out the phrase "in the postal field service,";

(4) section 4102(a)(1) is amended—

(A) by striking out "or" at the end of clause (B);

(B) by striking out the period at the end of clause (C) and inserting in lieu thereof a semicolon and "or"; and

(C) by adding at the end thereof the following new clause:

"(D) the Postal Corporation.";

(5) section 4301(1) is amended—

(A) by striking out "or" at the end of clause (vi);

(B) by striking out "and" at the end of clause (vii) and inserting in lieu thereof "or"; and

(C) by adding at the end thereof the following new clause:

"(viii) the Postal Corporation; and";

(6) section 4501(1) is amended—

(A) by striking out "or" at the end of clause (i);

(B) by inserting "or" at the end of clause (ii); and

(C) by adding at the end thereof the following new clause:

"(iii) the Postal Corporation;";

(7) section 5102(a)(1) is amended—

(A) by striking out "or" at the end of clause (vii);

(B) by inserting "or" at the end of clause (viii); and

(C) by inserting at the end thereof the following new clause:

"(ix) the Postal Corporation;";

(8) section 5102(c)(1) is hereby repealed;

(9) section 5303(a)(2) is hereby repealed;

(10) the introductory matter preceding clause (1) of section 5304 is amended by striking out the phrase "the provisions of part III of title 39 relating to employees in the postal field service,";

(11) clause (5) of section 5312 is hereby repealed;

(12) clause (3) of section 5314 is hereby repealed;

(13) clauses (21) and (45) of section 5315 are hereby repealed;

(14) section 5316 is amended—

(A) by striking out clauses (37) and (123); and

(B) by adding at the end thereof the following new clause:

"(128) Rate Commissioners, the Postal Corporation (3).";

(15) section 5533(d)(7)(F) is amended to read as follows:

"(F) section 907 of title 39;";

(16) section 5541(2)(vi) is amended to read as follows:

"(vi) an officer or employee of the Postal Corporation;";

(17) section 5581(1) is amended—

(A) by striking out "or" at the end of clause (iii);

(B) by inserting "or" at the end of clause (iv); and

(C) by adding at the end thereof the following new clause:

"(v) the Postal Corporation;";

(18) section 5595(a)(2) is amended—

(A) by striking out "or" at the end of clause (vii);

(B) by redesignating clause (viii) as clause (ix); and

(C) by inserting immediately before redesignated clause (ix), the following new clause:

"(viii) an officer or employee of the Postal Corporation; or";

(19) the last sentence of section 5596(c) is amended by inserting after "Authority" the phrase "or the Postal Corporation";

(20) section 5701(1) is amended—

(A) by striking out "or" at the end of clause (ii);

(B) by inserting "or" at the end of clause (iii); and

(C) by inserting at the end thereof the following new clause:

"(iv) the Postal Corporation;";

(21) section 5721(1) is amended by inserting immediately before the semicolon at

the end thereof the phrase "or the Postal Corporation";

(22) section 5911(a)(2) is amended by inserting immediately before the semicolon at the end thereof the phrase "or the Postal Corporation";

(23) section 5921(2) is amended by inserting immediately after "corporation" at the end thereof the phrase "or the Postal Corporation";

(24) section 6301(2) is amended—

(A) by striking out in clause (ii) the first comma thereof and the phrase "except an hourly employee in the postal field service,";

(B) by striking out "or" in clause (xi);

(C) by striking out the period at the end of clause (xii) and inserting in lieu thereof a semicolon and "or"; and

(D) by adding at the end thereof the following new clause:

"(xiii) an officer or employee of the Postal Corporation.";

(25) section 6323 is amended—

(A) by striking out in subsections (a) and (c) the phrase "a substitute employee in the postal field service" wherever it appears and inserting in lieu thereof the phrase "an officer or employee of the Postal Corporation"; and

(B) by striking out subsections (b) and (d);

(26) section 7101 is amended to read as follows:

"§ 7101. Right to organize; postal employees

"An employee of the Postal Corporation may not be reduced in rank or pay or removed from his position in the Corporation because of—

"(1) membership in an organization of employees of the Corporation having for its objects, among other things, improvements in the working conditions of its members, including hours of work, pay, and leave of absence, and which is not affiliated with an outside organization imposing an obligation on the employees to engage in a strike, or proposing to assist them in a strike, against the United States; or

"(2) presenting, individually or as a member of a group of employees of the Corporation, a grievance to Congress or a Member of Congress.";

(27) section 7901(f) is amended—

(A) by striking out "and" at the end of clause (2);

(B) by striking out the period at the end of clause (3) and inserting in lieu thereof a semicolon and the word "and"; and

(C) by adding at the end thereof the following new clause:

"(4) the Postal Corporation.";

(28) section 8101(1) is amended—

(A) by striking out "or" at the end of clause (iii);

(B) by inserting "or" at the end of clause (iv); and

(C) by adding at the end thereof the following new clause:

"(v) an officer or employee of the Postal Corporation;";

(29) section 8331(1) is amended—

(A) by striking out "or" at the end of clause (viii);

(B) by striking out the period at the end of clause (ix) and inserting in lieu thereof a semicolon and the word "or"; and

(C) by inserting at the end thereof the following new clause:

"(x) an officer or employee of the Postal Corporation."; and

(30) section 8901(1) is amended—

(A) by striking out "or" at the end of clause (iii);

(B) by inserting "or" at the end of clause (iv); and

(C) by adding at the end thereof the following new clause:

"(v) an officer or employee of the Postal Corporation;".

(b) Any officer or employee of the Post Office Department—

(1) occupying a nonmanagerial or nonprofessional position within the Department on the day prior to the effective date of this section;

(2) who is transferred from a position in the Department to a position in the Postal Corporation; and

(3) who was, on the date of transfer, subject to the provisions of subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement;

shall, as long as his employment with the Corporation continues without a break in continuity of service, continue to be subject to such provisions. Such employment shall be deemed employment by the Government of the United States for the purposes of such provisions. The Corporation shall contribute to the Civil Service Retirement and Disability Fund a sum as provided by section 8334(a) of title 5, United States Code, except that such sum shall be determined by applying to the total basic pay (as defined in section 8331(3) of such title and except as hereinafter provided) paid to the employees of the Corporation who are covered by subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement, the percent rate determined annually by the United States Civil Service Commission to be the excess of the total normal cost percent rate of the system provided by such subchapter over the employee deduction rate specified in section 8334(a) of such title. The Corporation shall also pay into the Civil Service Retirement and Disability Fund such portion of the cost of administration of the fund as is determined by the United States Civil Service Commission to be attributable to its employees. Notwithstanding the foregoing provisions, there shall not be considered for the purposes of subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement, that portion of the basic pay in any one year of any officer or employee of the Corporation which exceeds the basic pay provided for in section 5312 of such title, on the last day of such year.

AMENDMENTS TO TITLE 18, UNITED STATES CODE

SEC. 4. Title 18, United States Code, is amended as follows:

(1) the analysis of chapter 1 is amended by striking out the words "Postal Service" in item 12 and inserting in lieu thereof the words "Postal Corporation";

(2) section 12 is amended to read as follows:

"§ 12. Postal Corporation defined

"The term 'Postal Corporation', as used in this title, includes every officer or employee thereof, whether or not he has taken the oath of office.";

(3) sections 440 and 441 are amended by striking out "Postal Service" and "Post Office Department" wherever they appear and inserting in lieu thereof "Postal Corporation";

(4) section 500 is amended by striking out "Post Office Department" and "Post Office Department of the United States, or" and inserting in lieu thereof "Postal Corporation" and "Postal Corporation, or post office department or corporation", respectively;

(5) section 501 is amended by striking out the phrases "Post Office Department" and "Postmaster General" wherever they appear and inserting in lieu thereof "Postal Corporation";

(6) sections 612 and 876 are amended by striking out the phrase "Post Office Department" wherever it appears and inserting in lieu thereof "Postal Corporation";

(7) section 877 is amended by striking out the phrase "Post Office Department of the United States" wherever it appears and inserting in lieu thereof "Postal Corporation";

(8) section 1114 is amended by striking out "any postal inspector, any postmaster, officer, or employee in the field service of the Post Office Department," and inserting in lieu thereof "any postal inspector of the Postal Corporation, any other officer or employee of the Postal Corporation employed in operations and organization units of the Corporations outside the District of Columbia,";

(9) section 1303 is amended by striking out "a postmaster or other person employed in the Postal Service" and inserting in lieu thereof "an officer or employee of the Postal Corporation";

(10) section 1341 is amended by striking out "Post Office Department" and inserting in lieu thereof "Postal Corporation";

(11) section 1342 is amended by striking out "Post Office Department of the United States" and inserting in lieu thereof "Postal Corporation";

(12) section 1463 is amended by striking out "Postmaster General" and inserting in lieu thereof "Postal Corporation";

(13) section 1696(c) is amended to read as follows:

"(c) This chapter shall not prohibit the conveyance or transmission of letters or packets by private hands without compensation, by special messenger employed for the particular occasion only, or as otherwise permitted by section 2301 of title 39. Except as provided in subsections (b) and (c) of such section, whenever more than 25 such letters or packets are conveyed or transmitted by such special messenger, the requirements of section 2301(a) of title 39 shall be observed as to each piece.";

(14) section 1699 is amended by striking out the phrase "Postmaster General" wherever it appears and inserting in lieu thereof the phrase "Postal Corporation";

(15) section 1700 is amended by striking out "Postal Service" and inserting in lieu thereof "Postal Corporation";

(16) section 1703 is amended—

(A) by striking out the phrase "postmaster or Postal Service employee" wherever it appears and inserting in lieu thereof "Postal Corporation officer or employee"; and

(B) by striking out "Postmaster General" and inserting in lieu thereof "Postal Corporation";

(17) section 1704 is amended by striking out the phrases "Post Office Department" and "Postmaster General" wherever they appear and inserting in lieu thereof "Postal Corporation";

(18) section 1707 is amended by striking out "Post Office Department" and inserting in lieu thereof "Postal Corporation";

(19) section 1709 is amended—

(A) by striking out "postmaster or Postal Service employee" and inserting in lieu thereof "Postal Corporation officer or employee"; and

(B) by striking out the phrases "Postal Service" and "Postmaster General" and inserting in lieu thereof "Postal Corporation";

(20) section 1710 is amended by striking out "postmaster or Postal Service employee" and inserting in lieu thereof "Postal Corporation officer or employee";

(21) section 1711 is amended—

(A) by striking out the phrase "postmaster or Postal Service employee" and inserting in lieu thereof "Postal Corporation officer or employee"; and

(B) by striking out the phrases "Post Office Department" and "Postmaster General" wherever they appear and inserting in lieu thereof "Postal Corporation"; (22) section 1712 is amended—

(A) by striking out "postmaster or Postal Service employee" and inserting in lieu thereof "Postal Corporation officer or employee";

(B) by striking out the phrases "Post Office Department" and "Postal Service" wherever they appear and inserting in lieu thereof "Postal Corporation"; and

(C) by striking out "postmaster or other

person" and inserting in lieu thereof "officer or employee";

(23) section 1713 is amended by striking out "a postmaster or other person employed in any branch of the Postal Service" and inserting in lieu thereof "an officer or employee of the Postal Corporation";

(24) section 1715 is amended by striking out the phrases "Postal Service" and "Postmaster General" wherever they appear and inserting in lieu thereof "Postal Corporation";

(25) section 1716 is amended by striking out the phrase "Postmaster General" wherever it appears and inserting in lieu thereof "Postal Corporation";

(26) section 1716A is amended by striking out "4010" and inserting in lieu thereof "2502";

(27) section 1717(b) is amended by striking out "Postal Service of the United States" and inserting in lieu thereof "Postal Corporation";

(28) section 1718 is amended by striking out "Postmaster General" and inserting in lieu thereof "Postal Corporation";

(29) section 1720 is amended by striking out "Postal Service" and inserting in lieu thereof "Postal Corporation";

(30) section 1721 is amended—

(A) by striking out "postmaster or postal service employee" and inserting in lieu thereof "Postal Corporation officer or employee"; and

(B) by striking out the phrase "Post Office Department" wherever it appears and inserting in lieu thereof "Postal Corporation";

(31) section 1722 is amended by striking out "any postmaster or to the Post Office Department or any officer of the Postal Service" and inserting in lieu thereof "the Postal Corporation or officer or employee of the Corporation";

(32) section 1723, 1724, 1725, and 1729 are amended by striking out the phrase "Postmaster General" wherever it appears and inserting in lieu thereof "Postal Corporation";

(33) section 1730 is amended—

(A) by striking out the phrases "Postal Service" and "Postmaster General" wherever they appear and inserting in lieu thereof "Postal Corporation"; and

(B) by striking out "that service" and inserting in lieu thereof "that Corporation";

(34) section 1733 is amended by striking out "4368" and inserting in lieu thereof "5336"; and

(35) section 3061 is amended by striking out "Postmaster General" and "postal service" and inserting in lieu thereof "Postal Corporation".

TRANSFER OF PERSONNEL

SEC. 5. (a)(1) An officer or employee of the Post Office Department occupying a nonmanagerial or nonprofessional position in the Post Office Department on the effective date of this section shall be transferred to the Corporation.

(2) The provisions of title 39, United States Code, relating to rates of pay, hours of employment, employee benefits, and other conditions of employment for any such officer or employee which were in effect immediately prior to the effective date of this section shall continue in effect until otherwise provided by collective bargaining.

(b) An officer or employee of the Post Office Department occupying a managerial or professional position with the Department on the effective date of this section shall not be transferred to a position of employment with the Postal Corporation unless the board of directors of the Corporation so specifically provides.

(c) Any office of or position of the Post Office Department created by law or administratively is hereby abolished on the effective date of this section. No other provision of this Act shall be construed to have abolished the Post Office Department, or any agency thereof, or any office or position under the Department, prior to the effective date of this section.

TRANSFER PROVISIONS

SEC. 6. (a) There are hereby transferred to the Postal Corporation all the functions, powers, and duties of the Postmaster General and the Post Office Department, and the office of Postmaster General and the Post Office Department are abolished.

(b) The assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the Post Office Department are hereby transferred to the Postal Corporation.

(c) Postal revenues and fees collected on and after the effective date of this section shall be considered assets of the Corporation.

SAVINGS PROVISIONS

SEC. 7. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective—

(A) under any provision of law amended by this Act, or

(B) in the exercise of duties, powers, or functions which are transferred under this Act,

by (i) any department or agency, any functions of which are transferred by this Act, or (ii) any court of competent jurisdiction; and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the board of directors of the Postal Corporation (in the exercise of any authority respectively vested in it by this Act), by any court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings pending at the time this section takes effect before any department or agency (or component thereof), functions of which are transferred by this Act; but such proceedings shall be continued before the Postal Corporation. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the board of directors of the Corporation (in the exercise of any authority respectively vested in it by this Act), by a court of competent jurisdiction, or by operation of law.

(c)(1) Except as provided in paragraph (2)—

(A) the provisions of this Act shall not affect suits commenced prior to the date this section takes effect, and

(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, actions, or other proceedings may be asserted by or against the Postal Corporation or such official of the Corporation as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(2) If before the date on which any provision of this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act—

(A) such department or agency is transferred to the Postal Corporation, or

(B) any function of such department, agency, or officer is transferred to the Corporation,

such suit shall be continued by the Corporation.

(d) The amendment of any statute shall not have the effect to release or extinguish any criminal prosecution, penalty, forfeiture, or liability incurred under such statute, unless the amending Act shall so expressly provide, and such statute shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such prosecution, penalty, forfeiture, or liability.

(e) With respect to any function, power, or duty transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department or agency, officer or office so transferred or functions of which are so transferred shall be deemed to mean the officer or agency of the Corporation in which this Act vests such function after such transfer.

MISCELLANEOUS

SEC. 8. (a) Whenever reference is made in any provision of law (other than this Act), regulation, rule, record, or document to the Post Office Department, the Postal Service, the postal field service, or the field postal service, such reference shall be deemed to be a reference to the Postal Corporation. Any reference to any officer or employee of the Post Office Department, the Postal Service, the postal field service, or the field postal service shall be deemed a reference to the appropriate officer or employee of the Corporation unless the position of such officer or employee has been abolished by this Act.

(b) Section 101 of the Government Corporation Control Act (59 Stat. 597), as amended (31 U.S.C. 846), is amended by inserting "the Postal Corporation;" after "Panama Canal Company;".

RESERVING RIGHT TO AMEND OR REPEAL

SEC. 9. The right to alter, amend, or repeal this Act is expressly declared and reserved, but no such amendment or repeal shall operate to impair the obligation of any contract made by the Postal Corporation, prior to the effective day of such amendment or repeal, under any power conferred by this Act.

APPROPRIATIONS

SEC. 10. (a) There are hereby authorized to be appropriated such sums as may be necessary to establish the Postal Corporation, to provide capital improvements, and to place the Corporation on a self-supporting basis. Any such sum so appropriated shall be available until expended.

(b) Expenses incurred in carrying out the provisions of those sections referred to in section 11(a) of this Act, which are to become effective on the date of enactment of this Act, shall be paid from appropriations and funds available to the Post Office Department.

EFFECTIVE DATE

SEC. 11. (a) Sections 1, 8, 9, 10, and 11 of this Act, and sections 101, 102, 301, 302, 501–505, 703, and 704 of title 39, United States Code, as amended by section 2 of this Act, shall become effective on the date of enactment of this Act.

(b) All other provisions of this Act shall be effective 180 days after the date of enactment of this Act.

The section-by-section analysis of the bill presented by Mr. HANSEN, is as follows:

POSTAL CORPORATION ACT

(A section-by-section analysis of the provisions of the Postal Corporation Act, a bill to establish a Postal Corporation and for other purposes)

Section 2: Section 2 amends Title 39, United States Code, as follows:

PART I. THE POSTAL CORPORATION

Chapter 1 defines the terms used in this title and applies this title within Guam with the same force and effect as within other possessions of the United States.

Chapter 3 provides for the establishment of the Postal Corporation and states the purposes for establishing the Postal Corporation, which include providing adequate and uniform postal services, providing needed equipment and facilities to postal users, providing employment to individuals on the basis of merit without political consideration and providing adequate facilities and equipment for the use of officers and employees of the Corporation.

Chapter 5 provides for a Board of Directors and a Chief Executive Officer. The Board of Directors consists of nine members, six of whom are appointed by the President; the seventh, who shall serve as Chairman of the Board and as Chief Executive Officer of the Corporation, is appointed by those six members; and the eighth and ninth, one of whom shall be the Chief Operating Officer of the Corporation, and the other as an officer of the Corporation, are appointed by the first seven members of the Board. The members shall have six-year terms and shall exercise all powers necessary to carry out the purposes, functions, powers and duties of the Corporation. Five members in office shall constitute a quorum for the transaction of business, and the Board is authorized to establish committees.

Chapter 7 grants authority to the Corporation to establish reasonable classes of mail and reasonable, equitable and uniform rates of postage and fees. Congress can allow certain postal users to send mail of any class free of postage or at rates less than those established by the Corporation for other users of such classes.

The rate shall be determined by the Corporation based on the amount of postal revenues received from such mail, plus the amount received from a postal surcharge (not to exceed three per cent of the postal revenues estimated to be received), and shall equal the amount of the postal revenues that would have been received from users allowed to mail free of charge or reduced rates if they had not been entitled to free or reduced rates.

A rate manager, who is subject to the general supervision of the Board only, is responsible for initiating and recommending to the Board any changes in rates, classes, or the rate structure and design. Three rate commissioners appointed by the Board for terms of nine years shall promulgate rules and regulations and establish procedures (which shall not be subject to any change or supervision by the Board) to give notice, hold hearings and render an opinion on any changes recommended by the rate manager and proposed to be adopted by the Board. Upon receiving the opinion of the rate commissioners, the Board may adopt with or without modifications any change it deems appropriate. With some exceptions, the Board shall transmit the change adopted by it to both Houses of Congress, and the change shall become effective at the end of the first period of 60 days of continuous session of Congress after the date on which the change is transmitted unless, within the 60-day period, either House passes a resolution stating in substance that such House does not favor the change.

A complaint by the postal user involving a change in rates or fees, classes of postal users, or the rate structure or design shall be considered by the rate manager. All other complaints involving the mails shall be considered by the Commissioners. This Chapter will relieve Congress of the responsibility of being intricately involved in the revenue and rate policies of the Postal Corporation, and will allow a smoother and more efficient functioning of the postal system.

Chapter 9 provides a personnel structure for the Corporation. Officers and employees shall be appointed by the Corporation without regard to the provisions of Title 5, governing appointments in the competitive service and all appointments shall be on the basis of merit and without political test or qualifications. The terms of employment of nonmanagerial and non-professional employees shall be determined by collective bargaining, and the President shall settle any disagreement or dispute in the manner he deems appropriate when a settlement cannot be reached through the bargaining process. The terms of employment of managerial and professional employees will be determined by the Board. This Chapter will allow postal personnel policy to more nearly conform to that of private business and will not require Congress to become involved in such policy. Provision for armed forces postal clerks identical to those under present law are incorporated in this Chapter. Corporation employees will take the same oath now taken by Department employees. The present provisions regarding reception of fees and dual employment and extra duties will apply to the Corporation under the terms of this Act.

Chapter 11 provides for delivery and transportation services. There is a general provision for the free delivery of mail. However, provisions for specific delivery services are not included in order to allow the Corporation more flexibility in determining the best methods to follow. Provisions for receiving boxes are the same as apply to the present postal system. The provisions granting the Corporation authority to transport mail are the same provisions which apply to the present postal service.

Transportation-of-mail-by-railroad provisions of this Act are the same provisions as apply to the present postal service, except for provisions relating to classes of mail, special studies, and the length of special contracts. These provisions were excluded to allow the Corporation to determine for itself the number of classes of mail to be provided, the studies which it may want to make, and the terms of special contracts into which it may want to enter.

Transportation-of-mail-by-air provisions of this Act are the same as provisions regulating the present postal service, except that the Corporation is not required to advertise for bids for the transportation of mail by aircraft. Here again, this exception is designed to give the Corporation freedom to exercise its own business judgment.

The present postal service provisions regarding transportation of mail by sea as included in this Act are limited to authority to maintain a sea post service, termination of contracts for foreign transportation, transportation of mail by vessel as freight or express, and fines on ocean carriers. Other provisions were not incorporated in order to give the Corporation as much freedom as possible to determine the terms of contracts and the procedures for entering into contracts.

Transportation of mail other than by rail, air or sea is not limited by provisions in this Act. This Chapter states that, "The Corporation may enter into any agreement it deems appropriate in order to provide necessary domestic or foreign transportation of mail . . ." This provision is subject only to limitations regarding transportation of mail by railroad and air. Thus the Corporation is allowed the flexibility to provide the most efficient postal service possible under up to date management procedures and based on current business judgments.

Chapter 13 provides for a Postal Corporation Fund, obligations of the Corporation, general powers of the Corporation, principal office and venue, taxation, annual reports, and printing of illustrations of United States stamps. Within the U.S. Treasury, a Postal Corporation Fund is established and available to the Corporation without fiscal-year limitation. The Corporation is granted bonding authority not to exceed $2 billion outstanding at any one time. This provision will aid the Corporation in providing much-needed facilities and equipment. Such obligations are not subject to the approval of the Secretary of the Treasury except as to the time of issuance and the maximum range of interest of the obligations.

If the Secretary does not approve a proposed issue of obligations within seven working days, the Corporation may issue interim obligations to the Secretary in the amount of the proposed issue, and the Secretary is directed to purchase such obligations. The Secretary is also authorized to purchase interim obligations if the Corporation determines that a proposed issue cannot be sold on reasonable terms. Not more than $500 million in obligations issued by the Corporation to the Secretary shall be outstanding at any one time.

If agreement is not reached within eight months concerning the issuance of obligations which the Secretary has not approved, the Corporation may proceed to sell such obligations without approval of the Secretary in amounts sufficient to retire the interim obligations. The Corporation may sell its obligations by negotiation or on the basis of competitive bids subject to the right, if reserved, to reject all bids.

The usual corporate powers are granted to the Postal Corporation. The Corporation can also provide for the handling of the mail; provide for payment of postage, issue postage stamps, etc.; establish change, or abolish registry, insurance, c.o.d., and money order system, or similar systems; establish dead letter offices; except as otherwise provided, keep its own system of accounts and forms and contents of its contracts and other business documents; prepare a budget which shall not be required to be submitted to the United States Government, or be included in the budget of the United States Government; to have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, decedents' estates; and to enter into contracts without advertising as required by 41–U.S.C., 5. These powers are intended to free the postal service from the straitjacket of legislation and bureaucracy and allow it flexibility in meeting the fast-changing needs and demands of the United States postal users.

The Corporation, its property, assets, income and obligations are exempt from taxation by the United States, a State, or political subdivision thereof, the District of Columbia, or territory or possession of the United States, except for estate, inheritance, or gift taxes assessed against obligations of the Corporation. The Corporation shall submit an annual report to Congress and the present provision for printing illustrations of United States stamps applies to the Corporation.

PART II. GENERAL

Chapter 21 authorizes the Corporation to make international postal arrangements, arrange for international money orders, and collect for transportation of international mail from other countries by offsetting amounts due from that country to the United States. These provisions are the same as presently apply to the Post Office Department with the exception that international money orders are not limited to $100 in order not to restrict the Corporation any more than necessary.

Chapter 23 contains provisions regarding the private carriage of letters which are the very same as the provisions presently applying to the Post Office Department.

Chapter 25 is a list of non-mailable matter, and non-mailable matter under this Act includes the same provisions presently applied to the Post Office Department.

Chapter 27 makes the present penalty and frank mail provisions applicable to the Postal Corporation.

Chapter 29 applies the present provisions relating to opening mail and dead letter treatment of high priority to the Postal Corporation. However, specific provisions relating to classes of mail and short paid and undeliverable mail are not included in this Act in order to allow the Postal Corporation latitude in determining the best methods to handle such mail.

PART III. EXISTING CLASSES OF MAIL AND RATES

Chapter 51 provides that the classes and rates in this part shall remain in effect until changed in accordance with the provision of Part I of this Act.

Chapter 53 contains all of the classes and rates which are applicable under the present postal system.

Section 3: Section 3 amends Title 5, United States Code, regarding government operations and employees. This section excludes the Postal Corporation from the provisions of this Title in the same manner in which the Tennessee Valley Authority is excluded. It also provides an executive pay level of V for the Postal Corporation commissioners. In addition, non-managerial and non-professional employees of the Post Office Department, on the effective date of this section, shall be employed by the Corporation without loss of accrued civil service benefits. For purposes of travel and transportation expenses; new appointees, student trainees, and transferred employees; and overseas differentials and allowances; the Postal Corporation is treated as a Government-controlled, rather than a Government-owned, corporation. The provision of Title 5 relating to the right of postal employees to organize will also apply to the Postal Corporation.

Section 4: Section 4 amends Title 18, United States Code, regarding crimes and criminal procedure by replacing the terms referring to the present postal service with appropriate terms referring to the Postal Corporation.

Section 5: Section 5 provides for the transfer of non-managerial and non-professional employees of the Post Office Department to the Postal Corporation on the effective date of this section and for the continuation of terms of employment until otherwise provided by collective bargaining. Managerial or professional employees of the Post Office Department on the effective date of this section are not transferred to the Postal Corporation unless the Board of Directors so specifically provides. The Section abolishes any office or position of the Post Office Department on the effective date of this Section.

Section 6: Section 6 consists of provisions for the transfer of the postal system from the Post Office Department to the Corporation and for abolishment of the office of Postmaster General and the Post Office Department.

Section 7: Section 7 contains the saving provisions of this Act. All orders, determinations, rules, regulations, etc., shall continue in effect until modified, terminated, superseded, set aside, or repealed by the Board of Directors. The Act shall not affect any proceedings pending at the time this Section takes effect, before any department or agency, the functions of which are transferred by this Act; such proceedings shall be continued before the Corporation. Suits commenced prior to the date this section takes effect shall not be affected by this Act and proceedings shall be had in the same manner as if this Act had not been enacted. The enactment of this Act shall not cause the abatement of any suit, action, or other proceeding commenced by or against any officer in his official capacity or any department or agency, functions of which are transferred by this Act. The passage of this Act shall not have the effect to release or extinguish any criminal prosecution, penalty, forfeiture, or liability incurred under statutes amended by this Act. References in other laws to departments or officials transferred will not refer to the Department or officer of the Corporation.

Section 8: Section 8 provides that references to the Post Office Department, the Postal Service, or Postal Field Service shall be references to the Corporation. The Government Corporation Control Act applies to the Postal Corporation.

Section 9: Section 9 expressly declares and preserves the right to alter, amend, or repeal this Act.

Section 10: Section 10 authorizes the appropriations of sums necessary for establishment of the Postal Corporation, for capital improvements, and for the placement of the Corporation on a self-supporting basis. The transition expenses shall be paid from appropriations and funds available to the Post Office Department.

Section 11: Section 11 provides for the effective date of the provisions of this Act.

ORDER OF BUSINESS

Mr. PEARSON. Mr. President, I ask unanimous consent to proceed in the morning hour for a period of 15 minutes.

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

SENATE CONCURRENT RESOLUTION 3—RELATING TO THE NIGERIA-BIAFRA TRAGEDY

Mr. PEARSON. Mr. President, in the brief time I will speak today, perhaps as many as 75 or 100 people will die of starvation in the African villages and countryside that are now ravaged by the war between Nigeria and the breakaway region of Biafra. This cruel conflict, from which neither side can ever emerge as a victor except in the most narrow sense, now threatens to extinguish literally millions of lives by a slow and lingering death that can be avoided only if action is taken quickly. And it can be avoided without directly injecting external political forces into what is essentially an internal dispute.

It is this consideration which has prompted me to submit today a concurrent resolution calling upon the President to act for the conscience of America by doing more to help end the senseless suffering that is the byproduct of this dispute. I am privileged to be joined in this effort by the distinguished junior Senator from Massachusetts (Mr. BROOKE) and 50 of our colleagues. Moreover, this same resolution will be introduced tomorrow in the other body by Representatives MORSE and FRASER, who have been joined in turn by approximately 90 of their colleagues.

It speaks well for the Congress to have so many distinguished legislators from every quarter of the country unite in an attempt to speed help to those in such desperate need. For truly, this is an issue that transcends party, ideology, or geography. It is an issue which summons all who care for the fate of their fellow man, no matter on what remote corner of the globe he may dwell. And it is in this spirit that we who introduce this bill today invite others to join us in this humane crusade. It is our hope that both the Senate and House will deliberate thoroughly, but swiftly—for time is of the essence—and by passing this measure advise the President and the country, and tell the world that we want to bring our material wealth to bear to save lives before it is too late and our consciences are forever seared.

Mr. President, the concurrent resolution we submit today is simple in both construction and purpose. It is designed to shatter the stagnation which thus far has prevented the expanded flow of relief which even the most conservative statistics indicate is needed. And it is with this design in mind that the concurrent resolution urges the President to make available increased amounts of surplus food, relief moneys, noncombat aircraft, and such other vehicles of transportation as may be needed for relief purposes. It further suggests that this relief assistance be made available to the Organization of African Unity, UNICEF, the International Committee of the Red Cross, and such other suitable religious and charitable relief agencies as may be operating in the area with the consent of the responsible authorities. Moreover, this material would be made available after proper requests had been made by the participating agencies.

Finally, the concurrent resolution urges our Government to seek the cooperation of other nations in this humanitarian effort.

Thus, Mr. President, the concurrent resolution is indeed uncomplicated. But because of the critical nature of the challenge and because we bear a heavy responsibility not to urge our Government into precipitous, unwise, or needlessly risky ventures, it deserves careful study and consideration.

Though the humanitarian requirements of the current crisis are obvious, we must use caution lest we overextend ourselves politically, militarily and even economically. It is not our intention, in calling for further relief efforts, to commit our Government to an open-ended aid program for the area for years to come. But neither is it our desire to put a price tag on human lives. Thus, the concurrent resolution envisages a stepup in the amount of food and money provided by the United States without any specified ceiling. It is clear, however, that this measure is aimed at helping resolve the current relief crisis and is not designed to bind us to a massive economic commitment once the threat of mass starvation is ended.

The United States has already given approximately $23.7 million in relief, much of it in the form of Public Law 480 food. The expansion called for by this resolution might mean an eventual commitment of double, triple, or even quadruple this amount. But it is not expected to involve billions over a period of years, as some might fear. Though the crisis may last for many months, it is certainly not going to entail an effort rivaling the Marshall plan. Thus, to those who are

concerned lest we overcommit our Treasury, let me say that while I would hope we would continue to help the people of West Africa build a viable society after this war has ended, the purpose of this resolution is not to create a postwar reconstruction program. It is simply to bring help to innocent people who are trapped in a cruel situation and whose needs are urgent. The relief food and money referred to are for this period of immediate need only.

Moreover, Mr. President, while we are speaking of money, let me also point out that the shipment of Public Law 480 food overseas will benefit our agricultural economy by further reducing expensive surpluses.

Another point in connection with the concurrent resolution's reference to money might also be made, for several individuals have asked why the measure did not confine itself solely to food, medicine, and transport. The fact of the matter is that the relief agencies operating in the field need money to further their work. They need it to buy local foods, often preferred by the starvation victims in question, and they need it for warehouse facilities, the hiring of local transport, the purchase of fuel, shipment costs, chartered pilots, and perhaps even for an expansion of airfield or port facilities that would probably be necessitated by an expanded relief program.

Some of the money in question, Mr. President, is available now in the form of standby contingency funds that could be released should the President choose to do so. The rest might have to come from supplemental appropriations that could be made available as detailed requirements were made known. In any event, though an increase in relief spending would be inevitable, it would not be enormous in terms of our current national budget of over $180 billion. And equally important, it would save countless lives and thus make a contribution to humanity that is in the highest tradition of the United States.

As noted earlier, the concurrent resolution also calls for the President to increase significantly the number of aircraft and other vehicles of transportation that might be needed by the relief agencies. The United States recently announced that it was selling, for a minimal fee, eight surplus C–97G Stratofreighters to the church groups and the International Committee of the Red Cross. Four of the planes are to go to the Red Cross, which operates its mercy flights from the island of Fernando Po. and four to the American religious consortium, Joint Church Aid, USA, which operates from the island of Sao Tome.

The sale of these aircraft is an important positive step forward, for it notably improves the ability of these agencies to bring the relief supplies into the heart of the war zone. It is anticipated that these planes will replace the ancient Constellations and DC–6's which have been bearing the airlift burden thus far.

But, Mr. President, much more must be done. Even with the arrival of the C–97G's with their 36,000-pound cargo capacity, it is not expected that relief flights will carry in more than 200 or 250 tons of food a day. As the daily requirements have been estimated from a low of 1,000 tons to a high of 2,500 tons, it is obvious that more planes will be needed. Moreover, the C–97G, I am told, is a difficult plane to maintain. Its engines are complex and on occasion temperamental, and it is a very heavy aircraft with a side-loading cargo door. The C–130, or "Hercules," on the other hand, has a "footprint" weight one-half that of the Stratofreighter, a full-opening cargo hatch, simpler engines to maintain, and can take off and land with roughly 1,000 feet less runway.

In sum, more and better planes are needed. It is hoped the concurrent resolution will give the impetus to provide them.

It will be noted, Mr. President, that the concurrent resolution does not specify the terms under which these cargo aircraft will be provided. Such vagueness is deliberate. Given the variety of planes from which the President may choose, he might wish to donate some, sell others, and lend-lease still more. He is in the best position to determine which aircraft will be provided and the terms that are in the best interests of our country and humanity. The important point is that more and better planes be provided—and be provided soon.

The concurrent resolution also calls for the possible provision of "other vehicles of transportation." This vagueness, too, is deliberate. It is conceivable that sometime in the near future, while the relief crisis is still urgent, agreement may be reached by the disputants to open a water channel or even a land corridor for the transshipment of relief supplies. If this happy situation were to occur, we would want to have made it clear to our Government that we in the Congress would also favor arrangements by which trucks or barges could be made available to take full advantage of such a breakthrough.

Mr. President, the concurrent resolution further suggests that any such equipment, food or money be provided to the Organization of African Unity, UNICEF, the International Committee of the Red Cross, or other suitable religious and charitable relief agencies. The Organization of African Unity—OAU—is the regional body which the independent African states have created to deal with the economic, political and security matters of the continent. It has established a consultative committee of nine members to deal with the current Nigerian-Biafran impasse. A number of attempts to mediate the conflict and reach a negotiated settlement have failed, and as yet the committee has not undertaken a relief role. But this does not necessarily preclude an active and successful OAU-directed aid program. In fact, it would be my hope that the OAU would become more active in this regard. Given the limited resources which the group has at its command, however, such an African-directed humanitarian program is extremely unlikely without significant support such as this concurrent resolution could provide.

Mr. President, by encouraging the OAU to consider a more active relief role, it is not the intent of this concurrent resolution to limit expanded relief efforts solely to this one possible avenue of approach. Other agencies, such as UNICEF and the International Committee of the Red Cross, provide other alternatives which may, in the end, prove more productive. Whether or not this becomes the case is for the Africans and the international relief agencies to determine. Our sole function is that of using our material and logistical capabilities to provide support for those who need it and who choose to avail themselves of it. Both UNICEF and the International Committee of the Red Cross have been quite active in trying to formulate an effective relief program and both have received support from the U.S. Government. Moreover, both have been able to secure some degree of cooperation from the authorities in the areas in which they operate, though there have been some notable lapses on occasion.

But the possibilities for developing or expanding suitable agencies to receive and implement our relief assistance are by no means limited to the ones just discussed. As provided in the resolution, "other suitable religious and charitable relief agencies" in addition to the OAU, UNICEF, and the International Committee of the Red Cross would be eligible to receive support.

Agencies based in the United States and eligible for AID assistance, such as Joint Church Aid, USA, and might now or in the future be operating in the area, would also be included. Thus, the various alternative routes for relief assistance proposed in the resolution are many and not mutually exclusive.

Aid would be given to any eligible group which requested it. In this way the United States could in no way be accused of foisting its assistance on those who might not want it for reasons of their own. Also, the process of submitting a request and outlining a program would serve to more clearly define objectives and avoid frivolous or poorly conceived projects.

Mr. President, one last important point must be considered in examining the intent and ramifications of this proposed program of expanded relief. And that is that the receiving agencies would be expected to be operating with the consent of the responsible authorities concerned. In the case of every group considered above, that is already the case. If these efforts are to be effective, they must have at least some measure of cooperation from the authorities in de facto control of the territories involved. Thus, if the OAU begins a relief program which initially may be restricted to federally controlled areas, it would be anticipated that before asking for the expanded American assistance provided by this resolution it would secure the cooperation of the Lagos authorities for its program. On the other hand, in the case of the Joint Church Aid, USA, operations off Sao Tome into Biafra, at the consent of the Biafran authorities would be desired. And if another agency were operating on both sides of the war zone, then the consent

of the authorities of both sides to the conflict would be anticipated.

In considering the ramifications of such a policy it is important to bear in mind that this philosophy is already the operating guide for the American Government. The $23.7 million in aid we have already given to relief groups includes assistance provided to agencies operating without the consent of both disputants, but which are operating with the agreement of the authorities currently in control of the territory concerned. Thus, while the authorities not giving consent to programs being administered in what to them is enemy territory may be perturbed about an expansion of these current efforts, there are no alternatives if the massive starvation is to be halted. The failure of repeated attempts to negotiate a relief land corridor show the kind of delays that could occur should the consent of both disputants be required in each case. And in a crisis which is as urgent as this one, such delays could be fatal to thousands, perhaps millions.

Moreover, Mr. President, because it is not our wish to exacerbate the conflict, it is anticipated that every effort would be made to provide for international inspection of the relief shipments to guarantee the security interests of both sides. Many formal and informal avenues are available to create the mechanism by which such an inspection could take place. The United Nations, the International Committee of the Red Cross, or other suitable vehicles could be developed with both Nigerian and Biafran participation to guard against the Nigerian concern that arms might be smuggled into Biafra along with food, while also protecting the Biafrans against their fear of poisoned relief supplies. The exact formula which may evolve is as yet unknown, but the indications are that both sides are interested in reaching an accommodation, particularly since the fighting has deadlocked and neither side is benefiting decisively by the continuation of large-scale civilian starvation.

Given the good chance of such an accord, plus the fact that the expanded relief envisaged by this resolution is merely an extension of the current policy which has already proved diplomatically workable and thus is not a radical alteration, the formula for official indigenous cooperation proposed in this legislation appears to be the most balanced and effective approach we have available.

Mr. President, the resolution concludes by urging the United States to actively solicit the cooperation of other nations in this expanded humanitarian effort. This final point is truly vital, for it provides a viable alternative to sole reliance upon the United Nations as the framework for an international aid program—a position which brings with it certain avoidable difficulties. It would certainly be our hope that this effort by the United States would succeed in attracting the active support of a number of concerned nations. In this way the pitfalls of formal U.N. consideration of the issue could be skirted, while at the same time the ad hoc relief consortium could provide a workable method for coordinating aid.

In any event, it could create a framework which the United Nations would later find useful should it begin a formal relief effort of its own; and in the final analysis such an ad hoc approach does nothing to prohibit U.N. initiatives by those who wish to pursue them. It merely attempts to guarantee that steps to create an international relief structure will be given impetus regardless of whether or not the U.N. can or will act.

Other factors with regard to the proposal offered today should also be considered. One vital point to bear in mind is that the total thrust of the resolution is to provide a way for relief to be made more effective. It provides an opportunity and nothing more. Whether or not this opportunity is seized and made a reality depends upon the Africans themselves. And this is as it should be, for it is their conflict, not ours, and we have neither an interest nor a desire to become involved in determining the shape of the ultimate settlement they agree upon.

This does not mean that we are not to be concerned with ending armed strife, but it does mean that we cannot be the world's policeman. We certainly have learned the bitter lesson of over-involvement in other's affairs. Moreover, while it is a dispute which is already unsettling to the African continent and may do more so the longer it drags on, it is not now a threat to the security of the world or the United States.

Given these realities, Mr. President, the resolution was designed to avoid direct U.S. involvement in the dispute. This is not intended to imply that we are or should be indifferent to the social, political, economic, and military factors which have brought about this war and which now prolong it. On the contrary, privately, and with full understanding and compassion for the complexities involved, we should attempt to persuade the two sides to negotiate and compromise their differences rather than continue to rely on the use of force. But the fact remains that the purpose of this resolution is to provide a workable way in which we can fulfill our moral obligations to save innocent lives without direct involvement in the dispute. The actual relief operations, under international supervision and with reasonable opportunities for security safeguards, would be undertaken by the relief agencies with the minimum necessary cooperation of the Africans themselves. In sum, the national as well as the moral interests of the United States would be met by this legislation.

Many Americans deeply concerned about this widening tragedy are in favor of a direct initiative by the United States in the United Nations. This position was mentioned briefly earlier in my remarks, but given the widespread attention which it has received, it merits further examination. As mentioned previously, such an initiative is not precluded by the legislation submitted today, but it is not an integral part of the language of the resolution itself for several reasons.

While I fully sympathize with the concern and emotions which led these individuals to recommend this course of action, as I said last year when the distinguished junior Senator from Massachusetts (Mr. BROOKE) and I first introduced a modified version of the resolution submitted today, I nonetheless disagree with the suggestion—at least for the moment. In my opinion, any such formal recourse to the United Nations, either in the Security Council or in the General Assembly, is fraught with needless risk.

The Africans, for example, have made it quite clear that they wish to find their own solution to this peculiarly African crisis, which raises the important issue of Balkanization for the whole continent. In a meeting of heads of state sponsored by the OAU, the Africans by a vote of 33 to 4 passed a resolution which in part asked members of the United Nations to refrain from interfering in the current Nigerian-Biafran crisis.

It is rumored that it is the French who are responsible, either directly or indirectly, for the recently increased arms shipments to Biafra which have now enabled the former eastern region of Nigeria to fight the Federal forces to a virtual stalemate. On the other side, it is well known that both the British and the Soviets have been equipping the Nigerians with sophisticated weaponry up to and including jet fighters.

Mr. President, we in the United States have not become involved in fueling the fires of war in Nigeria. Thus, we come to the problem with clean hands. But while we all realize that an end to the fighting might begin with a cease-fire, we must recognize reality. And in this case the reality is that three great powers have an interest in the matter and that these interests are likely to block any peace initiatives. The British, fearful of Soviet influence after an end to the fighting, and worried lest Biafran control over the oil-rich eastern region deny them economic access, want a unified Nigeria and at the moment, apparently, are still in favor of full support for the Federal Government's policy of a military solution.

The Soviets, who are trying to expand their influence, particularly among the northern tribes, have an interest in prolonging the turmoil while they stabilize their position.

The French, who also have an interest in Biafran oil, and operating upon the premise that the Biafrans would be more responsive to their wishes in this regard than would the Nigerians, have apparently opted to give covert support to Biafran secession.

Therefore, Mr. President, this convergence of big-power interests favoring a continuation of the fighting, however deplorable, is a reality which we must face. It would doom any Security Council initiatives just as surely as African sensitivity to any organized outside interference would doom any similar suggestions in the General Assembly.

Thus, because it is not in our interests to embarrass and further cripple the reputation of the United Nations by publicly demonstrating its impotence in this crisis, because it is not in our interests to strain our relations with the OAU and its many member states by trying to use the United Nations as a wedge to force a settlement, and because it is not in our

interests to further complicate the crisis by the injection of extraneous cold war issues that would inevitably flow from United Nations debate, I submit that it is not in our interests or in the interests of the Nigerians and Biafrans to formally involve the United Nations in this dispute.

I have no easy solution to the political issues which now divide this unhappy land. I fully realize that unlike the proposals for a cease-fire and an arms embargo which have grown in frequency recently, the formula brought forward today does not address itself to methods by which political or military pressures might be generated to bring about a lasting political solution to the crisis. And thus it may be fairly said that the resolution is concerned with only part of the problem. But I submit that if this is so, it is concerning itself with the most important part—the saving of millions of lives which are now threatened.

I see no reason why this important business of saving lives cannot proceed immediately while the ultimately more permanent, but nonetheless immediately more complicated and lengthy process of negotiating a settlement proceeds apace on other fronts.

It would involve a needless hazard to these threatened people to tie our urgent concern with relief to any particular political peace formula. Should it fail or should it be delayed through tedious talks, thousands of people would die who might be saved by an expanded relief effort which could and, I believe, should be mounted independently of any peace proposals.

Mr. President, this is not to say that such an expanded relief program can be mounted in complete diplomatic isolation. Obviously an enlarged program of humanitarian aid with its attendant need for expanded airlift and shipping facilities will involve arrangements that will have political effects. But compared to the amount of agreement necessary under full-fledged peace plans, the diplomatic risks are minimal and any threat to our interests far more remote.

In any event, the few risks entailed in an expansion of our current basic diplomatic position are noble risks, for they would be undertaken in the name of humanity and for a truly altruistic and just cause. When the United States ceases to press for relief programs in crises such as this, then it will cease to represent the ideals we all revere and which we in the Congress have been elected to promote and protect. As President Nixon himself said last year:

> The time is long past for the wringing of hands about what is going on. While America is not the world's policeman, let us at least act as the world's conscience in this matter of life and death for millions. . . . America is not without enormous material wealth and power and ability. There is no better cause in which we might invest that power than in sparing the lives of innocent men and women and children who otherwise are doomed.

Mr. President, I wish to associate myself with these sentiments. Some of the cosponsors of this effort today favor a call for a cease-fire and the imposition of the arms embargo. Others are opposed. Some favor recognition of Biafra and hope she becomes an independent state accepted by Nigeria. Others favor unification of the country under a federal system. While still others would welcome the creation of a confederation with a common foreign and economic policy, though permitting each region to have complete autonomy with regard to its internal military and police forces.

What is more important than their differences over the ultimate solution they might favor, however, is their unanimity in seeking an immediate lessening of the starvation and their joint determination to see the United States do more to bring this humane goal to pass. The need is truly urgent, for with every day's delay more men, women and children—especially children—needlessly die. We simply must meet our humanitarian obligations more fully than we have to date. We can no longer avoid a confrontation with our consciences. The time has come. The time has come today. That time is now.

Mr. President, I ask unanimous consent that the Senate concurrent resolution resolution referred to in my comments be printed in the RECORD at this point, together with the list of 50 cosponsors joining the Senator from Massachusetts (Mr. BROOKE) and myself in this endeavor.

The VICE PRESIDENT. The concurrent resolution will be received and appropriately referred; and, without objection, the concurrent resolution will be printed in the RECORD, as requested by the Senator from Kansas.

The concurrent resolution (S. Con. Res. 3) relating to the furnishing of relief assistance to persons affected by the Nigerian civil war, submitted by Mr. PEARSON (for himself and Senators BROOKE, ALLOTT, BAYH, BELLMON, BENNETT, BOGGS, BYRD of West Virginia, CASE, CHURCH, COOPER, CRANSTON, CURTIS, DOLE, EAGLETON, FANNIN, GRAVEL, GRIFFIN, GURNEY, HANSEN, HART, HARTKE, HATFIELD, HRUSKA, HUGHES, INOUYE, JAVITS, KENNEDY, MATHIAS, MCCARTHY, MCGEE, MCGOVERN, METCALF, MILLER, MOSS, MURPHY, MUSKIE, NELSON, PARKWOOD, PELL, PERCY, RANDOLPH, RIBICOFF, SCOTT, SCHWEIKER, SPONG, STEVENS, TALMADGE, THURMOND, TYDINGS, WILLIAMS of New Jersey, YOUNG of Ohio), was referred to the Committee on Foreign Relations, as follows:

S. CON. RES. 3

Whereas, reliable reports indicate that there is a tragic loss of life in the Nigerian Civil War, caused by starvation and disease in areas controlled by the Federal Government and under the control of the "Biafran" authorities; and

Whereas, present relief operations are inhibited by poor roads, bad weather, inadequate transport, and the inaccessibility of certain areas to overland supplies; and

Whereas, increased shipments of food and medical supplies are needed to reduce the tragic rate of starvation: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That (1) it is the sense of the Congress that the President should act to increase significantly the amount of surplus food stocks, relief monies, non-combat aircraft, and such other vehicles of transportation as may be necessary for relief purposes; and this relief assistance should be made available to and at the request of the Organization of African Unity, UNICEF, the International Committee of the Red Cross, and such other suitable religious and charitable relief agencies now or hereafter operating in the area with the consent of the responsible authorities; and (2) the Government of the United States should solicit the cooperation of other nations in this humanitarian effort.

Mr. SCOTT. Mr. President, will the distinguished Senator yield?

Mr. PEARSON. I am happy to yield to the Senator from Pennsylvania.

Mr. SCOTT. I congratulate the Senator from Kansas and those who have joined with him in a proposal, entirely eleemosynary in its intent, which recognizes that the great heart of America is enlisted wherever famine, hunger, disease, and tragedy of this sort become pervasive and so burdensome that the local authorities and local governments involved are either unable or in some cases unwilling to meet it.

Therefore, I most heartily commend the distinguished Senator for having brought this matter to the attention of the Senate. The resolution is deserving. As he says, it does not have any military overtone, nor any sense of military involvement, and those who have joined in this sentiment are of differing spirits as to the political or military aspects involved. But I do most heartily commend the Senator.

Mr. PEARSON. I thank the Senator from Pennsylvania.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the distinguished Senator from Kansas may be permitted to proceed for 3 additional minutes.

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

Mr. BYRD of West Virginia. Mr. President, I wish to join in applauding the distinguished Senator from Kansas and the able Senator from Massachusetts (Mr. BROOKE) for having provided the leadership in preparing this concurrent resolution, and I congratulate them on acquiring the great number of sponsors—among whom I am one—who have joined in cosponsoring the resolution.

By the mere fact that it is a Senate concurrent resolution, it is understood that it would not have the force and effect of law, and that it merely expresses the sense of both Houses of Congress. Is that not correct?

Mr. PEARSON. That is correct.

Mr. BYRD of West Virginia. I wish to express my satisfaction that the Senators have included in the verbiage of the resolution the word "noncombat," which is descriptive of the kind of aircraft which would be utilized in this relief effort.

I should like to ask the able Senator if, in his judgment, this does not help to allay the fears that some might have, namely, that otherwise we might be getting into another Vietnam-type situation.

Mr. PEARSON. I may say to the Senator from West Virginia, who made such a great statement on the floor of the

Senate yesterday in regard to this situation, that we sold eight aircraft for about $4,000 to a relief agency, including the International Red Cross. It would be my hope that if additional planes are provided, they likewise would be sold to the relief agencies. They are noncombat aircraft. That is known to all.

In addition, it should be pointed out that these planes will not be flown by American personnel, but by crews engaged by religious, charitable, or relief organizations which are undertaking the flying missions today.

The land area of the region now commonly known as Biafra is landlocked. The Nigerian forces have cut off access to the sea. So the use of aircraft is about the only way in which relief can get to the Biafrans. I am hopeful that other means of transportation may be available in the future.

Mr. BYRD of West Virginia. I have noted in the resolution the words "relief money." Does the Senator from Kansas have any idea as to the amounts of money that may be required?

Mr. PEARSON. I think I indicated in my statement that it is impossible to tell at this time. About $23.7 million of aid has been provided to the International Red Cross, to UNICEF, and to any other agencies that are qualified to receive aid through the contingency fund.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senator from Kansas may have 2 additional minutes.

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

Mr. PEARSON. Some of the aid work is now being done by relief agencies, particularly religious agencies, which are now qualified to receive aid.

Mr. BYRD of West Virginia. I note the absence from the concurrent resolution of any reference to medical supplies. I assume, of course, that such supplies could be included in the term "relief money." Would the Senator like to respond?

Mr. PEARSON. I think it is included in the preamble, in which is indicated a scarcity of food.

Mr. BYRD of West Virginia. Would the Senator from Kansas wish to include those words in the resolving clause?

Mr. PEARSON. I think so, if they are not already there. I do not have the text of the resolution before me now, but those words could be included. They are within the intent of the resolution.

Mr. BYRD of West Virginia. I thank the able Senator. Again I compliment him.

Mr. KENNEDY. Mr. President, I should like to identify myself with the remarks of the distinguished Senator from Kansas. I am a cosponsor of the concurrent resolution.

If I had one additional comment to make, regarding the resolution, it would be that it include reference on the need for a cease-fire or a truce. I think this is really the challenging problem that we face today in the Nigerian-Biafran situation.

I would hope that when the Committee on Foreign Relations deliberates on the resolution, it would consider this. I would hope that a resolution would contain a strong indication that every effort should be expended to try to achieve a truce in that part of the world. I think it is the sense of the Members of this body that we will support the President in every possible effort to achieve peace in that area.

One of the things that always strikes me about the Nigerian-Biafran problem, besides the extraordinary loss in terms of the hundreds of thousands of persons who have actually been starved, is that it really is a great power struggle. Those who have suggested that the United States should not enter into a discussion of the problem or be concerned about it, actually fail to recognize—including many of our African friends—that this is a power struggle among the great powers and that we are so deeply a part of it. That is why I think we have an additional obligation, besides the historical obligation that America represents in terms of humanitarian concern, to realize that we are a part of a power struggle among the British, the French, the Soviet Union, and the United States.

We never impute motives to the Soviet Union, and perhaps we should not do so in this case; but we can understand why a continuation of this kind of struggle does not work to the disadvantage of the Soviet Union in terms of the power struggle in Africa.

The arms that are being supplied by the British and the French, and the lack of action by the United States, I think, put a heavy indictment on the United States for having failed to take a much greater interest in the situation. Those who say that it is strictly an African affair and that we should not be concerned about it, and that the Members of the Senate who are cosponsors of the concurrent resolution should not interfere in the matter, do a distinct disservice not only by failing to recognize the humanitarian needs, but also by failing to realize the other issues that are presented by this problem.

So I commend the Senator from Kansas for bringing this situation again to the attention of the Senate.

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

Mr. KENNEDY. Mr. President, I ask unanimous consent that I may proceed for 2 more minutes.

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

Mr. KENNEDY. I have suggested some procedures and initiatives that could be provided by this Nation and have communicated them to the appropriate responsible authorities in the Government.

I have also suggested that our friends at the United Nations should have our support—those Scandinavian countries and Canada which have made efforts to put the humanitarian problem of Nigeria-Biafra before the United Nations.

The United States should take the initiative in trying to resolve the Nigerian-Biafran situation in some way. We should applaud the efforts of Emperor Haile Selassie, who once again made an effort, just before Christmastime, to achieve a truce in that part of the world. The United States ought to have worked in every degree possible to assist His Majesty and, generally, to pursue a much more aggressive effort to achieve a truce.

Some newspapers, even, have failed to report this problem accurately. But I think that now, through the efforts of the Senator from Kansas (Mr. PEARSON) and other Senators, it has come to the attention of the American people.

I know that President Nixon will receive every degree of support from the Members of this body in exercising to the fullest extent possible, our influence and our good offices to achieve peace.

Mr. President, yesterday in this Chamber, I suggested that I would comment further on the mass starvation resulting from civil war in Nigeria, and I wish to do so briefly at this time.

As those of us who have focused attention on this problem have discovered the American people—across the spectrum of life and ideology—have responded to the suffering with deep compassion. Students at all levels are collecting funds and food in their communities. Organizations are springing up to support the relief efforts of the established voluntary agencies working in the field. Governors and mayors are proclaiming Nigeria-Biafra relief days, and thousands are writing to Members of the Congress and officials in the administration—appealing for help in behalf of the starving millions, and crying out in desperation that individual governments, the combatant leaders in the civil war, and international organizations are not doing more to put an end to the awesome tragedy.

I have shared the distress and humanitarian concern of these citizens for several months. Last spring, in the early stages of the tragedy, I privately encouraged and supported to our own Government and elsewhere, initiatives to organize an effective international relief mission under the auspices of the International Committee of the Red Cross.

A real sense of urgency to move in this direction, or to fully support the makeshift arrangements which finally emerged was nowhere apparent in the councils of governments—largely, I believe, out of deference to the feelings of the federal government in Lagos, and the generally accepted view that federal troops would soon win a military victory, after which massive relief could begin.

But deadlines passed, and this victory never came. The Biafran leadership had skillfully dramatized the plight of the people in its territory to gain political support—including the open encouragement of the French Government, and enough arms through French and other channels to stabilize its position on the battlefield.

Moreover, sporadic efforts to bring about a negotiated settlement of the conflict—as well as to find a workable formula for a more adequate relief operation—met with failure. So the war continued—and so did human suffer-

ing—and the death rate steadily climbed. Our Government expressed deep concern for the starving people—on both sides of the battleline. But political considerations outran our responsibility for moral leadership, and our early response to the suffering in terms of humanitarian relief, was lethargic and belated.

It was also inadequate. In fact, for many weeks last fall no significant humanitarian action of any kind was taken. The urgent appeals for help by the relief agencies fell on deaf ears—not only within our own Government, but, with few exceptions, throughout the world community. Recently, however, I believe some progress has been made in bringing greater sensitivity to America's attitudes on relief needs. The most significant step in this direction came in late December with the Government's release of surplus aircraft to the relief agencies to facilitate their delivery of food and medicine into the Biafran enclave where the major difficulty exists.

Solely for humanitarian purposes—and I stress this framework, Mr. President—I have strongly advocated such initiatives on the part of the United States. And, I am extremely hopeful that the welcome shift in our Government's attitude toward the extraordinary human misery resulting from the Nigerian civil war will continue and expand under the new administration.

I fully recognize the inevitable problems and limitations of carrying out an adequate relief mission under conditions of war—including the selfish political pressures from all sides to influence the concern and work of the relief agencies. But as a matter of conscience—and in line with our historic traditions—I believe the United States must do what it can to help implement and support the maximum relief effort possible.

It is unmistakably clear, however—and has been for many months—that while intensified measures to feed a starving people can surely save additional lives, only an early end to the fighting will avert the disaster of total famine for millions, and produce the conditions for a fully effective relief and reconstruction program.

And so the overriding need today is the honoring of a truce by both parties to the conflict, and a negotiated cease-fire monitored by neutral observers. There are roadblocks in pursuing these objectives, but there is much to gain if a successful effort is made. It will cool tempers on all sides. It will blunt the inevitable rancor and bitterness generated by civil war, and hopefully create an atmosphere of mutual respect and good will to permit the settlement of differences at the conference table.

It will provide an opportunity for those governments which so willfully pour arms into the area, and needlessly prolong violence at the expense of innocent millions, to shift their involvement to peaceful concerns and the sending of food and medicine. It will help defuse the dangerous potential of great power confrontation, and head off the threatened involvement of additional governments on both sides. And most importantly, it will open new avenues for the massive relief of civilians and save countless lives. In mid-December, the hopes of all of us were raised in the direction of peace when Ethiopia's Emperor Haile Selassie appealed to the warring leaders of Nigeria to honor a Christmas truce.

His Majesty's initiative was an act of courage and statesmanship—and, given the stalemate on the battlefield and the nightmare of starvation and death, the world had every reason to believe the combatant leaders would heed the Emperor's call for a temporary cessation of hostilities. But the initiative was scuttled—through the intraagency of at least one party to the conflict—and another opportunity to save lives and bring about the process of reconciliation was lost. I am extremely hopeful that new initiatives to end the conflict will soon be taken—before the frustration of military stalemate leads to escalation on the battlefield.

And I believe that the time is long overdue for the United States to assume some leadership in this area. We must move from the role of spectator, simply applauding the initiative of others to one of contributor, actively using our powerful influence to help end the fighting and the misery it brings. Other governments and international bodies—such as the Organization for African Unity, the Commonwealth Secretariat, and the United Nations—have their responsibilities.

But as a responsible world power which has the confidence and good will of both parties to the conflict—and as the only great power not directly involved in the military objectives of either side—the United States has a unique opportunity—indeed, an obligation—to lend its good offices, directly or through others, to bring about reconciliation among the people of a once promising and proud federation.

Some will say the United States should leave such problems alone—have not we learned from Vietnam that we cannot police the world? But I submit to Senators that the choice in Nigeria is not between military intervention and isolation. Rather, it is an active determination to simply pursue our objectives, through political means, for a peaceful world and the well-being of our fellow man. The United States has always found a way to make its weight felt in the affairs of others when our self-interest and national security have been at stake. In the historic tradition of our Nation, I would also hope that we can still exert our powerful influence when great tragedy strikes humanity. And so I make these recommendations:

First, I urge the President to use every tool of diplomatic leadership to help bring peace to Nigeria-Biafra. Let this Nation take immediate steps to achieve a truce on the battlefield—so as to begin the process of reconciliation, including negotiations leading to a political settlement under the auspices of other African governments. And let us also take initiatives to stop the flow of arms to either side. I strongly recommend that the President appoint, as soon as possible, a special presidential representative to facilitate our efforts.

Second, I urge the President, solely, for humanitarian purposes, to continue this Nation's escalation of support for the relief effort in all areas of need, so that the capacities of current relief channels are used to their fullest extent. Nothing should be lacking in the commitment of the United States to help meet the demands of humanity in a truly desperate situation.

This Nation can well afford to release additional aircraft, funds, food, and medicine to save lives in Africa.

Third, I urge the President to seek the cooperation of other governments and the parties to the conflict, in urgently requesting the Secretary General of the United Nations to convene in Geneva as soon as possible an international conference on Nigeria-Biafra relief.

I make this recommendation because of my deep concern that the current and long term emergency relief needs, let alone those needs of reconstruction following the end of hostilities, can never be met through the existing relief mechanism or the political authority which finally assumes effective control of the areas touched by civil war.

A Geneva conference arranged by the Secretary General would, I feel, lend fresh perspective on the possibilities of expanding emergency relief operations, and on the approaches to the eventual task of reconstruction. The conference should include representatives from UNICEF and other specialized agencies, the Organization for African Unity, the parties to the Nigerian civil war, other governments, the private voluntary agencies, the International Committee of the Red Cross, the League of Red Cross societies and National Red Cross societies in Africa.

Through the good offices of the Secretary General, the conference should make an effort to establish, immediately, a new and broader relief mechanism—acceptable to both sides. It should be the function of this body to receive and channel relief contribution; to negotiate mercy agreements between the parties in the civil war, so long as hostilities continue; to supervise relief operations; to involve additional humanitarian agencies, especially National Red Cross societies in Africa; and to strengthen relief corridors into areas of need, including new routes over water and land.

Mr. President, in urging stronger American leadership regarding the situation in Nigeria-Biafra, I express the view of many Senators and millions of America's citizens. I cite no political or economic or treaty obligations to support this view. The mutual concern of America is simply the well-being of people caught in the passion of fratricidal war, the reconciliation of both sides, and the renewal of cooperation and progress among the people of a once promising federation, who have much to contribute to the building of all of Africa.

We are conditioned in the world we have created to accept suffering and injustice—especially in our time when violent conflict and oppression are active in so many areas.

But the newer world we seek will not evolve if we ignore these challenges to

leadership, and take comfortable refuge in the mundane patterns and attitudes of the past. And so today, I urge the President to heed the historic role of this Nation, and pursue with determination and compassion, peace and relief in Nigeria-Biafra. Let us act with the help of others in an international humanitarian alliance—because it is right to do so—because it is unconscionable to remain silent—and because the hope of all mankind for a better world will be strengthened.

Mr. PEARSON. Mr. President, I ask unanimous consent to respond to the Senator from Massachusetts for 1 minute.

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

Mr. PEARSON. I thank the Senator from Massachusetts for his cosponsorship of the proposal. I think he recognized, in joining us, that we were seeking to attack the problem of mass starvation. The Senator from Massachusetts, as I recall, was perhaps the first Senator to speak in the Chamber on this subject. He urged then the implementation of United Nations machinery. We sought in the resolution not to make our proposal a part of the cold war struggle. We sincerely hope that a cease-fire may be accomplished, but we have sought to avoid taking any action that would involve us in a power struggle. The Senator from Massachusetts accurately defines the activities of the French, on the one side, and the Soviet Union, on the other, as a great new influence in Nigeria.

They sought to avoid all that, seeking to provide simply, as the Senator well knows, additional aid to prevent the further starvation of people in that very unhappy land.

Mr. President, I yield the floor.

Mr. BROOKE. Mr. President, the resolution which I submit today, with the distinguished junior Senator from Kansas, has but one aim and purpose—the saving of human lives.

It is a source of some satisfaction to me that we have been joined in this resolution by 50 of our colleagues in the Senate and 90 Members of the House. Yet it is a source of profound dissatisfaction that circumstances make it necessary, once again, to introduce a resolution of this nature and intent.

The war in Nigeria has been in progress for more than a year and a half. Numerous times in the course of these 19 months, it appeared that a negotiated peace was imminent. Each time, the hopes of the contenders in the conflict, and the hopes of the world at large, were stillborn.

As the war has taken its tragic toll, in bloody battles and lingering, silent want, the peoples of the world have raised their voices in clear and strident protest.

Literally thousands of Americans have joined together to raise funds for the homeless and the starving. Foodstuffs and medicines have been collected and dispatched. Letters have poured into the offices of countless public officials. Preachers and teachers, students, wives and workmen have joined in a conscientious effort to meet the needs of the innocent. Their interests and their objectives are an expression of the best that is in Americans—concern, compassion, and care for their fellow men.

But, Mr. President, in the general outpouring of sentiment which has affected the American public, I feel compelled to sound a warning note. In expressing our humanitarian concern, it is imperative that we not misread either the events or the consequences of them. For to do so is to harm, not to help, ourselves and those we would serve. Let us ask ourselves, then, what are the determinable facts of the case now before us, and how can we legitimately seek to influence future policy for good.

Starvation and malnutrition certainly exist, both in Nigeria and in the secessionist state of Biafra, but no one knows exactly how widespread it may be. Reports that 10 million persons are dying for the sake of "one Nigeria" appear grossly—and callously—exaggerated. Likewise, reports carried in many British newspapers to the effect that deaths from starvation amount to no more than two or three a week may be equally unsubstantiated. In the dense bush of equatorial Africa, in the midst of a bitter and fluctuating war, no one can say with any accuracy how many persons live or die. It is this confusion and uncertainty that make it so difficult to arrive at a reasonable estimate of the number of lives affected by the war, and to draw therefrom a general indication of the need.

We do know that Biafra today is not the same region which broke away from Nigeria 19 months ago. In May of 1967, Biafra encompassed the entire eastern region of Nigeria, approximately 30,000 square miles, 14 million people in a multitude of tribes both large and small. Today, Biafra has been reduced to about one-fourth its original area, encompassing only a portion of the former Ibo homeland. The minority areas, for the most part, have been retaken by Federal troops. Most of Biafra's remaining people, totaling perhaps 6 million, are therefore Ibo in origin.

Biafra today is totally surrounded by Nigeria. It shares no common borders with other African states. It has no access to the sea. It is, in fact, a rump state—economically nonviable and politically unstable as long as present geographic conditions prevail. But Biafra is not, as has often been painted, a territory totally dependent upon outside sources of supply. Starvation and hunger exist there. But these conditions are largely products of social instability and the influx of refugees which accompany any wartime situation.

Under normal conditions the territory of Biafra is not incapable of providing for its local population. In fact, the recent harvest is said to have been reasonably good, and most of the people of Biafra are surviving on crops which they themselves produce.

However, relief efforts are still vital to the maintenance of life in the area, and they are far from sufficient to meet the present and future needs of the people they seek to serve. At the present time, the relief agencies are responsible for feeding an estimated 2 million people, or one-third of the population of the area. With the recent cessation of Red Cross flights from Fernando Po, the religious organizations operating out of São Tomé have assumed the massive burden of supplying nearly all the needy people in the area. In addition to the 850,000 persons for whom they originally were caring, these groups now must provide some sustenance to the nearly 1 million persons dependent upon the operations of the International Red Cross. What is more, it is estimated that when the present harvest is consumed, the need will again rise substantially. An estimated 3 million people inside the beseiged eastern region face the risk of starvation in the next few months.

But hunger is not a phenomenon which faces the Biafrans alone. Federal troops have retaken three-quarters of the former eastern state, and within this territory there are also thousands, perhaps millions, of refugees. The Nigerian government, working in cooperation with the Red Cross, has done much to provide these people with the basic requirements of life. Refugee camps have been established, and Red Cross supply trucks have moved into the area, circulating from village to village with medicines and food. In areas where the refugees still fear Federal troops, food is deposited for them in a clearing or on a rise of high ground. By the most recent estimates, however, it is likely that an additional 1.5 million persons will face the risk of starvation in these areas, too, unless relief is substantially increased.

Mr. President, relief is the sole intent of the resolution which we introduce today. We cannot determine a settlement of this war, for that is in the hands of the contenders. We cannot impose a ceasefire, for that, too, can only be decided by the parties directly in conflict. In my considered judgment, the cause of peace and stability in Africa would not be served by recognizing Biafra as a state.

But limited though our diplomatic options are, we possess both the ability and the will to save lives in the midst of strife. Though we cannot end the war, we can end the misery of hunger for hundreds of thousands of people. We can, by making supplies and transport equipment available to the relief agencies in the area, prove the good will of the peoples of the world, and prepare the way for the trust which is essential for a negotiated end to the war.

In the absence of a cessation of hostilities and a clear invitation from the parties involved, we cannot, and should not, undertake to man the relief operations ourselves. To do so would only involve us more deeply in the role we have sought to avoid—that of policeman to the world. To insert our own men and materiel into the relief operation would, furthermore, proportionately weaken the capacity and will of other states and international bodies to deal effectively with need. But we can, and we should, contribute substantially to strengthening their abilities in these areas. To make relief assistance available, on request and for their use, is to use their resources and ours both wisely and well.

Mr. President, the need is there, but so are the limits of our power. The program which we commend to our colleagues today is, to the best of our ability, a realistic response to these two conditions. I commend this course of action to the country, and urge its adoption.

Mr. WILLIAMS of New Jersey. Mr. President, time has run out in Biafra.

The emergency in this troubled eastern region of Nigeria has reached crisis proportions. As recently as 5 months ago, almost 12,000 Biafrans a day were dying of starvation. Most of them were children; 40 percent of them between the ages of two and four. In December, thanks to increased supplies of basic proteins, the death rate dropped to only about three or four thousand a day.

Can we comprehend the tragedy of that fact? Do we know what we are admitting when we take relief that the death rate has dropped to "only" 3,000 a day? There are about 250 children in all the Senate families combined; could we condone a death rate which claimed 12 times the number of our children every day?

Death by starvation is slow, insidious, and awful to contemplate. Imagine Biafran mothers watching their children growing slack, hollow-eyed, stomachs distended in pain. They wait for the first signs of a reddish tinge to the hair—because red hair signals the protein deficiency which means death, or permanent mental damage. When a Biafran child's hair reddens, it is too late for food. Only prayers will help.

This is an outrage offending all of mankind. But not all members of mankind have the capability to end this tragedy even if they had the will. In the United States, we have both. We must have the will to end this actual and spiritual starvation. We must have it before our bodies and souls are blighted with guilt for the Biafran dead. Malraux speaks of dignity as the absence of humiliation. If this is so, then all of mankind's dignity is lessened by the deaths of 90,000 Biafran children every month.

The situation in Biafra is growing worse every day. The borders of the tiny area have been reduced by the steady advance of Federal Nigerian troops, and crop production acreage is only a fraction of what it must be to sustain the people. Carbohydrates will be soon exhausted, if they are not already. When that happens, the Biafran death rate is expected to soar to 25,000 people a day.

These awful conditions were described, eloquently and with deep insight, by Dr. Hermen Middlekoop, a missionary who has worked in Biafra, as he spoke to the International Conference on Biafra conducted by Operation Outrage, Inc., early in 1969. I request unanimous consent that portions of Dr. Middlekoop's remarks be inserted in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. WILLIAMS of New Jersey. Mr. President, 25,000 deaths a day await the people of Biafra unless massive help is sent, and sent soon. Food must get through to the Biafran people, regardless of political protocol or diplomatic maneuvering. Mass inoculations must also be undertaken to prevent epidemics of measles and smallpox from further decimating the famished children of Nigeria.

I am today joining the distinguished Senator from Kansas (Mr. PEARSON) and the distinguished Senator from Massachusetts (Mr. BROOKE) in offering Senate Concurrent Resolution 3, which expresses the urgent need for Presidential action to aid the Biafrans. This resolution calls on the President to take prompt and comprehensive action to provide supplies and equipment to those relief agencies which are operating in the area, with the approval of both Biafran and Nigerian authorities.

Let the Senate act quickly to stem the tide of starvation in eastern Nigeria. Let our voices be heard on this matter. Unless we do, and unless the President takes strong measures to make this assistance available, the history of our age will bear the mark of shame.

Our valued traditions and ideals command us to protect the inalienable right to life. We cannot endorse starvation as a political tactic by our inaction. How long will we wait to act, until the remaining 10 million people of Biafra have starved to death? Aid must be sent immediately or our consciences must bear the guilt of the 6,000 who will starve today in Nigeria and the prospect of 25,000 per day before long.

Time has run out in Biafra. Now let us act.

EXHIBIT 1

EXCERPTS FROM DR. HERMAN MIDDLEKOOP'S REMARKS

I'm speaking to you as a missionary doctor who has worked for six years in Biafra.

The history of this relief work is a remarkable one. It started in despair, one can say, when we started in March, April, May, we had nothing to work with. We saw, before our eyes, the situation deteriorate. In July we had the situation that you had one plane a month and we saw in our clinics the malnutrition rising day by day, numbers of eight hundred, and thousand children on each clinic all over the country, there was no exception, and it didn't need a medical man to put the diagnosis. You simply could walk along the road and see it. It was a depressing sight that forty percent of those children would not live within three weeks. That was the time when six thousand a day were dying, and that started from July.

I would like to say that we are walking on the sharp edge of a razor. The moment this relief decreases, gets less, we are back, within a few weeks in the situation of August. This is only considered from the point of protein supply. We are facing a far greater situation, when the carbohydrates supplies, the local food crops will get less and less and will be finished.

So, within a short period, we will be faced with the seriousness of the problem by which, what we saw in August, will be only child's play. Because at the moment we are flying in about between 120 and 130 tons a night and we might increase it to 200 tons a night within a short period because there are plans in the make to give us bigger aircraft, and that will need more money, lots more money. To give you a figure, if we manage to get the four aircraft which we are aiming at, I think that they are Globemasters we need $1,800,000 for ninety days, that is a huge sum. But we need it and if we don't get it, there will be a catastrophe.

We'll not quibble with figures. That fact that it occurs in an underdeveloped nation, really basically underdeveloped continent among black people, I think is part of the reason that people fail to rise to I think a legitimate concern, a legitimate outcry about this outrage.

Mr. NELSON. Mr. President, whatever the rights and wrongs of the reasons that have led to the civil war in Nigeria, the single objective fact is that there is massive starvation and suffering occurring in Biafra today. The death toll has escalated to staggering proportions and if relief operations are not increased significantly, thousands more will needlessly die.

While I know that the United States has made an effort to supply assistance to international relief organizations to help meet the problem of feeding thousands of innocent victims of this civil war, greater energies must be made in order to stop this tragic loss of human life.

But resolving to commit our resources is just a stop-gap measure. I believe that the United States should exert its influence to call for an international conference on the Nigerian-Biafran problem. Although this civil war involves internal disputes, the fact is that other world powers have exacerbated the conflict. Russia and Great Britain have aided the Federal Government of Nigeria, the French are supplying the Biafrans with arms and technical assistance. It seems to me that the world community should involve itself with this troubled area and seek ways of negotiating a permanent and lasting peace.

Today, I have joined with many of my colleagues in submitting a resolution calling for an American commitment to help reduce the suffering in Biafra. However, if our efforts are to be successful, cooperation from other nations is necessary too. Men of conscience everywhere in the world must also resolve that the continuation of this conflict is absurd, that a cease fire must take place immediately, that shipments of all arms to both sides must be stopped.

I am hopeful that the Congress will speedily enact this resolution and that President Nixon will use the vast resources of our country to meet the crisis existing today in this war torn land.

SENATE RESOLUTION 36—RESOLUTION RELATING TO A PUBLIC ADDRESS SYSTEM IN THE SENATE

Mr. JAVITS. Mr. President, I submit for appropriate reference, on behalf of myself and the Senator from New Mexico (Mr. ANDERSON), the Senator from Utah (Mr. BENNETT), the Senator from Indiana (Mr. HARTKE), the Senator from Utah (Mr. Moss), the Senator from California (Mr. MURPHY), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Maine (Mrs. SMITH), a resolution which would allow the installation of a public address system in the Senate Chamber. This resolution is similar to one which I first introduced 12 years ago, in 1957. It has been revised to conform with the version which was passed by the Senate as an amend-

ment to the Legislative Reorganization Act in the 90th Congress.

Under the provisions of the 1967 bill, which was passed by the Senate but did not get anywhere in the other body, the majority and minority leaders were authorized to take such action as would be appropriate for the installation and operation of a public address system, and the expenses of installation and operation would be considered in the regular legislative appropriation bill.

Mr. President, I served for 8 years in the House of Representatives, which has a public address system. Often, interesting and vigorous debate on the Senate floor is completely missed by the members of the press and the people in the gallery. Indeed, we have had some rather striking examples of misquotation attributable only to the fact that the members of the press, in the gallery, could not hear what was said on the floor. It is a strange anomaly, and even a little too old fashioned for the Senate itself, that in this age of electronics we should labor under such a disadvantage. Often, Senators crowd down to the well because they cannot hear what is being said about the next day's calendar or what the Presiding Officer is saying.

At each Senator's desk is room for a small microphone, and the controls can be applied easily. For example, the microphone can be placed in the inkwell, which recalls the days of the quill pen. The inkwells, of course, are no longer used.

When I began my service in the Senate, in 1957, as a member of the Committee on Rules and Administration, I tried to bring about this reform. The Rules Committee asked the Architect of the Capitol to look into its feasibility. The staff of the committee made a survey of the then 96 Members and found a considerable number who were interested in the change. However, a considerable number were opposed to any change at all, but principally because of technical difficulties—that is, the thought then that it would result in a great number of unsightly microphones on the desks. In the Senate, we do not speak in the well, but speak at our desks.

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

Mr. JAVITS. I ask unanimous consent that I be allowed to proceed for 3 additional minutes.

The VICE PRESIDENT. Without objection, it is ordered.

Mr. JAVITS. However, the greatly improved state of the art of electronics and the sensitivity of the microphones and other material today make it possible to deal entirely with the question of taste which will relate to the appearance of the Chamber.

I believe it would be a most helpful step to bring the Senate procedures into modern times. I hope the Rules Committee will give this matter its earliest consideration.

I point out the broad range of cosponsors of the resolution, Mr. President, as indicating that it has caught on and that now there is considerable interest in making this reform.

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

Mr. JAVITS. I yield.

Mr. MANSFIELD. Mr. President, I think I should call to the attention of the Senator and the Senate that this matter was discussed at the initial Democratic caucus this year and that it was the overwhelming sentiment of the caucus that this matter be attended to promptly and action was taken at that caucus to carry out that sentiment.

The caucus instructed me to meet with the distinguished minority leader, to tell him what our action had been, and to state that it was the sense of the caucus that the Rules Committee should meet as expeditiously as possible to consider the studies which had been made by the Sergeant at Arms, under the direction of the joint Senate leadership.

That study is ready. This matter will be discussed in the Rules Committee. I anticipate that action will be taken shortly and that before too long this Chamber will be electronically equipped. The question to which the Senator from New York addresses himself is beyond the stage of advocacy or even decision. It is purely a matter of carrying out the affirmative will of the Senate on this matter.

To further enlighten the Senate, I ask unanimous consent that a brief status report on this matter be included at this point in the RECORD.

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

BRIEF STATUS REPORT OF A PROPOSED VOICE REINFORCEMENT SYSTEM FOR THE U.S. SENATE CHAMBER

By a joint letter of January 29, 1968, addressed to Senator B. Everett Jordan, Chairman of the Committee on Rules and Administration, from Senator Mike Mansfield, Majority Leader and Senator Everett M. Dirksen, Minority Leader, the Committee was requested to investigate the advisability of a proposed voice reinforcement system for the Senate Chamber.

At a meeting of the Committee on Rules and Administration, held on February 7, 1968, it was unanimously decided that the Architect of the Capitol be authorized to engage the services of an acoustical engineering firm to make an in-depth survey of the practicalities involved in introducing an appropriate sound system in the Senate.

Pursuant to the above authorization, the Architect of the Capitol, by contract, engaged the services of Richard H. Bolt and Robert B. Newman Acoustical Consultants of Cambridge, Massachusetts, for an appropriate analysis and report. This engineering firm made its report in October 1968.

After submission of the report, it was presented to the Sergeant at Arms of the Senate who, on October 28, 1968, referred it to the Committee on Rules and Administration together with a concise summary of its provisions minus some of the technical data.

Senator B. Everett Jordan has announced plans to hold a special meeting of the Committee on Rules and Administration, probably within the next two weeks for consideration of the proposed sound system. At this meeting the Sergeant at Arms of the Senate and acoustical experts provided by the Architect of the Capitol will appear as consultants. It is expected that the Committee will make its recommendations to the Senate shortly thereafter.

Briefly, it is the opinion of the acoustical consultants that a speech reinforcement system can be provided in the Senate which will provide audible, natural, and effective speech reception throughout the entire space. The installation contemplated would include individual desk-mounted microphones and miniaturized loudspeakers for all Members, a complement of microphones and loudspeakers for the Presiding Officer and Senate officials, a removable floor-stand microphone, a complement of loudspeakers for the Official Reporters, and a wide distribution of loudspeakers in the Galleries. The suggested minimum cost of the installation contemplated would be $108,500.00, but more realistically in the neighborhood of $125,000.00.

It is proposed that the installation would be by the staff of the Architect of the Capitol during hours when the Senate is not in session or during periods of recess or adjournment. Hopefully the entire process could be accomplished within one year. This time could perhaps be shortened by removing individual desks on a piecemeal basis for necessary adaptation. At the present time component equipment is on hand and a desk will be provided for demonstration purposes in the immediate future.

As a corollary to the proposed sound system, Senator B. Everett Jordan, in behalf of the Committee on Rules and Administration has announced that the Committee, in due course, intends to give its attention to measures to reduce background noises in the Senate Chamber including the possible construction of combined glass and solid partitions extending around the perimeter of the Senate Galleries.

Mr. JAVITS. I thank the distinguished majority leader, I might tell him that when I was a trial lawyer, there was a famous judge in Delaware who would say to an arguing attorney, "Counselor, if you stop now, I am with you."

So I am very grateful to the majority leader for the intelligence he has just given us.

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

The resolution (S. Res. 36) was referred to the Committee on Rules and Administration, as follows:

S. RES. 36

Resolved, That (a) to insure that debates of the Senate may be heard in all parts of the Senate Chamber and in the galleries thereof, the majority and minority leaders are authorized to take such action as may be required for the installation and operation within the Senate Chamber of a suitable electrical public address system, approved by them.

(b) The expenses incurred for the installation and operation of such public address system shall be considered in the legislative appropriation bill.

Mr. MURPHY subsequently said: Mr. President, as a coauthor, I rise in support of the resolution that would authorize the installation of a public address system in the Senate.

In January of 1967, my colleagues will recall that a similar amendment was added by the Senate to the Legislative Reorganization Act, which unfortunately was not acted upon by the House. Last month the Nation proudly witnessed and marveled at the space feats of our Apollo astronauts as man pushed farther out into space. Through modern electronics and technology, not only the people of this country but also the peoples

of the world saw and heard them. The world was able to hear and see as the U.S. space team maneuvered in space 240,000 miles away and orbited the moon. We could understand every word they said.

Yet, Mr. President, it is not uncommon for Senators to be unable to hear their colleagues in this Chamber. How often has it been necessary for a Senator to request a fellow Senator to speak louder? How often has it been necessary for a Senator to move nearer a colleague addressing the Senate so that all his words might be heard? How often have we seen members of the press with their heads turned to one side and their hands cupped at their ears straining to hear Senate debate and discussion? How often have constituents, who have traveled many times thousands of miles to visit and see their Government in action, told us how difficult or impossible it was for them to hear?

Mr. President, in 1960, 15 million of our constituents visited Washington, D.C. By 1970, it is anticipated that this number will increase to 24 million yearly, and by 1980, it is expected that 35 million Americans will arrive in the Nation's Capital. Included in this group are more than 750,000 students who each year make a pilgrimage to the Capitol as part of their education in order to learn more about the Federal Government, the Nation's history, and the way the affairs of state are conducted in this Chamber. Too often, after watching the Senate in action, they return home discouraged and disillusioned, in no small part due to the fact that they could not hear and understand the debates.

Mr. President, this is not the impression that I for one want the citizens of California to form regarding the greatest legislative body in the world.

Let me again, say, Mr. President, that it is truly one of the anomalies of our times that science has permitted us the excitement of hearing our astronauts 240,000 miles from the earth, while at the same time we in this Chamber are denied the opportunity to hear our colleagues. Because of our refusal to take advantage of this same science by installing a public address system, we frequently are unable to hear the voices of our colleagues only a short distance away.

There is another point, too, Mr. President, and perhaps I am the logical person to comment on this aspect of the matter, because of the hoarseness I sometimes experience, which makes it more convenient for me to use the amplifying system I am now using.

In my case, I have a certain hoarseness which is the result of an operation several years ago for a cancer near my vocal chords. The operation was a complete success; I have never felt healthier; but at times I still sound like a cross between EVERETT DIRKSEN and my friend Andy Devine. I am sure that this would make it a little more difficult for me to be heard when addressing the Senate, had not my colleagues extended me the courtesy of using this device. However, with my amplifier, I find I can be heard as well and perhaps better than many of my colleagues.

So, Mr. President, because the issues are so great today, it is vital that each Senator hear every word of the debate. It is important that our Nation's press be able to follow the debate and report it factually to our constituents, and certainly it is extremely important that our visitors from all over the country have the courtesy of hearing what is said in the Chamber. Therefore, I urge that the Senate move expeditiously on this resolution, which, in my judgment, would improve the operations of the Senate immeasurably and would add to the comfort, understanding, and efficiency of the Senate.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. MURPHY. I yield.

Mr. BYRD of West Virginia. I have not been able to listen to the entire statement of the distinguished Senator, but do I correctly understand that the Senator from California has just spoken on the subject of the installation of a loudspeaking system in the Chamber?

Mr. MURPHY. The Senator is correct.

Mr. BYRD of West Virginia. I should like, if I may—and if the Senator will yield further—to state that the joint leadership in this body wrote a letter to the Senate Committee on Rules and Administration, of which I am a member, in January of 1968, asking that the committee consider the matter of installing microphones in the Senate Chamber. The Rules Committee met in February of 1968 and authorized the Architect of the Capitol to conduct a study of the subject. The Architect of the Capitol proceeded to do this, and it is my understanding that such a study was conducted under contract with Richard H. Bolt and Robert B. Newman, acoustical consultants, located in Cambridge, Mass.

It is also my understanding that the consultants reported to the Architect of the Capitol, who in turn referred the report to the Committee on Rules and Administration on October 28, 1968.

I have been advised that the Chairman of the Rules Committee, the able and distinguished junior Senator from North Carolina (Mr. JORDAN), plans to have a meeting of the Rules Committee immediately following the consideration by that committee of money resolutions which will finance the operations of the various subcommittees of the Senate. I am further advised by the staff of that committee that the full committee will meet very soon to consider those money resolutions.

I just wanted to say this to assure the distinguished Senator from California that it is my judgment, based upon the actions of the Rules Committee thus far and the actions of the leadership—namely, the Senator from Montana (Mr. MANSFIELD) and the Senator from Illinois (Mr. DIRKSEN)—that this system will in all likelihood be installed in the Senate before the year is out. Based on the report conducted by the consultants, it is thought that the cost would be approximately $108,000 to $120,000. I am also advised that it would be necessary to install the equipment at a time when the Senate was not in session.

I compliment the distinguished Senator from California on the statement he made and on the interest he has expressed in this matter.

When I began my service in the Senate 10 years ago, I was opposed to the installation of such a system in the Senate. However, during the past 2 or 3 years—especially during the past 2 years—I have changed my viewpoint in this regard. I have been on the floor of the Senate practically every hour of every day during the past 2 years, and I have sought to encourage decorum in the Senate as much as I could. There have been times when I have asked that the Chamber be cleared of staff aides, Senators' aides, because they had congregated on the floor in large numbers; and on one or two occasions I pointed out that a portion of the gallery was set aside for staff aides. Then it came to my attention that the staff aides could not hear what was being said in the Chamber. So that when their Senators called upon them for advice as to what had occurred, the staff aides were unable to produce the information because they had not been able to hear.

People from all over the country visit the Senate when it is in session, and these people come to hear their Senators. They want to understand the business that is being conducted on the floor of the Senate. I am afraid that many of them, or most of them, leave the Senate without having been able to hear the words that were spoken from the floor.

Many of us on the floor of the Senate are unable to hear. Often we will see a Democratic Senator move to the Republican side of the aisle, or a Republican Senator move to the Democratic side of the aisle in order that the words might be more audible to the ears of the listener. I have reached the conclusion that we should have microphones installed in the Senate. Many of us have served in State legislatures which had microphones. Some of us have served in the House of Representatives where microphones are available, not at each desk, but, nevertheless, available in the well of the Chamber, and at certain positions on the floor.

I have come to the conclusion that this equipment should be installed. I merely wanted to make the RECORD clear that the majority leader and the minority leader, acting in accordance with the instructions laid down in the reorganization bill which was passed by this body a year or two ago and which failed to pass in the other body, have taken action, that the Rules Committee voted thereon, and that the Rules Committee is ready to file its report in connection with the installation of these microphones.

I think we could be hopeful that such microphones would be installed before the end of the year, and that listeners in the galleries, including the press gallery, Senators, and Senators' aides will be able to hear much better what is being said in order to follow the debate better, and that all of this will contribute to a greater decorum in the Chamber of the Senate.

Mr. MURPHY. I thank the distin-

guished Senator from West Virginia. I would have guessed that after the hours that I know him to have been in the Senate Chamber, the diligence with which he pursues his duty as a Senator, he, as I, would have realized the importance of this equipment.

I am certain that now the people in the galleries can hear me speaking, and I am speaking in a very soft tone of voice. I am certain that now, with improvements in electronics, the speeches of Members of this body could be amplified in such a way that no one would ever know they are listening to amplification. It will make listening easier and be more convenient on the speakers.

Last year, when I first made my suggestion, some Senators said that it might encourage some of our colleagues to make longer speeches. I think the contrary would be true. I think sometimes we are inclined to make longer speeches and that we are repetitious for fear we have not been heard the first time. I think we will shorten the speeches.

Another point that some of my distinguished colleagues have made is that whenever there is an audience, and most of my life has been spent dealing with live audiences, and the audience cannot hear what is being said, they will make their own sound and sometimes those sounds will overcome the sound that is supposed to be the prevailing sound at the time, or the speech being made by the speaker.

As the distinguished Senator has mentioned, on occasion the Chamber has been cleared when it should not have been necessary to clear the Chamber. I am so happy to hear that the committee will act expeditiously and that hopefully we will be able to improve to a certain extent the hearing for the sake of our colleagues and our visitors in the very near future.

I thank the Senator. I yield the floor.

Mr. BYRD of West Virginia. I thank the Senator from California.

THE LONGSHOREMEN'S STRIKE

Mr. JAVITS. Mr. President, the current strike of longshoremen at all east coast and gulf ports has reached the point where it now poses a critical danger to the health and safety of the entire Nation. For a full month, the free flow of goods into and out of our great ports has been stopped, with severe impact, not only in the port areas themselves, but also throughout the Nation—and with a very heavy impact upon the Port of New York, which I specifically represent. The effect of this labor-management controversy reaches deep into the economy.

Yesterday, my colleague from New York (Mr. GOODELL), Gov. Nelson A. Rockefeller, and myself, issued a statement calling attention to this situation. The essence of the statement was that—

> In view of the seriousness of the situation, we have asked President Nixon and Secretary of Labor George Shultz to turn their immediate attention to the longshoremen's strike and to bend every effort to the Federal Government to assist the parties to resolve their differences. We trust that the new administration will give this problem the priority it clearly deserves.

We have also been in personal contact—and that applies to me—with the parties to the dispute in order to emphasize to them the urgent necessity of reaching a prompt settlement; and we have explored the possibility of a return to work in the Port of New York, one area where agreement has been reached. But the difficulty in this situation is that the longshoremen's union feels that it must reach settlements nationally in all ports before it can come back in any port. We have been advised that there is no present possibility of a return to work at any port until agreements have been reached covering all struck ports. Progress has been reported to me, and full settlement may be reached shortly. Needless to say, we who have joined in the statement stand ready to do anything we can to help the parties to reach agreement.

Mr. President (Mr. ALLEN in the chair), the three of us believe in free collective bargaining. Hence, we hope that it will not be necessary for the Federal Government to intervene formally in this dispute. However, it must be recognized that the national interest precludes acceptance of an indefinite standstill in most of the Nation's foreign commerce.

The parties to this dispute bear a heavy responsibility to the entire Nation. The fulfillment of that responsibility requires them to bring this dispute to an end promptly, especially as the road to settlement is clearly marked by the agreement covering New York.

One further point, Mr. President. I am the ranking minority member of the Labor Committee, and this is one of the big areas of difficulty in labor law. There is no recourse, after the Taft-Hartley injunction period has expired, except a law passed by Congress. We almost did that in the airline strike; we did do it in the railroad strikes in 1963 and 1967. In 1967 I had to handle the matter in collaboration with the then Senator from Oregon, Mr. Morse.

This is very harmful to the entire collective bargaining structure. First, we should have law—that is, general law—to deal with these controversies. I have long called for such law and I hope very much we can get it in the next year or two.

So I address this plea to both the longshoremen's union and to the employers: If you want to avoid special legislation, you have to bring this dispute to an end.

I cannot see how we can go very many days more without the matter being thrown into Congress, an action which in the other situations has been deeply resented by the parties in interest. Yet, they brought it on themselves by their failure to make collective bargaining work. I hope we may avoid that sort of decree in this case; but if it cannot be avoided, we shall have to do it, because we cannot allow our foreign trade to be immobilized on account of this strike.

Mr. President, I ask unanimous consent that the statement issued by Senator GOODELL, Governor Rockefeller, and myself yesterday be printed in the RECORD.

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

JOINT STATEMENT OF SENATORS JACOB K. JAVITS AND CHARLES E. GOODELL, AND GOV. NELSON A. ROCKEFELLER CONCERNING THE LONGSHOREMEN STRIKE, JANUARY 21, 1969

The current strike of longshoremen at all East Coast and Gulf ports has reached the point where it now poses a critical danger to the health and safety of the entire nation. For a full month the free flow of goods into and out of our great ports has been stopped, with severe impact, not only in the port areas themselves, but throughout the nation, for the effect of this labor-management controversy reaches deep into the economy.

In view of the seriousness of the situation, we have asked President Nixon and Secretary of Labor George Shultz to turn their immediate attention to the longshoremen's strike and to bend every effort of the Federal government to assist the parties to resolve their differences. We trust that the new Administration will give this problem the priority it clearly deserves.

We have also been in personal contact with the parties to the dispute in order to emphasize to them the urgent necessity of reaching a prompt settlement and we have explored the possibility of a return to work in the Port of New York, one area where agreement has been reached. Unfortunately, we have been advised that there is no present possibility of a return to work at any port until agreements have been reached covering all struck ports. However, progress is reported and full settlement covering all struck ports may be reached shortly. Needless to say, each of us stands ready, as we have been throughout this dispute, to assist the parties to reach agreement.

We believe in free collective bargaining. Hence, we hope that it will not be necessary for the Federal government to intervene formally in this dispute. However, it must be recognized that the national interest precludes acceptance of an indefinite standstill in the nation's foreign commerce. The parties to this dispute thus bear a heavy responsibility to the entire nation; the fulfillment of that responsibility requires them to bring this dispute to an end promptly, especially as the road to settlement is clearly marked by the agreement covering New York.

HUMAN RIGHTS: A TIME FOR SERIOUS QUESTIONING

Mr. PROXMIRE. Mr. President, last Monday President Nixon eloquently stated before the world that this Nation is concerned about suffering wherever it exists. He went on to say:

> The peace we seek to win is not victory over any other people, but the peace that comes "with healing in its wings;" with compassion for those who have suffered; with understanding for those who have opposed us; with the opportunity for all the peoples of this Earth to choose their own destiny.

I quote these words, Mr. President, because I think they describe what all of us like to think is the commitment of this country. But for the last 19 years—19 years, Mr. President—this body has failed to act on a convention which would enhance the welfare of the people of the world. Since June 16, 1949, when the President transmitted the Genocide Convention of the Human Rights Conventions to the Senate for ratification, we have stood by in apathy while much of the rest of the world has passed us by.

This sad fact, Mr. President, raises the

serious question in the minds of some as to where our commitment really lies. On the issue of human rights we should take stock of ourselves. We say one thing for general consumption but the continued refusal of the U.S. Senate to take positive action is nearly 2 decades in this vital area certainly seems to say something quite different. This leads some who are unaware of our entire effort to question our integrity. But we have raised these doubts by our failure to act. We should now deal with the issue.

Mr. President, the advent of a new administration suggests also for this body a new beginning. I urge the Senate, as I have been doing for the last 2 years, to act to ratify the Human Rights Conventions.

MINORITY MEMBERSHIP OF SELECT COMMITTEE ON SMALL BUSINESS

Mr. DIRKSEN. Mr. President, I submit a resolution, and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read, as follows:

S. RES. 53

Resolved, That the Minority Membership of the Select Committee on Small Business for the 91st Congress shall be as follows:

JACOB K. JAVITS, of New York;
PETER H. DOMINICK, of Colorado;
HOWARD H. BAKER, JR., of Tennessee;
MARK O. HATFIELD, of Oregon;
ROBERT DOLE, of Kansas;
MARLOW W. COOK, of Kentucky;
THEODORE STEVENS, of Alaska.

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

There being no objection, the resolution (S. Res. 53) was considered and agreed to.

TRIBUTE TO LYNDON B. JOHNSON

Mr. HARTKE. Mr. President, I want to join in paying tribute to President Johnson this morning.

Nothing will efface from my memory the many kindnesses Lyndon Johnson as majority leader showed me from the first day I set foot in this chamber 10 years and 2 weeks ago. All of us who had the privilege of serving with him in those days will share, I believe, the conviction that history will judge Lyndon Johnson to have been one of the very great leaders in the annals of Congress.

I believe, too, that history will accord him exceptionally high marks for the wealth of humane and progressive legislation he called upon us to enact. His leadership in such areas as education, civil rights, the attack on poverty, and the renewal of our cities will surely earn, as it surely merits, the gratitude of posterity.

Consider only those few areas—and there are many, many others—that I have just mentioned.

In education, under President Johnson's leadership, we moved for the first time in our history toward a comprehensive program of Federal aid to elementary and secondary education, thus laying the foundations for an America in which every child, no matter how poor his family, his community, his State, will have the chance to receive a truly excellent education.

In civil rights, it is surely no exaggeration to say that more progress toward genuine equality has been made during the 5 years of Lyndon Johnson's Presidency than in any other period of our history. In public accommodations, in employment opportunity, in voting rights, in school desegregation, in fair housing, in appointments to high Federal office—in all these and more, President Johnson and the Congress joined in a historically unprecedented partnership for progress.

In the war on poverty, Lyndon Johnson successfully challenged the Nation to undertake its first full-scale assault on the root causes of a condition which America now recognizes as—literally—intolerable. And precisely because it is an assault on root causes and not merely a new form of welfarism, this war—no matter what temporary setbacks or tactical mistakes—will be won.

And in the effort to make our cities—small and large—healthier, safer, more attractive communities in which to live and raise our children, President Johnson's leadership has been simply magnificent. As the distinguished junior Senator from West Virginia stated here last October 10:

> From 1964 with the Urban Mass Transit Act through the historic 1968 Housing and Urban Development Act this Nation witnessed the greatest march of urban progress in our history.

This, too, is a march that must and will continue, thanks in very large measure to the vision of Lyndon B. Johnson.

Mr. President, I could go on in detail for area after area recounting the legislative accomplishments of the past 5 years which owe so much to the inspiring leadership of the man we honor today. But the record is open for all to read, and others here already have spoken eloquently to it.

Let me conclude with this thought. These have been years of historic achievements for America. They have also been years of, at times, almost unbearable anguish. How then will history judge them? I venture to believe that the anguish will prove to have been short-lived, purgative—God willing, even salutary for future policymakers. But the achievements will remain, a legacy and inspiration to generations yet to come. And it is their testimony, not ours, that will be the truest measure of Lyndon B. Johnson's greatness.

RESIGNATION OF WILLIAM C. FOSTER AS DIRECTOR OF U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Mr. PELL. Mr. President, the recent resignation of Mr. William C. Foster as Director of the U.S. Arms Control and Disarmament Agency signals the close of a very distinguished term of service not only to the people of the United States but to all of humanity.

Mr. Foster, as the first Director of the ACDA, has carried with him a faith in arms control as a practical alternative to a dangerous, often futile, and immensely wasteful worldwide race for arms superiority. He has combined this faith with a hard-headed practical realization of the problems that must be overcome to achieve meaningful international agreements to control armaments. In addition, he has represented this country in protracted and difficult international negotiations with a patience, skill, and tact that can only be described as exemplary.

With these qualities and abilities, he has played a very major role in the successful negotiation of arms control agreements that have and are contributing today to the national security of the United States, and, I believe, to the peace of mind of people throughout the world—such agreements as the Nuclear Test Ban Treaty, the Washington-Moscow "hot line," and the Nuclear Nonproliferation Treaty, which I earnestly hope will be ratified by this body at the earliest opportunity.

Mr. President, Bill Foster has not sought public acclaim, but his work has brought him the admiration, respect, and affection of all those who have worked with him. Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Christian Science Monitor, reporting that Mr. Foster has been mentioned as a possible candidate for the Nobel Peace Prize. In this regard, I take pride in being one of those who nominated him for this award. In my judgment, such an honor would be a most appropriate and fitting recognition of his work.

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

FOSTER'S PEACE EFFORTS RECOGNIZED

(By Carlyle Morgan)

GENEVA.—The United States's chief disarmament negotiator, William C. Foster, is being mentioned as a possible candidate for a Nobel Peace Prize.

Mr. Foster played a major role in the negotiations here of the 18-nation Disarmament Committee which culminated in the signing July 1 of the nuclear nonproliferation treaty.

President Johnson has hailed this treaty "the most important international agreement limiting nuclear arms since the nuclear age began."

Credit for such vital achievements as this, as well as the test-ban treaty in 1965, and the hot line Washington-Moscow telephone, is widely shared here and in national capitals.

But Mr. Foster's efforts to control nuclear arms have been more continuous than any other's. He was thinking hard, and from large-scale experience with nuclear problems, years before the disarmament committee's Geneva talks began.

OPPOSITION STRENUOUS

This work of seeking to guarantee future world security often has to be carried on against the wishes of special-interest groups in some of the nations represented here.

For this reason, conference insiders say, "It needs and deserves all the positive recognition it can get."

Mr. Foster has been cited in Britain by the Times as a possible nominee for the Nobel prize. In United Nations circles, too, he is being frequently mentioned for this honor, and also in the Carnegie Foundation for Peace.

Private citizens supporting peace groups have expressed their desire to see him honored in this way. And not least, the prospect of such an award is favored strongly among those who work most closely with him, from his peers to the humbler levels of the staff of assistants.

Some of these latter say they intend to exercise a right which the Nobel Prize committee gives to individuals to propose candidates. They will propose their tall, good-natured, ever-courteous boss.

ADDRESS SIMPLE ENOUGH

"It's easy enough," one of the staff told this writer, "because all you have to do is to address the Nobel Peace Prize Committee, Olso, Norway."

Mr. Foster's part in the nuclear arms-control talks is backed by long experience in dealing with armaments in wartime, and with problems of the aftermath of wars.

A prominent business figure in the United States, he was put in charge of military purchasing for the army in World War II. After the war he canceled $100 billion worth of arms contracts.

Then he went on to administer the Marshall Plan in Europe with David Bruce in the late 1940's and the 1950's. This was Western Europe's postwar defense against an expansive communism.

In diplomatic circles Mr. Foster is often spoken of as perhaps the only other American negotiator worthy to be bracketed with W. Averell Harriman, who is now conducting the American side of the Paris talks on Vietnam.

Mr. Harriman has said that the Paris and the Geneva talks are the world's two most important sets of negotiations for future peace.

Mr. Foster's part in the Geneva talks, however, is much more than that of negotiator. He brings a special creative point of view to the work here, his colleagues say.

While serving as Deputy Defense Secretary in the Korean war he began to feel that it was not so much the existence of large national arsenals that gave nations security as it was their capacity to work out an international balance for their military power. That philosophy, his friends say, has guided him in all his work for arms control since that time.

BACK IN GENEVA

Mr. Foster has now returned from Washington to Geneva for the disarmament committee's summer session, even more acutely aware of the demands of the smaller states for some new sign of progress toward big-power disarmament.

Some of them regard this as a quid pro quo for their agreeing to the treaty banning spread of nuclear weapons. On his arrival here Mr. Foster said that that treaty, "even before it has entered into force, [is] beginning to carry out one of its important functions—that of paving the way for further arms control measures."

He is "very much heartened," he says, "by the expression of willingness on the part of the Soviet Government to discuss mutual limitations on . . . nuclear weapons delivery systems."

He may also be heartened, some of his friends in the conference say, by the international recognition his work here is currently receiving.

"Not just for his own sake, but for the sake of the job we all are trying to do for future world security," they add.

DAVID M. KENNEDY, SECRETARY OF THE TREASURY

Mr. DIRKSEN. Mr. President, I ask unanimous consent to have printed in the body of the CONGRESSIONAL RECORD a biographical sketch of Secretary of the Treasury, David M. Kennedy, as it was presented to the Senate Finance Committee last week at the time of the hearing on his nomination.

There being no objection, the biographical sketch ordered to be printed in the RECORD, as follows:

Kennedy, David M., Chairman of the Board of Directors, Continental Illinois National Bank and Trust Company of Chicago; res. 33 Meadowview Drive, Northfield, Ill.; b. Randolph, Utah, July 21, 1905; s. George and Katherine Johnson Kennedy; ed. graduated from Weber College, Ogden, Utah, 1928; George Washington University, Washington, D.C., 1937; Stonier Graduate School of Banking, Rutgers University, New Brunswick, N.J., 1939; holds A.B., M.A., LL.B., and Honorary Doctor of Laws degrees; m. Lenora Bingham, children Marilyn (Mrs. Verl L. Taylor) b. Jan. 4, 1929; Barbara (Mrs. Carl Law) b. Jan. 14, 1931; Carol Joyce (Mrs. Jack Whittle) b. Nov. 14, 1936; and Patricia Lenore (Mrs. Lewis Campbell) b. Nov. 13, 1943.

Employed by the Board of Governors of the Federal Reserve System, Washington, D.C. (technical assistant in the Division of Bank Operations, and economist in the Division of Research and Statistics, assistant chief, Government Securities Section, and assistant to the Chairman of the Board), 1930–46. During World War II, Kennedy played a key role in Treasury finance.

Joined Continental Illinois National Bank and Trust Company of Chicago, Bond Department, Oct., 1946; elected second vice president, Jan. 9, 1948; vice president, Jan. 12, 1951. Resigned as vice president and served as special assistant to the Secretary of the Treasury in Washington, D.C., from Oct. 13, 1953, to Dec. 9, 1954.

During his Treasury service, Kennedy was responsible for management of the Federal debt and worked on a number of related Treasury problems.

Returned to Continental Bank and was elected vice president Dec. 10, 1954. Placed in charge of the Bond Department Jan. 1, 1955. Elected director and president Nov. 26, 1956. Elected Chairman of the Board of Directors and Chief Executive Officer Jan. 9, 1959.

During the past 10 years, the bank has grown from $3.1 billion in resources to more than $6.5 billion. Continental is the largest bank in Chicago and the Midwest, eighth largest in the nation, and fifteenth largest in the world.

Kennedy has expanded the bank's international banking department in anticipation of the great upsurge in Midwestern world trade. The bank has more extensive international banking facilities than any other U.S. bank between the Atlantic and Pacific coasts. In addition to a large Chicago-based international banking staff, it has two Edge Act subsidiaries: Continental Bank International in New York, which has one of the nation's largest foreign exchange trading operations as well as serving customers using East Coast ports; and Chicago-based Continental International Finance Corporation, which meets unique overseas financing problems through loans and equity investments.

The bank has six full-service branches (two in London, and one each in Tokyo, Osaka, Frankfurt, and Paris) as well as representative offices in Geneva, Madrid, Brussels, Milan, Caracas, Mexico City, and Manila. Still more overseas branches and offices are in planning stages. Continental has acquired equity positions in more than 20 overseas financial institutions.

During the Kennedy years, the bank has expanded into major money market operations and is a prime dealer in U.S. securities.

Continental, as a commercial lender, is the largest in Chicago and maintains a vast correspondent banking network with more than 3,000 other banks. During the decade, bank staff has expanded from 4,600 to more than 6,600.

PUBLIC SERVICE ACTIVITIES

As chairman under Mayor Richard J. Daley of the highly-successful Mayor's Committee for the Economic and Cultural Development of Chicago, Kennedy has worked closely with others in the city in Chicago's rebuilding. A leader in the business community, Kennedy has been instrumental in the enlistment of other businessmen in the city's renaissance. Kennedy has served since May 11, 1961 as chairman of the executive board of this city-wide committee. He has also served as chairman of the New Chicago Foundation, publisher of "Chicago" magazine, and as director of the Chicago Foundation for Cultural Development; Chicago Central Area Committee, director since Dec., 1957; Civic Federation, advisory committee, since Jan., 1959; Chicago Council on Foreign Relations, director since June, 1964; Chicago Community Trust, trustees committee, since Jan., 1959; Leadership Council for Metropolitan Opera Communities, council since Aug., 1966; treasurer, appointed Jan. 16, 1967; Chicago Civic Defense Corps, staff service division, appointed April, 1960; Business Committee for the Arts, founding member, Nov. 1967.

In addition, Kennedy has served as director of many Chicago charity drives. He was executive committee chairman from Nov. 19, 1965 to Aug. 1, 1966, of the Citizens Band Committee for Greater Chicago. He is a former trustee of Presbyterian-St. Luke's Hospital, elected April 17, 1957, and serving until November, 1968.

At the state level, Kennedy has been a member of Governor Kerner's Committee for Distinguished Foreign Guests, which was organized in Sept., 1962.

Nationally, Kennedy has rendered valuable service to both Republican and Democratic administrations. He is a registered Republican.

He was appointed Jan. 1, 1968, to the Federal Advisory Council of the Federal Reserve System.

Committee for Economic Development, trustee, elected May, 1964; National Advisory Committee on Government Practices and Policies, appointed Oct. 4, 1965, by the Comptroller of the Currency; National Public Advisory Committee on Regional Economic Development, business subcommittee, appointed by the Secretary of Commerce, Aug., 1967 for two-year term; American Foreign Service Association, associate member, since Aug., 1967; National Committee for Adlai Stevenson Memorial Fund, March, 1966; Navy League of the United States, life member, April, 1962; Robert A. Taft Institute of Government, advisory committee for formation of memorial fund, February, 1960; United Settlement Appeal, sponsoring board.

In 1966 Kennedy served six months by Treasury appointment on the Federal Advisory Committee on Financial Assets.

In 1967 President Johnson appointed Kennedy chairman of the Commission on Budgetary Concepts. The commission's recommendations were completely accepted and have been incorporated totally in the budget to be submitted to Congress early in 1969. This "Kennedy Budget" marks a revolutionary break with past methods and hopefully will ease problems of administration and finance.

Kennedy has accepted special assignments in relaying the U.S. government's policies to financial leaders of other nations. He is a member of the British-American Chamber of Commerce dating back to Dec., 1961.

Council for Latin America; German-American Chamber of Commerce, advisory council, May 22, 1963; International Enterprise Fellowships, advisory committee, May, 1965; Radio Free Europe Fund, Inc., Dec. 2, 1964; Radio New York Worldwide, director, Sept., 1962.

He is a past member of the Franco-American Industrial Liaison Committee, since Nov., 1959.

Kennedy has played an active role in educational affairs. He has been particularly interested in the growth of the University of Chicago, serving (1963–1966) as chairman of the council on the Graduate School of Business. He remains a trustee of the university, having been elected June 13, 1957.

Brigham Young University, chairman of executive committee, development council (established Jan. 19, 1966); DePaul University, board of associates, Oct. 26, 1964; University of Illinois, citizens committee; George Washington University, trustee, appointed June 4, 1966.

Kennedy holds several corporate directorships: Abbott Laboratories, April 11, 1957; Adela Investment Co., S.A., Sept. 30, 1964, a member of the executive committee and one of the original members of this international firm for investments among the developing nations; Commonwealth Edison Company, elected May 19, 1959; Communications Satellite Corporation, Sept. 17, 1964, a director since its original incorporation and an incorporate (since Oct. 1962) by appointment from President John F. Kennedy; Equitable of Iowa, trustee, elected Jan. 23, 1958; International Harvester Company, Nov. 20, 1958; The Pullman Company, Jan. 22, 1961; Swift and Company, Jan. 25, 1962; United States Gypsum Company, May 9, 1962.

Long active in banking association work, Kennedy is a leading member of the American Bankers Association. He was formerly a member and chairman of that body's government borrowing committee. This key committee meets regularly in Washington to advise Federal officials on financing operations.

American Institute of Banking, trustee of endowment fund of Chicago chapter, May 7, 1962; Association of Reserve City Bankers, elected member, 1957; Chicago Clearing House Association, chairman, elected Jan. 17, 1967, for a two-year term; Brookings Institution, trustee, 1961; Chamber of Commerce of the U.S.A.; Chicago Association of Commerce and Industry, committee on full employment; National Industrial Conference Board, Dec. 14, 1961; The Newcomen Society of North America; The Savings and Profit Sharing Pension Fund of Sears, Roebuck & Co. Employees, trustee, elected Sept. 22, 1958; Savings Bonds Programs of Treasury Department, Illinois State advisory committee of U.S. savings bonds division, June, 1963; Chicago area industrial savings bonds committee, Feb., 1966; chairman of the banking industry campaign for 1968.

In the past, Kennedy has served on many banking committees.

American Bankers Association, executive council, 1960–1965, committee on government lending policy, subcommittee on debt management of government borrowing committee, committee on legal reserve requirements, resolutions committee, committee on commercial bank monograph: Association of Reserve City Bankers, director and treasurer, 1961–64, committee on international banking (1963); chairman of committee on investment policies (formerly committee on municipal bond underwriting) (1962–65), chairman of special committee on revenue bonds (1965–66), chairman of committee on federal relationships (1958–62); American Institute of Banking, chairman of committee for preparing new textbook on central banking, 1962; Investment Bankers Association, governmental securities committee, 1955–57; Illinois Bankers Association, council of administration, 1958–60; Federal Reserve Bank of Chicago, class A director group 1, 1961–63; Export-Import Bank of Washington, advisory committee, 1962–64; Chicago Clearing House Association, vice chairman, 1965–67.

Long active in the Mormon Church, Kennedy was until 1966 the First Councilor in the Chicago Stake Presidency of his church. For several years he also served as a bishop in Washington, D.C.

He is a member of Nauvoo Restoration, Inc., and served a two-year mission in Great Britain before he graduated from college.

Kennedy has said that "it is hard to evaluate the part religion has played in my business life. Belief in God makes one more interested in others and their problems. To help others, to learn, to grow in life—these are the important things."

SOCIAL MEMBERSHIPS

Illinois St. Andrews Society, life member, since 1963; Union League Club; University Club; Old Elm Club; Glen View Club; Chicago Club; Attic Club; Mid-America Club; Executive Club; Commercial Club, president, May, 1966 to May 1967; Bankers Club; Economic Club.

HONORS

Honorary degrees: Brigham Young University, honorary doctor of laws degree, June 3, 1960; Roosevelt University, honorary doctor of laws degree, June 15, 1964; George Washington University, honorary doctor of laws degree, June 6, 1965; Lake Forest College, honorary degree in humane letters, June 10, 1967.

OTHER AWARDS FROM EDUCATIONAL GROUPS

George Washington University Alumni Association, 1963 Alumni Achievement Award, June 5, 1963; Harvard Business School Association of Chicago, 1965 Business Statesmanship Award, May 10, 1965; Loyola University of Chicago, Founders Day Award, Oct. 31, 1966; University of Utah College of Business, Meritorious Achievement in the Field of Business award, May 19, 1967; Brigham Young University, Ernest L. Wilkinson Medal for extraordinary service to BYU, May 26, 1967.

MISCELLANEOUS HONORS

Illinois Society of Certified Public Accountants, 1963 Public Information Award, June 11, 1963; Junior Chamber of Commerce, Man of the Year Award, March 26, 1963; Chicago Chapter of the Public Relations Society of America, Community Service Award, Nov. 30, 1964; American Marketing Association, Marketing Man of the Year Award, Jan. 15, 1965; Junior Association of Commerce and Industry, nominated for Man of the Year Award in the field of commerce and industry, April 27, 1965; Banking Division of Greater Chicago Committee for State of Israel Bonds, testimonial banquet, Sept. 21, 1966; Illinois St. Andrews Society, Distinguished Citizens Award, Dec. 3, 1966; American Statistical Association, Decision Maker of the Year, March 29, 1968; DePaul University, St. Vincent DePaul Medal, April 26, 1968.

THE PORTSMOUTH NAVAL SHIPYARD

Mr. MUSKIE. Mr. President, I would like to invite the attention of the Senate to a resolution which was recently passed by the Portsmouth Chapter of the Navy League of the United States. In their meeting on Navy Day, October 24, 1968, that group of distinguished former naval officers expressed its conviction that the Portsmouth Naval Shipyard is vital to the defense of the United States.

The resolution is as follows:

It was moved, seconded and passed unanimously, that the Portsmouth Naval Shipyard be kept open and in operation for the needed defense of our great country, these United States, and that the representatives in Washington be so advised, that this motion be presented before the Congress of these United States and be placed upon the Congressional Record.

THE POPULATION PROBLEM

Mr. TYDINGS. Mr. President, one of the major issues facing President Richard Nixon is the population problem. On the domestic scene he faces the problems of crowded, poverty-ridden inner cities. On the foreign front he faces the ever-increasing gap between the "have" and "have-not" nations. The problems are many, both at home and abroad—and the pessimistic predictions are they will become more unmanageable until the very peace and security of the world will be at stake. The facts are that sustained high population growth rates among the poor in America—and among the "have-not" nations abroad—are a principal factor contributing to the dilemma of poor people everywhere.

Recently, America has realized the impact high population growth rates have on economic and social stability. Under the administrations of President Kennedy and President Johnson the Congress has enacted legislation designed to provide voluntary family planning services in the United States, and to developing countries who request assistance. However, we are still in the initial stages of developing the kind of comprehensive national and international program equal to the need. A great deal more needs to be done before this country can effectively implement a population program.

THE PRESIDENTIAL COMMITTEE

President Johnson, realizing the necessity and importance of more effective administration and long range planning in this vital area of domestic and foreign policy, this year appointed a Presidential Committee on Population and Family Planning to "make a careful review of Federal policies and programs in relation to worldwide and domestic needs," and to define the Federal Government's role and responsibilities. The committee's report is a welcome step forward in establishing a framework for greater American participation in the worldwide fight to reduce the poverty and despair so evident in the world today.

The report is timely in that it calls for a transition from concern and debate to action. Also, it comes at a time when a new administration will soon be leading the country, and a course of action in this area is urgently needed.

REPORT LACKS BALANCE

Unfortunately, after reviewing the committee's recommendations, I believe that the report falls short of stating the needs of this very vital program. The report is dominated by the Department of Health, Education, and Welfare, containing extensive and detailed statements of what HEW intends to do or should do—while not addressing itself equally to the more important question of whether the presently existing administrative structures are designed to take on present and future expanded responsibilities. In fact, the Office of Economic Opportunity has spent more funds—$10 million in fiscal year 1968 directly on family planning services—than HEW. Also, OEO was the first organization to

establish a pattern of support for U.S. family planning programs.

Additional evidence of HEW's failure to meet its responsibilities in this area was brought to my attention last year through a report prepared by Dr. Oscar Harkavy, head of the population program at the Ford Foundation, wherein he pointed out shortcomings in the HEW program in the population field. Also, in 1967, I participated in a Senate hearing in which Dr. Philip Lee of the U.S. Public Health Service, and others from HEW were questioned and criticized by Members of Congress for their failure to pursue a population program in a more determined progressive and imaginative manner. In my estimation the report indicates that the committee failed to measure the extent to which HEW has acted or failed to act upon the Harkavy report before proceeding with elaborate recommendations to increase HEW's role in this field.

The committee report was so heavily committed to perpetuating and expanding the existing Federal administrative structures and bureaucracy that it failed to recommend a specific funding level for the AID program, the largest, and along with OEO, by far the most successful population program in the U.S. Government. At present the AID program has the largest family planning budget of any agency, domestic or foreign. Of the $35 million obligated to date, $18 million was for direct assistance to foreign government programs; $7 million went to private nonprofit organizations, such as International Planned Parenthood Federation—IPPF—the Population Council, Inc., the Pathfinder fund; and $6 million was for assistance to U.S. universities to develop population studies centers. AID's assistance to universities presently is to the University of North Carolina, the University of Michigan, and Johns Hopkins University which has already been granted $1.3 million for its excellent population dynamics program.

It appears then that the committee report is sorely lacking in balanced recommendations—pointing out the need for the new administration to carefully examine the entire report and indeed the HEW bureaucracy which would implement it.

THE PEOPLE: FAR AHEAD

The people and the U.S. Congress have long been far ahead of the executive branch in recognizing the importance of population programs. Unless something is done by the new administration, I believe the executive branch and particularly HEW will continue to lag far behind the people and Congress. The new administration has an excellent opportunity to examine the experiences of the past and strike out boldly and imaginatively with a new approach to establishing an effective domestic and foreign population assistance program.

APPEAL TO NIXON ADMINISTRATION

President Nixon has indicated he will emphasize long-range planning in his administration. Nowhere is this needed more urgently than in the population field. I urge the new administration to firmly establish a national population policy. Further, I strongly urge that the administration establish population as a major priority of U.S. foreign policy. Former Defense Secretary Robert McNamara once stated:

> Security is development . . . and without development there can be no security. A developing nation that does not in fact develop, simply cannot remain "secure".

We know the tremendous impact population growth has on economic development. Just look at the countries in Asia, Africa, and Latin America, where population growth rates of 2.5 to 3.5 percent have created severe food shortages and strangled economic growth.

The backward, often subsistence agriculture practiced by the majority of developing nations can no longer support the rapidly burgeoning populations. The impact of severe food shortages is not only malnutrition and high infant mortality, but also loss of savings for capital investment funds, and lack of funds available for vital nonproductive social expenditures such as schools, public works projects, and so forth. All this means no development and without development there is no progress. Without progress you create a climate of social and political unrest so prevalent in today's world.

A SINGLE AGENCY

Therefore, I call upon the new administration to carefully examine the possibility of incorporating under the aegis of a single agency the administration of the several departmental and agency programs. Presently the Agency for International Development, the Department of Health, Education, and Welfare, and the Office of Economic Opportunity are chiefly concerned with family planning programs, and in one form or another the Department of Defense, the Department of Housing and Urban Development, and Department of Interior are also involved. For purposes of effective administration and long-range planning, a coordinating agency, headed by a Cabinet level administrator, may be the most efficient way to carry out the role of the Federal Government in this critically important area.

FOREIGN AID

In addition, I urge the new administration to support, and the 91st Congress to pass legislation that would earmark $100 million for population and family planning programs in the fiscal year 1970 foreign aid authorization.

On the domestic side, I endorse the committee's recommendation to increase Federal support of domestic population and family planning programs; however, I seriously question whether HEW has the capability to take on the additional responsibilities as defined in the report. I strongly recommend that the new administration give serious consideration to consolidating the several programs concerned with the administration of the domestic population program.

In summary, I welcome the committee's report and wholly support the recommendations for an expanded program, both domestic and foreign to make voluntary family planning services widely available, and to help avert the worldwide population crisis that is now upon the human race.

However, bold and imaginative programs will be required in order to effectively carry out U.S. responsibilities in this area.

I urge the new administration to act quickly to accomplish this task.

Mr. President, I ask unanimous consent to include in the RECORD the eight recommendations made by the President's Committee on Population and Family Planning:

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

1. That the Federal Government rapidly expand family planning programs to make information and services available by 1973 on a voluntary basis to all American women who want but cannot afford them.

This policy will require an increase in the Federal appropriation for domestic family planning services, to be provided on a strictly voluntary basis, from $30 million in the fiscal year 1969 to $150 million in 1973. This is a small price to pay for providing help to an estimated five million women now deprived by poverty and ignorance of the opportunity to plan their families effectively.

2. That the Department of Health, Education, and Welfare and the Office of Economic Opportunity develop specific five-year plans for their population and family planning programs.

The task to be done is so complex that a detailed, long-range plan is essential for translating policy into day-to-day operations. A prospectus for such a plan is presented in the full report.

3. That the Office of Education provide significant assistance to appropriate education agencies in the development of materials on population and family life.

All levels of the educational system stand in need of materials and curricula on the causes and consequences of population change, so that the American people can confront population issues intelligently. Also needed are curricula on family life so that personal decisions about marriage and parenthood can be made responsibly and with adequate information. Federal assistance for local educational programs in these fields should be expanded rapidly to at least $8 million annually.

Beyond this nation's domestic needs, the United States shares with other nations a concern about the world's population problems. Increasing numbers of countries, caught in the crisis of rapid population growth, recognize that their aspirations for a better life may be frustrated without effective population and family planning programs. Assisting such programs is now an integral part of our national commitment to help the developing countries. The Committee therefore recommends:

4. That the United States continue to expand its program of international assistance in population and family planning as rapidly as funds can be properly allocated by the U.S. and effectively utilized by recipient countries and agencies.

Reducing population growth is not a substitute for economic development. And yet in most of the developing countries, a decline in birth rates is necessary if they are to satisfy the reasonable aspirations of their people. Programs in population should continue to have high priority and increasing support as part of general assistance to social and economic development. It is clear now that our expenditures for assistance in this field should grow substantially in the next three to five years; however, the amount and allocation of increase should depend on a con-

tinuing review of our efforts in this field and the scale and effectiveness of programs undertaken by the developing countries.

5. That experienced specialists from other countries be invited to serve on advisory groups for both our domestic and international programs.

The American contribution to population programs abroad can only be a small part of their total costs, so it must be allocated through a carefully considered set of priorities to maximize long-term effects. This allocation will be more effective if the Federal Government seeks the advice of experts from other countries, some of which have more experience with large-scale family planning programs than our own country. Americans have served on such advisory groups for other countries; we should seek in return the benefit of similar advice for both our domestic and international programs.

Additional research and a greater supply of trained personnel are essential for both domestic and foreign programs. Larger research programs, especially when combined with the recommended expansion of service programs, will create a demand for qualified personnel and for programs to train them. The Committee therefore recommends:

6. That the newly established Center for Population Research accelerate the Federal Government's research and training programs in both the biological and social sciences and that within two years the Center be expanded into a National Institute for Population Research, established by act of Congress.

The expanded program of biomedical and social science research and training in population supported by the National Institute of Child Health and Human Development and coordinated by its Center for Population Research should rise to $30 million in the fiscal year 1970 and to $100 million in 1971. This level of funding will enable the Center to launch needed programs on improved methods of contraception, basic research on the physiology of reproduction and social science research integral to population problems. The Center should become the focal point within the government for information about population research and training, whether domestic or foreign. Planning should begin now to bring about its transformation into a separate National Institute for Population Research within the next two years.

7. That the Federal Government provide basic support for population studies centers.

Priority should be given to basic support for existing population centers primarily in universities to carry out research and training programs in the biomedical, health and social sciences. Support should also be given to the establishment of additional university centers. Such support will attract scientists, teachers and administrators by assuring them of career opportunities. Basic support for existing and additional centers, including construction, is estimated at an average annual cost of $40 million.

Making family planning available and effective is a principal aim of the actions recommended for immediate consideration, but family planning is only one of the important influences on population change. Population trends are influenced profoundly by many other things—for example, by tax policies, participation of women in the labor force, job and housing opportunities, population mobility, and marriage rates. Unfortunately both knowledge and public information about population trends and policies are limited. The present report, completed in four months, should be supplemented by a more thorough review. The Committee therefore recommends:

8. That Congress authorize and the President appoint a Commission on Population.

Such a Commission should make the American public aware of the economic, educational and social impact of population trends. It should analyze the consequences of alternative U.S. policies in the light of this country's determination to enhance the quality of American life. It should evaluate the progress of this nation's programs and review the extent to which the recommendations of this Committee have been implemented. The Commission could have a major impact in highlighting for the American people the urgency and importance of the population problem.

NOTE.—These proposals have been selected by the Committee as deserving of special emphasis. They are taken from the full report.

SPEECH BY POLICE CHIEF THOMAS J. CAHILL AT FBI ACADEMY GRADUATION EXERCISES

Mr. MURPHY. Mr. President, shortly after the 90th Congress adjourned, a distinguished Californian, Thomas J. Cahill, chief of police in San Francisco, delivered the principal address at the graduation exercises of the 82d session of the FBI National Academy here in Washington. His remarks are as timely today as they were then. They are worthy of the attention of every American concerned about the problems of law enforcement, and I ask unanimous consent to have his speech printed in the RECORD.

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

ADDRESS OF THE HONORABLE THOMAS J. CAHILL

Thank you very much, Director Hoover, for that very fine introduction.

Distinguished guests, ladies and gentlemen, and members of the 82nd graduating class, it is indeed a privilege and a great honor that has been given to me by the Honorable John Edgar Hoover to have a small part in the joy and the deep satisfaction that must come today to the members of this class, their wives and families, their relatives and the friends of law enforcement.

I certainly want to pay tribute to you who have been selected to participate in this great opportunity. This did not just happen. There are many in the field of law enforcement who would like to have this opportunity but have not had that chance.

When you were recommended by your own chief, this was not enough. You were subjected to an intensive investigation into your entire career and your background by the greatest law enforcement agency in the world, the Federal Bureau of Investigation. Some of the prerequisites for your selection were honesty and integrity, without which any of you would be a fraud. You stood the test, and you were accepted by the Federal Bureau of Investigation to come here and to receive the special training you now have. My congratulations to you!

Also, I want to congratulate you for having successfully completed the intense and arduous courses that you had to take here, and you carry away with you a depth and a breadth of knowledge that you did not have before. But I want to say to you that this opportunity also carries with it a great and grave responsibility on your part. Listening to your class President, Chief Howard Earle, who is an old friend of mine, I know that you recognize this responsibility.

Perhaps we should take a look at where we stand today. I stand here before you, first of all a man, a father, a police officer, a Chief of Police and President of the International Association of Chiefs of Police. Despite everything that we see and hear about what is wrong with America, I have full confidence in the youth of our Nation and in this Nation as a whole. We see many young people who are engaging in activities that are a sad commentary on our enlightened society because they are not taking advantage of the privileges of freedom. They are taking license, and some place along the line this has to stop. But I want to say to you that there are also many young people in our American schools today for the purpose of gaining an education that will enable them to succeed in our competitive and complex world. I believe the high ideals of these students will outweigh the disadvantages brought about by those with other ideas, some of whom would destroy our way of life. I am confident that among these young people on the right side and with the right objectives, there is the leadership, there is the dedication, there is the civic-mindedness, and, above all, there is the loyalty that will meet the challenges of our time and make for noble progress in this Nation of ours. As Chief Earle has pointed out, it is certainly encouraging to us in this era that the general public realizes what is happening in the United States, and our citizens understand that they must rise and support law enforcement and put an end to the undue criticisms we have been receiving in large measure. I do not refer to criticism of those in our professions who are wrong, since we do have some such individuals. We are all human, and there are human weaknesses and human failures. However, it is our responsibility as administrators to remove these individuals from the profession, or to properly and adequately discipline them. This is the responsibility we accept.

On the other hand, we cannot—and must not—condemn the vast number of dedicated people in the field of law enforcement today. We should always remember the words of Teddy Roosevelt: "It is not the critic who counts; not the man who points out how the strong man stumbled, or where the doer of a deed could have done better. The credit belongs to the man who is actually in the arena; whose face is marred by dust and sweat and blood; who strives valiantly; who errs and comes short again and again, because there is no effort without error and shortcoming; who does actually strive to do the deeds; who knows the great enthusiasms, the great devotions, who spends himself in a worthy cause; who at the best knows in the end the triumph of high achievement; and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who have tasted neither victory nor defeat." Well, certainly this label of "cold and timid souls" can never be applied to law enforcement officers or those in the police service anywhere today, in the United States or in any part of the world, because we are confronted with difficulties and problems and great changes never before known in the history of our profession.

Again, this is a challenge, and it will be met as long as we have men like the representatives in this class here this morning who have dedicated themselves to their profession, who are devoted to enlarging their scope of knowledge, and who will now return to their various jurisdictions to carry out their duties in keeping with this dedication. In view of the caliber of training and the wealth of knowledge that have been imparted to you men by the very capable instructors of the FBI National Academy, it is indeed a real credit to this country to have in the field of law enforcement a man so dedicated to professional training as the Honorable John Edgar Hoover. Over many years he has devoted his time and attention to the security of this Nation. I know of no man who has made a greater contribution to the safety, the security and the progress of this Nation than John Edgar Hoover. And you members of this graduating class have benefited and obtained an elite education from the organization he has so capably

headed for such a long period of time. When you return to your communities, you are not going back to the performance of routine police work because this is no longer our path. We are confronted today with persons in society who would destroy in order to obtain what they feel is theirs. Now nobody is more conscious of the rights of individuals and their right to have their fair share in this affluent society than the members of law enforcement. Yet, because we in law enforcement stand as the immediate symbol of the authority with which some of these people are at odds, we, therefore, bear the brunt of their wrath and their attack, which is not good for our Nation. There has to be a change. The rights these people seek will have to be obtained by other means than those being employed today.

Each one of you will be put to the test to perform your duties with a deep understanding of the human aspects of police work today. We are overburdened with tasks and weakened by a lack of sufficient manpower in many areas. We have all the problems of law enforcement as we have known them before in regard to murders, robberies, burglaries, and the other major crimes—only now they are multiplied many times. Then we have all of the problems arising out of the great change that is taking place in the social order. Our communities are changing—with a mobility of people that we have never known before. In crimes there is a viciousness that we have never seen before. In addition, we have the problems of youth as we see them on our college campuses. And we have the problems of rebelling youth as we see them in areas like our own Haight-Ashbury District in San Francisco.

Each one of you must play a very important and a very sensitive role so that we enforce the law and we assure that no citizen's rights are trampled on.

You can have full confidence returning now with the breadth and the depth of the knowledge that is yours from this training and with the full support of the great organization known as the Federal Bureau of Investigation behind you. When you leave here, you are not the same man who came here three months ago. You are a much bigger man in your profession. You have greater responsibilities than ever before—a responsibility now to your own department and a responsibility to the Federal Bureau of Investigation for the knowledge that has been given to you.

You now automatically become members of another organization spread throughout the United States and many parts of the world—the FBI National Academy Associates, all graduates just like you. These men are ready and available for you to contact and work with and I'm sure that your associations will be beneficial.

Your enthusiasm and confidence should be bolstered by the realization that the public is rising to your defense. This great Nation of ours, whose blessings we enjoy, today serves as a reservoir of liberty to which each generation has made its contribution. And I want to say to you that you now have a grave responsibility to make your contribution, and I am sure you will meet the challenge. Each one of you is the promise of an America continuing to grow in the strength of liberty, freedom, justice and true accomplishment.

You citizens in the audience today who are not directly involved in law enforcement, except for your interest and support, have an opportunity to spread throughout this great Nation of ours a realization that we in law enforcement are a thin blue line and that we cannot hold this line alone. You are part of approximately 200 million people in this great United States and we number only approximately 375,000, and therefore we need a tremendous amount of support.

In riding here on the plane I was speaking to a gentleman who is chief of a division of this particular airline, the service division responsible for the care and safety of the planes. He pointed out that the people in the airline industry are extremely competitive in sales, but when it comes to safety they are willing and anxious to pool their resources in every possible way. No secrets are kept when it comes to safety and security. We in the field of law enforcement, no matter what branch we are in, feel the same way. We pool our resources for the protection of the citizens.

In return, I certainly hope that you will start a real movement in this Nation toward solid support for law enforcement so that our mutual efforts may make our operations more efficient for your protection. This is a challenge.

To the news media, I want to say that they too have a tremendous responsibility to gather the news, disseminate that news, and at the same time to be factual. I would hope that they would focus a little more attention on the thousands of instances of outstanding service on the part of police officers throughout the Nation, and perhaps a little less attention on the weaknesses and evils of some of the men who become involved in misconduct. Now I am not saying that we will or that we should cover up anything that is wrong in our own organization because this would not be in keeping with our own code and certainly would not benefit our own organization or the Nation. But I hope that the news media in shaping the thinking and philosophies of our time would give just a little more recognition to the men who day in and day out risk their lives for the protection of all.

To the members of the press, I say that we recognize this has to be a two-way street. We assure you that we will work with you hand in hand. Naturally, there are times when things happen over which we have no control. At times our task entails much more than just "ordinary police work" because at times we find ourselves at war on the streets of our cities. And we are certainly grateful to news media for the coverage and the support they have given to our earnest efforts at such times.

I would be remiss indeed if I did not express my appreciation at this time to the branches of the military services. They have been great. And remember also that we in our efforts are basic to the security of not just our own local jurisdictions but to the State, the Nation and the world as a whole.

To the men, directly in the field of law enforcement, let me say this to you. Upon your shoulders rests the majesty of the law and it is your responsibility to carry it seven feet tall, high above the mist of suspicion, indecision or inaction. You must forge ahead, elevating the standards of law enforcement day by day and carrying out your own duties with a greater degree of excellence than ever before. And in this way, you too, like the great and the Honorable John Edgar Hoover, will write another glorious chapter on law enforcement in the fascinating book of human achievement. This is a challenge to the citizens, the news media, and law enforcement—that includes myself. This is the challenge I leave you. Good luck and God bless you.

FIFTY-FIRST ANNIVERSARY OF UKRAINIAN INDEPENDENCE

Mr. DODD. Mr. President, today, January 22, marks the 51st anniversary of the proclamation of Ukrainian independence and the 50th anniversary of the Act of Union, uniting the western Ukraine with the Ukrainian National Republic.

The Act of Union was solemnly proclaimed on January 22, 1919, in Kiev, in St. Sophia Square, which was thronged with hundreds of thousands of people. It read in part:

. . . From today on, there shall be united in one Great Ukraine the long separated parts of Ukraine-Galicia, Bukovina, Hungarian and Dnieper Ukraine. The eternal dreams, for which the finest sons of Ukraine lived and died, have been fulfilled. From today on there shall be only one Independent Ukrainian National Republic. From today on the Ukrainian people, freed by the mighty upsurge of their own strength, have the opportunity to unite all the endeavors of their sons for the creation of an indivisible, independent Ukrainian State for the good and the welfare of the working people . . .

So strong was the Ukrainian desire for freedom and so overwhelming their unity, that even Lenin was initially compelled to bow to this unity and to accept the Ukrainian nation as a fact of life.

On December 17, 1917, immediately after signing the armistice with the Central Powers, Lenin issued a proclamation officially recognizing the Ukraine as a completely sovereign and independent state. Let me read the words of this proclamation, so that we can better mark the depth of Bolshevik perfidy.

We, the Soviet of People's Commissars, recognize the Ukrainian National Republic and its right to separate from Russia or to make an agreement with the Russian Republic for federative or other similar mutual relations between them. Everything that touches national rights and the national independence of the Ukrainian people, we, the Soviet of People's Commissars, accept clearly without limitations and unreservedly.

But such was the perfidy of the Bolshevik regime that, having made this categorical statement on the independence of the Ukraine, it immediately presented an ultimatum to the Ukrainian Central Rada charging it with failure to recognize the Soviet government and demanding that it help the Bolsheviks against the anti-Communist units operating in the Don and Kuban regions.

On December 25, only one week after the recognition of Ukrainian independence, Red army units began to pour across the border into the Ukraine.

There ensued a bitter war between the Ukrainian nationalists and the invading army, a war which dragged on until the end of 1920 and which took many hundreds of thousands of lives. The war ended with the Red army triumphant and the Ukrainian people in chains.

The Ukrainians are a people 40 million strong with a proud and ancient culture and with as strong a sense of national identity as can be found anywhere in the world. And their national unity is only the stronger for the fact that they have known the meaning of national oppression over the centuries, and that they have been compelled to fight both against the imperialism of Czarist Russia and against the new Communist imperialism.

Use whatever criterion you will, if there is a people anywhere in this world that is entitled to the right of self-determination, it is the Ukrainian people.

The Soviet Union maintains the pretense that the Ukrainians swoon with affection for the Moscow tyranny and that they have absolutely no desire to

separate themselves from the so-called Federation of Soviet Socialist Republics.

If they are so sure of themselves, then I say to the Soviet leaders that the best way to prove their claim to the rest of the world would be to permit the United Nations to conduct a referendum in the Ukraine—yes, and in the rest of the captive nations, too.

Personally I have no doubt about the outcome of such a referendum.

That the Bolshevik terror has not succeeded in suppressing the will to freedom among the Ukrainian people is demonstrated by numerous documents.

Documents concerning the arrest and imprisonment of hundreds of Ukrainian intellectuals have recently reached the West. One of the most eloquent letters emerging from the Ukraine was written by Vyacheslav Chornovil, a 30-year-old literary critic and journalist, who had protested against the imprisonment of other Ukrainian intellectuals. Before he was arrested, he wrote to the head of the Ukrainian Communist Party in these terms:

> You are indifferent to human tragedies, to the demoralizing action of fear which creeps like a cold serpent into many a Ukrainian home. Your only concern allegedly is to see that the law is upheld. Therefore, let us take a look at what is presently going on in the Ukraine, from the point of view of socialist legality. There is ample evidence today from which to draw proper conclusions. I submit my opinions not because I have any hope of alleviating the plight of the individuals who were sentenced and imprisoned. You have taught people not to foster such naive hopes. However, failure to express one's view about what is happening would indicate silent participation in the willful abuse of socialist legality.

It is proper that the Senate of the United States should each year mark this day.

We do so in the first place as an earnest of our opposition to Communist tyranny everywhere.

And we do so in the second place in order to combat an even greater enemy than Communist tyranny: the indifference of free men to the suffering and enslavement of others and the complacency which accepts an injustice, however monstrous, as legitimate and lawful if only it is continued long enough.

That is why each year at this time we urge upon just men everywhere the case of the imprisoned millions of the Ukraine, of their inalienable rights to freedom and independence, and of their determination to regain those rights.

We again serve notice that our people and our Government will never accept their enslavement as a permanent fact of history, and we remind the world that true peace will never be achieved so long as this Communist warfare continues against the people behind the Iron Curtain.

THE NATIONAL PARK SERVICE—A GREAT ASSET TO THE ECONOMY

Mr. NELSON. Mr. President, what many people have been suspecting for a long time about the value of our National Park Service has now been proved by a factual study.

The contents of a study dealing with the economic worth of our great natural heritage recently was released by the Department of Interior.

Dr. Ernst W. Swanson, an eminent economist and now professor emeritus at North Carolina State University, showed that the $102 million appropriation spent on the park system is returned to the people at a rate of 46 to 1, and actually earns $23 on personal income for every man, woman and child in the United States.

The economic benefit is measured by the amount of money 105 million visitors spent in 1967. Actually 140 million visits were paid the parks in that year, but 25 percent of the total was discounted since they were classified as single-day visitors and did not spend substantial amounts as did the other 75 percent. These 105 million generated $6.35 billion in travel expenses; $4.76 billion in personal income; $5.71 billion added to the gross national product; $952 million paid in Federal taxes.

The average park visitor stayed 4 days and spent $15.12 per day.

Dr. Swanson measured the interest rate and the personal income return and estimated that the National Park Service is worth $119 billion—far, far less than has actually been invested in it. The indisputable fact we now realize is that we can afford to spend more and set aside more of these priceless assets for the use and enjoyment of all.

This conservation decade has seen a rejuvenation of our serious quests for open spaces.

Since 1960, attendance at our national park system has increased by over 100 percent from 70 million visitors then to 153 million in 1968.

These parks need little upkeep, surprisingly low investment and development—and they should be left as untouched as possible—and our rapidly expanding population is pressing them into use at fantastically rising rates. More people, more leisure time, more money to spend almost certainly dictates a militant policy on the part of the Congress and the administration to pursue every opportunity we can to keep in perpetuity every one of these natural settings. Time is precious, and land values are consistently escalating faster than we can raise our sights.

Congress and the administrations since 1960 have paid heed to this unprecedented public demand for recreation and wilderness areas. They have set aside 3,800,000 additional acres of land. Over 50 new recreational areas have been added, including national lakeshores, seashores, a national trails system, and a wild and scenic rivers system. In addition, water and air quality standards have been promulgated and over 40 water pollution control conferences have been called to save our interstate waters.

I think that my colleagues would benefit by the reading of a summary of the study which the Department of Interior has released and I ask unanimous consent that documents dealing with it be inserted in the RECORD at this point.

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

PARK SYSTEM VISITORS POURED ABOUT $6.35 BILLION INTO NATIONAL ECONOMY IN 1967

Visitors to the National Park System in 1967 contributed some $6.35 billion to the national economy in travel expenditures, Dr. Ernst W. Swanson, North Carolina State University economist, reported today.

The nation also benefited from this outlay, he said, in the form of an estimated: $4.76 billion in personal income, $5.71 billion added to the Gross National Product, $952 million in Federal taxes.

The estimates are from Dr. Swanson's summary of his "Study of the Impact of National Park System Travel on the National Economy," which he has just completed for the National Park Service. The economist concluded that National Park System travel "contributes far more to the economy dollarwise than has been generally supposed. The $4.76 billion in personal income represents more than $23 for every man, woman and child in the United States."

Dr. Swanson said "the figure is quite sizable as a matter of gain to the nation from assets being preserved for posterity." He said the National Park System gives a "46-to-1 return per dollar of annual appropriation. The total personal income of $4.76 billion from Park System travels is realized on an appropriation of only $102 million, a figure far inadequate for the country's needs."

The $4.76 billion in personal income includes $1.90 billion in direct income and another $2.86 billion in indirect income caused by the chain reaction of spending. Dr. Swanson said that the Gross National Product, "the best measure of national well-being," runs about 1.2 times the national personal income. Thus the personal income derived from Park System travel actually generates some $5.71 billion of the GNP on the conservative assumption that the ratio to GNP is the same as the national ratio.

Using an interest rate of 4 percent and the personal income return of $4.76 billion, the economist estimated the value of National Park System assets at $119 billion. The Federal tax figure is from Treasury Department estimates.

Dr. Swanson estimated, from a number of studies, that the average park visitor spent about $15.12 a day and stayed in the park four days. He estimated that 25 percent of the 140 million park visitors in 1967 were nearby residents, day visitors or otherwise not sufficiently "income-generating" to consider in his study. The remaining 105 million, at $15.12 a day, thus contributed $6.35 billion in travel outlays.

"Until one has traveled to the majority of the national parks," said Dr. Swanson, a wide-ranging visitor to the major parks, "it is difficult to realize how much money is spent by the traveling public.

"To go by car from Washington, D.C., to Grand Canyon National Park will cost two people at least $30 a day or more. With a week or so at the park the vacation will cost them at least $600.

"The demand for recreation has reached heights which a decade ago could only be sketchily foretold," his report said. To the question, "Can we afford mass attendance threatening the very existence of our parks?" he replied: "The National Park System is such a powerful generator of a sizable amount of the national income, that there is no convincing reason why Congress should not provide whatever funds are necessary to guard against such a threat and to maintain, operate and perpetuate these valuable lands and waters."

"These are, indeed, irreplaceable assets that serve us in the understanding of nature, our cultural background, and the beginnings of this nation and of the continent. Dollar signs cannot be attached to knowledge so significant. But the economic value alone justifies our continued care of these assets and emphasizes the great need of increas-

ing, rather than tightening, the funds available for the proper care and maintenance of the National Park System."

Dr. Swanson is professor emeritus of economics at North Carolina State. He served as principal fiscal analyst, Bureau of the Budget, 1941–44, and as economic adviser, Conference of Appalachian Governors, 1963–65, President's Appalachian Regional Committee, 1964–66.

SUMMARY OF A STUDY OF THE IMPACT OF NATIONAL PARK SYSTEM TRAVEL ON THE NATIONAL ECONOMY

(By Dr. Ernst W. Swanson, professor emeritus of economics, North Carolina State University at Raleigh)

The value of the National Park System to Americans is not measurable in strictly monetary terms. But it can be shown that travel to the national parks, monuments, and other areas of the system contributes far more to the economy dollarwise than generally has been supposed.

The park system is of such significance both qualitatively and quantitatively as to occupy a major role in the daily life of a nation undergoing marked social and economic changes. Trips to the National Park System in 1967 benefited the national economy to the following extent: $6.35 billion in travel expenditures which resulted in $4.76 billion in personal income, $5.71 billion added to the Gross National Product, $952 million in Federal taxes.

The $4.76 billion in personal income represents more than $23 for every man, woman and child in the United States. This figure is quite sizeable as a matter of gain to the nation from assets being preserved for posterity. Unlike the mining and the oil industries, for example, which give up non-renewable resources, the National Park System yields its contribution with little or no diminution of its resource values. Wilderness resources are even increasing in value, materially as well as in less tangible ways.

To calculate the economic impact of park system visitors we take these steps:

1. Determine the number of visitors who make major expenditures by staying overnight at or near a park system area. One-day visitors are omitted because we can't make any valid assumption as to their spending behavior. Under presumptions based on studies at major national parks, and a review this past summer by this writer of dozens of park and regional spending patterns, a reasonable "average" figure can be derived. To adjust for day visitors we reduce the total visitations by 25 percent. Thus, transients and double counting may be largely omitted. The truly income-generating park visitors are those who stay overnight and who travel a substantial distance to reach the park. At Yosemite, Sequoia and Kings Canyon national parks, the income-generating visitors may be no more than 55 percent of the total. At Grand Canyon, Rocky Mountain, Grand Teton, Zion, Glacier and other parks 95 percent may be income-generating, based on park studies, park statistics and my review in the summer of 1968.

2. Establish expenditures per person for visitors staying more than a day in the state in which the park is located. From visitor expenditure figures taken in varying years in two states, five national parks and one national seashore, and adjusting them for differences in price levels, we found this average visitor spent about $15.12 per day. From several recent studies, data from the Fred Harvey Company and my own interviews with travel group members, we concluded that 4.0 days is the average length of stay.

3. Thus 75 percent of the total 1967 park system visitation of 140 million gives us 105 million income-generating visitors who spent $15.12 each per day for four days, or a total of $6.35 billion.

4. This figure, however, is total outlay whereas the best measure of the economic impact of visitations is personal income. The $6.35 billion includes most excise and sales taxes, business savings, undistributed profits and expenditures for goods brought into the area. According to the Bureau of Labor Statistics, direct personal income runs about 30 percent of gross outlay. Thus, we find $1.905 billion in direct personal income resulting from park travel. This is the income of merchants, retailers, service station operators, restaurant owners and the employees of all the travel-related businesses.

5. There is indirect personal income as well, however, resulting from the park travelers' outlay. Indirect income is that income resulting from the effects of the spending of the direct income receivers. The service station owner's wife buys an overcoat, for example. The clothier pays his clerks who, in turn, buy groceries. The chain reaction of spending naturally will be greater in a diversified economy such as the Northeast than in a highly specialized area as, say, around Glacier National Park. Economists measure this effect by tracing the use of a dollar over and over. The first spending contributes $1.00 to the money flow but if a family is saving 30 percent, then the amount returned to the flow is $.70. The next time around, assuming the same withholding of 30 percent, 70 percent of the $.70 is returned, or $.49. Next time it's 70 percent of 49 cents or 34.3 cents and so on until nothing is returned to the money flow.

Now, to get some measure of this indirect income, we resort to a variation of the investment multiplier technique used to measure the probable effects of investment. If there is a withholding of 30 percent from the initial dollar spent, we compute a multiplier effect of 3.333 (.30 into 1.0). But evidence from a variety of research studies shows this figure much too high and the rate of withholding as applied to travel-derived income is really about 40 cents on the dollar which produces a multiplier of 2.5.

Studies show that the multiplier varies from as low as 1.12 to 3 or more, depending on the economic complexity and size of the region being studied. The 2.5 figure also is an "in-between" value, based on the findings of the Robert R. Nathan Associates, research groups of the universities of Utah, Colorado, and Wyoming and of Memphis State and Colorado State universities. This figure is an approximation which reflects a balancing out of the highly developed, populous areas with the poorly developed and sparsely populated areas.

In a strict sense, 2.5 is not an average but a judgment based on knowledge of the economic conditions of the National Park System locales. Had we selected a multiplier of 3.0, a figure supported by some writers, we would have obtained a figure of $5.7 billion as the total contribution to direct and indirect personal income of National Park System travelers. Our more realistic multiplier of 2.5, deemed more representative of the nation as a whole, gives us a personal income figure of $4.76 billion contributed by National Park System travel.

If we study the nature of formation of the Gross National Product (the best measure we have of national well-being) we find that GNP runs approximately 1.2 times the national personal income. Thus, the income contribution of National Park System travel gives a figure of $5.71 billion as the amount of GNP generated by National Park System travel.

Another remarkable contribution of the National Park System to the national economy lies in the Federal taxes accruing from park visits. The Treasury Department makes a rough estimate that 20 percent of total personal income goes into Federal taxes. At this rate, travel to the National Park System resulted in $952 million in taxes for the Federal Government in 1967.

Still another graphic indication of the National Park System's economic impact is its 46-to-1 return per dollar of annual appropriation. The total personal income of $4.76 billion from Park System travels is realized on appropriations of only $102 million, a figure far inadequate for the country's needs.

Although the National Park System cannot be evaluated adequately in dollars and cents, we can compute a business-type capitalization based on the personal income contribution from Park System travel. To derive a "market value" of the Service's assets, we multiply the personal income contribution by some factor that reflects the going market rate of interest. We select a 4 percent rate; business firms, facing higher risk conditions, would use a higher rate. On the assumption that the annual income here is a perpetual annuity, we divide 100 by 4 then multiply this factor of 25 by the total personal income contribution. On this basis the value of the National Park System assets may be said to be $119 billion.

Until one has traveled to the majority of the national parks, it is difficult to realize how much money is spent by the travel public. Californians spend about $2 billion a year on vacations; visitors to the state spent $900 million in 1967.

To go by car to Grand Canyon National Park from Washington, D.C., with reasonably priced lodging and meals and as much as 40 cents or more for a gallon of gas, will cost two people $30 a day or more. With a week or so at the park, the vacation will cost two people at least $600. Rentals of campers and travel coaches may be as expensive as lodging at a high-class motor inn at $10 per person.

Residents of some areas derive much of their livelihood from park travel; for those in the Jackson Hole country at Grand Teton National Park, the park is the source of half their living.

The biggest business in Cortez, Colorado, and surrounding Montezuma County is the servicing of travelers to Mesa Verde National Park, Hovenweep National Monument, and Aztec Ruins National Monument. There are 342 motel units, plus a hotel of 50 units—a 25 percent increase in the last five years. Yet, more accommodations are needed. Some 130 to 150 travel parties have been turned away each night during the peak season. About 1,100 travelers are given lodging, leaving some 435 to 525 without accommodations. The daily income from travelers runs as high as $15,000 during the peak season, less than half that in the off season.

The demand for recreation has reached heights which a decade ago could only be sketchily foretold. Can we afford a burden of visitations so immense as to threaten the very existence of our parks and landmarks? To this question there is an answer: Our National Park System is such a powerful generator of a sizeable amount of national income, that there is no convincing reason why Congress should not provide whatever funds are necessary to guard against such a threat and to maintain, operate and perpetuate these valuable lands and waters.

These are, indeed, irreplaceable assets that serve us in the understanding of nature, our cultural background, and the beginnings of this nation and of the continent. They are the sources and stores of history, anthropology, archaeology, zoology, climatology and geology. Dollar signs cannot be attached to knowledge so significant that it can never be found again in another place or time.

Dollar signs can be placed, however, on the economic activities arising from their presence, the values to the nation of the travel outlays and expenditures arising from visits to these assets, even though such figures pale in significance in comparison to the knowledge gained, recreation enjoyed and psychological and spiritual enrichment realized.

UKRAINIAN INDEPENDENCE DAY

Mr. BURDICK. Mr. President, it is on this anniversary of the founding of the Ukrainian National Republic that I ask unanimous consent that the Ukrainian Independence Day Proclamation signed by North Dakota Gov. William Guy be printed at this place in the CONGRESSIONAL RECORD and that the same be a reminder that the spirit for freedom still lives.

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

STATE OF NORTH DAKOTA,
Executive Office, Bismarck.

PROCLAMATION

Whereas, on January 22, 1969, Ukrainians in North Dakota and throughout the free world will solemnly observe the 51st anniversary of the proclamation of a free Ukrainian state, and

Whereas, after a defensive war lasting 4 years, the Ukrainian state was destroyed in 1920 and a puppet regime of the Ukrainian Soviet Socialist Republic was installed, later becoming a member state of the Soviet Union, and

Whereas, the once free Ukraine is now no more than a colony of Communist Russia and its vast human and economic resources are being exploited for the purpose of spreading communism, and

Whereas, the United States Congress and the President of the United States of America have recognized the legitimate right of the Ukrainian people to freedom and national independence by respectively enacting and signing the Captive Nations Week Resolutions in July, 1959, which enumerated Ukraine as one of the captive nations enslaved and dominated by Communist Russia, and

Whereas, some 25,000 Americans of Ukrainian descent now living in North Dakota have made significant contributions to both state and nation.

Now, therefore, I, William L. Guy, Governor of the State of North Dakota, Do hereby proclaim Wednesday, January 22, 1969, as "Ukrainian Independence Day" in North Dakota and urge all citizens to demonstrate their sympathy with an understanding of the aspirations of the Ukrainian nation to again achieve its rightful inheritance of freedom and independence.

In witness whereof, I have set my hand and caused the Seal of the Great State of North Dakota to be affixed this 13th day of January, 1969.

WILLIAM L. GUY,
Governor.

Attest:

BEN MEIER,
Secretary of State.

BIAFRAN RELIEF—WORDS TO ACTION

Mr. GOODELL. Mr. President, many voices of concern have been raised over mass starvation in Biafra.

What we are talking about are those ways in which we, as legislators, can alleviate this tragedy. On the one hand, we have the context of civil war in Nigeria; on the other, we have millions of starving people its victims.

While I maintain neutrality in the civil war which rages, starvation knows not neutrality. We must respond. We must help Nigerians who are starving wherever they are.

As I listen to the contentions and countercontentions of Nigerians who support or oppose the rebellion, the memory of the Biafra mercy collection at St. Patrick's comes to mind. The day was January 11. It was a cold day that day, but the thousands of people who came with food, medical supplies, and money for Biafra, did not seem to mind. The words they spoke were few. Few words were necessary.

THE BIAFRA MERCY COLLECTION

I am in a good position to tell this story because it is a story I was very much a part of. When this story wrote itself, I became involved by meeting its author; and listening and responding to his idea.

I. A MAN WITH AN IDEA

Abie Nathan is his name. He is an Israeli who feels very deeply about the world he lives in. I first heard of Abie Nathan last year when he flew his private plane on a peace mission to Cairo and was greeted warmly by the Egyptians. You see, Abie does not think in terms of national boundaries. He believes we all have to live in this world, and that being so, it is better to live in peace.

Last fall Abie had another idea. He was appalled that people could starve to death in a world of plenty. He was horrified that hundreds of thousands of mothers and children had died in a remote part of Africa called Biafra because of a war they did not start and were not fighting. At first Abie felt that his best contribution to help feed the starving Biafrans would be to fly some plane loads of food into the country from the island of São Tomé, where groups such as Caritas and the World Council of Churches were collecting food. Then he felt something more had to be done—something that could both help feed the Biafrans and call attention to their plight so as to arouse the compassion of the world.

Abie knew that he had to have something dramatic with which to focus attention on Biafra. He knew, either instinctively or through experience, that the most powerful force in the world was an idea whose time had come. His idea was, on the surface, simple, and I am sure many told him it was impossible. Abie Nathan wanted to charter a freighter, then have people from many countries fill it with food and send it to São Tomé so it could be flown into Biafra. If the nations of the world—including ours with enormous quantities of food—would not send food to Biafra, the people of the world would. Abie decided to call this the Biafra Christmas Ship. Without going into great detail, suffice it to say, Abie captured the imagination of the people of Holland; they raised enough money to charter the Norwegian freighter, *Forra*, and, loaded with 400 tons of food collected in Holland, Ireland, and England, it set sail for New York on December 21.

II. BIAFRA CHRISTMAS SHIP

Now, it is important to understand something. Abie had no big organization. In fact, he had no organization at all. He was one single solitary man with an idea. When the ship left Amsterdam, to arrive in New York 2 weeks later, Abie had made no plans for obtaining the remaining necessary 3,100 tons of food and medical supplies. The prospect of a ship, arriving in New York City in the midst of a dock strike, with little or no advance attention or organization to prepare people for the job ahead, would undoubtedly discourage an ordinary man. Fortunately, Abie is not ordinary.

A few people knew of the Christmas Ship. There was the young 22-year-old girl who had a job as an assistant editor on a trade publication. She took a leave of absence from her job and began, on her own, to contact church groups and civic organizations in New Jersey and Long Island. So, by the time the ship actually arrived, some people were aware of it.

I met with Abie Nathan about a week before the ship docked. He had flown into New York ahead of its arrival. I immediately decided that the project should be helped. Biafra has been of considerable concern to me since the conflict started, and of deepening anxiety as mass famine spread.

III. BIAFRA CHRISTMAS SHIP COMMITTEE

About the same time, Abie made contact with some people in the communications business—people who either had their own public relations firms, or worked in broadcasting. For if the Christmas Ship were to be filled, people had to know about it. There is a committee—the Biafra Christmas Ship Committee—was formed and I agreed to act as chairman.

We realized that in order to create the kind of attention we wanted, fast, we had to have some medium that would and could reach the people with speed. That, of course, meant radio. We approached radio station WOR, the most-listened-to station in New York. They did not hesitate one minute. They told us they were behind the effort 100 percent, and the very next day they began to broadcast spot announcements. Their interview programs began to tell the story of the starvation in Biafra. And Barry Farber, their kingpin interviewer, devoted an average of 1 hour every night for a week on the subject of the Christmas Ship, asking for donations, asking for volunteers, asking for help of all kinds.

People were beginning to hear about the Christmas Ship. Appeals were made over the air for contributions of space—space where the food could be collected and packed for shipping. Several churches in Manhattan and Queens and New Jersey offered to help. Trucks were given by Bohack's, Avis, and Hertz. People continued to respond.

The mercy collection was to take place on Saturday, January 11, since the ship was to leave Monday evening, January 13. The place suggested was St. Patrick's, a symbol of universal compassion.

I spoke to Archbishop Cooke who immediately gave his approval. Not only that, he said he would like to be present on the steps of St. Patrick's to help us thank New Yorkers who were asked to bring food to the church. I called Mayor Lindsay, Senator JAVITS, Attorney General Lefkowitz, and Members of Congress. Each responded with enthusiasm. I called the wife of President-elect Nixon

and extended an invitation to her. Mrs. Nixon gladly said she would come to the rally and join with us in this humanitarian effort.

We began to receive help from many quarters that was totally unsolicited. The Long Island Railroad called and said that they would run a special train through Long Island, making five stops to pick up food to bring to New York for the ship. The Staten Island Ferry put on a special boat to bring the people of Staten Island to New York with their food. A priest called and offered to buy an advertisement in the New York Daily News urging people to come to the rally.

IV. TOGETHER WE ACTED

Saturday, January 11, came. It was extremely cold. Yet, on the steps of the cathedral, people began to assemble early in the morning. And they brought food. By noon, half the steps were filled with food. By early afternoon, the steps were completely packed. The trucks waited along the curb. When one of our guest celebrities asked over the loudspeaker for the people in the crowd to help load the trucks, hundreds of people of all ages, from teenagers to elderly people, picked up packages to carry to the trucks. Their response all day long was truly one of the most beautiful sights I have ever seen.

By the end of the day, we found that over 30 tons of food had been brought to St. Patrick's. The Long Island Railroad train had brought in another 40 tons of food. The Staten Island Ferry brought 20 tons of food. On the sidewalk in front of the cathedral, in just a 3-hour period, people had contributed over $6,000 in cash. Others had brought food to our packing depot, St. Peter's Church on West 20th Street. Well over 150 tons of food had been collected.

But attention did not stop with the collection of food alone. Hundreds of people volunteered to help pack the food at St. Peter's.

I saw a little boy pushing a dolly—bigger than he—loaded with food. Then there was the bearded "old man" who worked all day and all night—just because he believed in the cause. And large numbers of longshoremen joined in the packing effort at St. Peter's and at Bush Terminal, pier 4. Young and old, rich and poor, worked from dawn till dusk and from dusk till dawn. Special appeals went out on all radio stations for special assistance. When twine was needed, at 3 in the morning, the appeal went out on the air, and it was brought to St. Peter's Church. Again, when packing tape was needed, people opened their stores on Sunday to bring tape.

The results in terms of contributed food—and this was, of course, an important part of the project—was fantastic. But more fantastic—or, let us say, as successful, was the attention we received for the tragedy that is Biafra. It was a magnificent display of effective citizen action, mobilized in a short time, and doing something that had not happened during the entire past year of the Biafra crisis. That is, getting people involved.

THEN AND NOW

Mr. President, the mercy collection for Biafra was an action by many Americans touched by the knowledge of starvation in Biafra. They were moved by an awareness that mass death was occurring even as they came to the cathedral with their offerings.

Food for Biafra came that day and for days afterward. It came simply because people cared for the life of others. It is this feeling which transcends the thinking of such less simple issues as why there is a civil war in Nigeria; what are its international political dimensions; when and how will peace come to that troubled land?

There is a lesson in all of this. Widespread famine, mass starvation, wherever it may be on this earth, is an international tragedy. Our people have responded to this tragedy with their own resources and by their own spirit and action. Today, the SS *Forra* relief ship is on its way to São Tomé with more than 3,500 tons of food where it will be airlifted to Biafra. Meanwhile, our people continue with relief plans.

What we can do as Senators is equally pressing. We can seek ways to peace in Nigeria. We can agree that much more can be done through our diplomatic channels to encourage peaceful settlement of the war which causes so much suffering and death. We can urge the President to use his good offices to encourage negotiations toward settlement of the Nigerian conflict. Therein lies the critical next step which must go hand-in-hand with present relief efforts of our people.

UKRAINIAN INDEPENDENCE DAY

Mr. FANNIN. Mr. President, on January 22, we, the citizens of a free and independent nation, have the honor of joining the peoples and descendants of the Ukraine in the anniversary of their independence. It was on this day, just 51 short years ago, that freedom was proclaimed at Kiev. However, this freedom was short lived. By 1920, Red Army troops had again put the courageous Ukrainians under the yoke of subjugation.

There reside in my own State of Arizona many persons of Ukrainian extraction. These industrious and honorable people are proud to be citizens of the United States. Yet, they grieve that their brethren are denied the freedom which they so readily enjoy.

The seed of freedom once planted cannot be destroyed. It may be allowed to flower despite those difficulties and obstructions which may be put in its path. The hearts and minds of Ukrainian citizens both within their native land and in other nations around the world still nourish the thought of regaining independence. On this anniversary, it is well to remember that this spark of freedom still burns and burns brightly.

Therefore, let us pause and reflect on the heroic struggle that these people have waged and are still waging. We express our hope that in the near future these people will again be able to exercise their freedom. In doing so, I am sure we are in a small way helping to sustain and encourage the spirit of freedom among Ukrainian people and among all other captive nations.

EDITORIAL TRIBUTE TO SENATOR DOLE

Mr. PEARSON. Mr. President, my distinguished colleague, Senator ROBERT DOLE, recently received not only a great political victory but a great vote of confidence by the people of Kansas. The career and talents of this young Senator are ably set forth in an editorial by Mr. Henry Jameson of the Abilene Reflector-Chronicle, and I ask unanimous consent, Mr. President, that the above noted article of Friday, January 10, 1969, be printed in the RECORD.

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

OUR NEW JUNIOR SENATOR

Bob Dole, the new United States Senator from Kansas, is one of those story book American success men who sets a hard pace and will no doubt in due time become a nationally known personality in Washington.

He is honest, conscientious and a hard worker with a genuine Kansas philosophy about matters of government; leaning toward the conservative side but not stamped. He said recently he would follow the same rule he did as a western Kansas Congressman—try to keep abreast of what his constituents back home are thinking on various issues, but not immune to voting the other way if, in his judgment and on the basis of more detailed information at his disposal, he deemed it the best way.

That is what we elect Congressmen and Senators for. It is proper for them to keep a finger on the pulse at home. However, the Congressman or Senator who does not have the ability to make decisions on his own is not the man for the job.

From just about every standpoint it is obvious that Bob Dole has an appeal that pleases both men and women voters. He is tall, dark and handsome and at 45 one of the youngest members of the august Senate body—and perhaps because of a battlefield injury that almost took his life and permanently crippled him, Dole drives himself especially hard. "I am grateful to be here at all and I want to return everything I can," he once commented to this writer.

As a young man in Russell, Dole enrolled at the University of Kansas with plans to become a doctor. He was the rugged athletic type and won his freshman numerals in three sports at KU, football, basketball and track. Along came the war and Dole enlisted. He subsequently became a Second Lieutenant serving as a combat platoon leader in Italy when shell fragments riddled his body.

He was paralyzed and doctors gave him little chance to live. He spent 39 months (more than three years) in hospitals where his fighting spirit won out. He became a guinea pig, one of four patients to receive streptomycin on a trial basis. During his long hospitalization Dole dropped from 194 pounds to 122. But his fighting spirit won out. He recovered, except for one arm which never fully returned as the result of the shoulder having been virtually shot away.

At one of the hospitals Dole met an occupational therapist named Phyllis Holden of Concord, N.H. She took a special interest in her patient, and later became his wife. Back home Dole decided he couldn't make it as a doctor and became interested in law and politics. Unable to use his writing arm, Dole did the studying and his wife did the writing—and that is the way he passed the bar examinations.

He was first elected to the Kansas House of Representatives while still in law school, and then county attorney in his home county of Russell. That was the beginning of a public career that may one day go down in history

as surpassing that of Frank Carlson or any other Kansan.

His record in Congress shows a good balance. In his campaign for the Senate, he described the American people as "tired of the same old tired solutions of the Great Society, that all problems can be solved by spending more money." "There's been too much meddling with the economy of our country," he added. "Ignorance and apathy, not socialism or communism, are this country's greatest enemies."

He has a quick wit and once cracked that Washington is comparable to a CCC camp—confusion, consternation and conniving.

UKRAINIAN INDEPENDENCE DAY

Mr. GRIFFIN. Mr. President, the proclamation of independence of Ukrainian National Republic was issued in Kiev, capitol of Ukraine, on January 22, 1918. A year later all the territories of Ukraine were united into one sovereign and independent republic.

The Republic of Ukraine was immediately recognized by a number of governments, including the Soviet Union. However, the long sought independence of this new republic was short-lived. Almost simultaneously with recognition, the Soviet Union declared war on Ukraine and began a large-scale invasion. The Ukrainian people waged a gallant fight in defense of their country, which lasted almost 3 years. But the struggle ended with Soviet occupation and subjugation.

Today, the 51st anniversary of the Proclamation of Independence of the Ukrainian National Republic, and the 50th anniversary of the Act of Union, is celebrated throughout the free world. I am proud to join with fellow citizens of Ukrainian descent in recognizing this anniversary. I commend the determination of these people for keeping the spirit of freedom and self-determination alive through the years.

Let it be known that the people of the United States, who have come from many lands, have not forgotten the Ukrainian people who have been denied their freedom.

TOYNBEE URGES PRIORITY FOR WORLD OCEAN DEVELOPMENT

Mr. PELL. Mr. President, I have long admired the works of Arnold Toynbee and consider him our leading contemporary historian. He is a man who sees events in proper perspective.

In a recent article, Dr. Toynbee commented on the priorities assigned to some of our great human endeavors. He concluded that a very high priority should be assigned to exploring and developing the resources of the oceans and to establishing some kind of regime for the governance of ocean space.

I am delighted that a man with his breadth of knowledge and his wisdom has arrived at these conclusions and holds these views. I ask unanimous consent to have printed in the RECORD the column by Dr. Toynbee entitled "Earth's Morality Gap" from the Providence Sunday Journal of January 5, 1969.

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

EARTH'S MORALITY GAP

(By Arnold Toynbee)

We should be inhuman if we were not thrilled by the moon flight of Apollo 8, but we should be sub-human if we left it at that. This exploit raises, insistently, the fateful question of the order of priorities on our agenda.

The astronauts' courage is on a par with Da Gama's and Columbus'. We rejoice that, like those two discoverers of the New World, the three Americans have come back alive, and have not suffered Magellan's fate. (We do not yet know what scientific information the astronauts have brought back; but we do know that human eyes have never before seen the moon at this close range.) We admire the dedicated cooperativeness of the brave astronauts' "backroom boys" (their number is said to run to six figures). The technology has been as superb as was that of the pyramid builders.

But these two amazing technological achievements raise an identical question: What is our verdict on the uses to which we have been putting the slender surplus product that man has succeeded in wringing out of nature within these last 5,000 years?

TORTURED WORLD

Egypt in the third millenium B.C. and the United States today have each been relatively affluent. Yet, even in the present-day United States, 10 or 20 per cent of the population consists of poverty-stricken squatters in slums. In the present-day world as a whole, only one-third of the rapidly growing population is properly fed. In mankind's grim economic plight, are not pyramid building and moonmanship follies that are also crimes? They are not such heinous crimes as war making, on which all but a small fraction of our surplus has been spent by us since the surplus first occurred about 5,000 years ago.

Yet today the world is being tortured by three simultaneous wars and by industrial strikes, student uproar, and acts of terrorism—all prompted by the bitter experience that, if any human being has a grievance, however just and however urgent, violence (shame to say) is the only means by which the plaintiff can be sure of exhorting his fellow men's attention.

The Russians and Americans have been cordial in congratulating each other on their rival feats of spacemanship, yet their rivalry is a fact, and it is also the cause of the folly. If there had not been two competing political super-powers on this small planet, probably this folly would not have been committed. The institution of local sovereignty, which is the mother of such foolish competitions, is also the mother of war—an institution that has become suicidal since science, applied to technology, has harnessed atomic energy for weal or for woe.

The point has been put, apropos Apollo 8, by President Johnson:

"Whether we stand first in these endeavors matters to our momentary pride, but not to our continuing purpose . . . the race in which we of this generation are determined to be first is the race for peace in this world . . . what really counts is whether we can keep people from dying on the Vietnam battlefield."

"People," not only "Americans." The President has thrust his hand into mankind's "morality gap," and there is no "credibility gap" here.

Since the date of our earliest surviving records of human affairs, there has been a widening gap between mankind's ever increasing technological prowess and the obstinate moral inadequacy of our social performance. Our technological history has been a dazzling "success story;" our moral history—the history of our relations with each other—has, so far, been the story of a shocking failure. This is our "morality gap," and, since 1945, the gap has become wide enough to give room for the broad way—a veritable "throughway"—that "leadeth to destruction."

In his memorable comment on the triumph of Apollo 8, President Johnson has confronted us with the true order of priorities on our agenda. In the atomic age our first priority is to save ourselves from committing the crime and folly of liquidating our species. This will require the subordination of local sovereignties to an effective world government, and this is going to be a much more difficult feat than landing on the moon. Nationalism is our present-day idol, and to discard a false god calls for more than an astronaut's courage in mankind in the mass. This is a revolutionary spiritual enterprise; but we dare not shirk it.

A DEAD END

The date of Apollo 8's happy landing was also the date of China's eighth monitored atmospheric nuclear test in Sinkiang and of the sale of 50 Phantom jet fighter planes to Israel by the United States. The attack on the Israeli airline at Athens airport by two Arab terrorists had been made the day before, and the massive Israeli sabotage of Beirut airport followed a few days later.

Our second priority is to provide, before famine overtakes us, for feeding this planet's future population. We do not yet know the degree to which the population's present magnitude will have multiplied by the unpredictable date at which family planning will have become a universal practice. We only know that, for increasing mankind's food supply, we have no time to lose.

Therefore a massive increase in the production of food is the next objective on mankind's agenda after the avoidance of self-liquidation.

But spacemanship cannot contribute anything to service of this purpose either. The professor of radio astronomy at the University of Cambridge, Sir Martin Ryle, was expressing what seems to be the opinion of all eminent astronomers in his comment—apropos the performance of Apollo 8—on the prospects of spacemanship. He is reported to have said flatly that man would never reach the stars. The nearest star was three light years away, and this would be an impossible distance for manned travel. He saw no future for the colonizing of space.

Spacemanship, then, is a dead end. In spending on it, we are deliberately incurring a dead loss in terms of economics; and we cannot ignore economics in an age in which mankind is going to starve if we squander our inadequate resources instead of doing our utmost to increase them to keep pace with the inevitable increase in our numbers.

But, if spacemanship is moved down to the bottom line of our agenda sheet and if war is deleted from it, what alternative outlet are we to find for explorer's courage, the technician's skill, and the scientist's curiosity? This question has been answered already in Japan. The alternative to war making and to spacemanship is to explore the sea and to develop its potential resources.

Unlike the nearest star, the sea is within man's physical reach. It covers more than two-thirds of the surface of our own planet and it is our greatest reservoir of still intact resources. In the atomic age we are still skimming food from the sea by the paleolithic method of hunting (fishing is another name for hunting in the water). The Japanese (and, I understand, the Americans too) have now made a beginning with farming the sea by cultivating edible seaweed and by breeding and shepherding fish, as we breed and shepherd sheep, instead of hunting fish as we hunt wild animals on land. Presumably by far the greatest part of the planet's still unrifled minerals lie beneath the sea's bottom; yet the getting of submarine coal, mineral oil, and natural gas is still in its infancy.

A VAST FIELD

Here is a vast accessible field for mankind's enterprise, and also a sure guarantee for our race's survival even if our descendants are going to be ten times as numerous as we are today. Even in these numbers, our descendants will not starve, since the quantities of edible fish will have multiplied, in domestication, far more sensationally. A female yellow-tail fish lays about one million eggs in her lifetime, and, in a wild state, three out of the million develop into mature fish that produce eggs or semen in their turn. When the same eggs are fertilized artificially by Japanese sea farmers, and when the brood is nursed and is protected against non-human predators, the number that matures is not just three in one million; it is 100,000.

A few hours after the triumphant return of Apollo 8, I was asked, in a transatlantic telephone call, whether I thought this was a turningpoint in mankind's history.

My answer was "No;" but it would have been "Yes" if the day's news had been that mankind had suddenly come to its senses, had subordinated its local states to a sovereign federal world government, and had appropriated the sea and the sea bottom, outside territorial waters, as a patrimony for the whole human race, to be administered and utilized by the world government for the common benefit of mankind.

We have still to reach and pass this true turning-point. A first move in that direction would be for the Soviet Union and the United States to divert to the joint promotion of human welfare the resources that they are now wasting on spacemanship and on armaments. This act would make it practicable to raise the material standard of life for all mankind to the level already attained by 80 per cent of the population of the United States. This would be a turning point indeed, but it cannot be arrived at just by technology, in which we human beings are adept. To exploit, for mankind's benefit, the material resources latent in and beneath the sea will be a more lucrative application of technology than moonmanship; but more technology is not enough. The necessary condition for making technology bear fruit that will be sweet and not bitter is a spiritual change of heart.

"I will give them one heart and I will put a new spirit within you; and I will take the stony heart out of their flesh and will give them an heart of flesh." This spiritual surgery is our crying need. Without it, our new-found virtuosity in transplanting physical organs will be of no avail, and, when we land deftly on the moon, the physical dust and ashes that we shall find there will be an ironical reminder of our unredeemed spiritual barrenness on our mother earth.

THE UNIFORM CREDIT CODE

Mr. HART. Mr. President, the Uniform Credit Code, as we all know, holds a great deal of import for consumers. In view of that, I think it would be beneficial to better understanding if we all had access to background memoranda on the Code prepared by the Consumer Federation of America.

Therefore, I ask unanimous consent that the material be printed at this point in the RECORD.

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

DECEMBER 11, 1968.

To: Consumer Federation of America.

From: Benny L. Kass, Task Force Coordinator.

Subject: Uniform Consumer Credit Code.

On December 3, 1968, the Presidents Committee on Consumer Interests (PCCI) issued a Position Statement on the Uniform Consumer Credit Code (UCCC). It is urged that all consumers interested in the proposed Code read this analysis, for it carefully highlights some of the essential elements of the Code. It also attempts to deal with the background of the more important issues and alternatives confronting the National Conference of Commissioners on Uniform State Laws (NCCUSL) in the drafting process.

In the final analysis, the paper attempts to justify the position taken by PCCI that the Code is "an admirable floor for State consumer credit code legislation." Had the PCCI stopped at this point, they no doubt would have received the enthusiastic support of consumers everywhere. The paper continues, however, to encourage qualified consumer endorsement on the grounds that if the Code is not adopted "there is the dangerous possibility that only industry-supported legislation will be adopted by the States."

This is a very real danger. But there is another danger, perhaps more far-reaching than the enactment of an "industry-supported" Code. Consumer-oriented individuals and organizations must not be encouraged to compromise "to achieve a consensus" before they know what they are compromising. The CFA could certainly endorse the UCCC as an "admirable floor." But CFA should make every effort to add to this floor those necessary consumer protections which will fully achieve a balancing of the creditor-debtor relationship. And most certainly where State legislation presently exceeds the floor of the Code, consumers should not relinquish what they have struggled to obtain.

The purpose of this memo, then, is not to rebut the PCCI Position Paper. We should adopt that document as our "admirable floor," and it should be given wide consumer-circulation. But the consumer should be alerted to some of the substantive problem areas of the proposed Code. The consumer should be encouraged—before endorsing the Code—to compare each section of the Code with his own state law, and with stronger consumer protection provisions in other state laws. He should talk with the National Commissioners in his state. He should also take into consideration the power (albeit slowly developing) that the consumer now has in state and federal legislatures. Only after making this careful analysis will the consumer be in a position to decide his course of action.

Consumers should no longer quibble over the extent of their representation in the drafting of the proposed Code. UCCC is today a reality. Our objective and our efforts should now be directed toward strengthening UCCC, wherever possible.

One important footnote must be added to the PCCI position paper. Reference is there made (at p. 13) to the National Legal Aid and Defender Association's recommended support of the UCCC. PCCI states that "the endorsement of the legal aid advocates who confront poverty daily is entitled to great weight." It should be noted that the executive committee of NLADA recently decided that additional study of the Code was needed. Accordingly, NLADA has not officially taken a position on the Code as of this writing.

EXEMPTION OF FEDERAL LAW

The federal Consumer Credit Protection Act (CCPA)—the Truth-in-Lending Law—was not intended to pre-empt state law. Section 123 of that Act specifically provides that state law, "substantially similar" to CCPA can be applied. But this Section requires that there be "adequate provision for enforcement" of that State law. Consumers analyzing the Code must therefore ask whether the enforcement is indeed adequate. The Task Force is presently studying this issue; it is fair to state, however, that since the sanctions and private remedies proposed by the Code may be weak, and since administrative remedies are similarly weakened by the escape clause found in the assurance of discontinuance section (§ 6.109), one could question the adequacy of enforcement.

UCCC RATE CEILINGS

As UCCC points out, the "maximum ceiling rates in the Code are based on the underlying principle that legislation should not attempt to fix consumer rates . . . ." but that "the economic forces of free enterprise and supply and demand should set rates through improved competition within maximum ceilings." Accordingly, UCCC sets fairly high maximum rates; some analysts have even called them exorbitant. The fact of the matter is that no overall judgment can be made. A line-by-line comparison must be made in each and every state with the existing usury and interest statutes.

What is disturbing about the maximum rates prescribed by the Code is its underlying philosophy. In competitive markets, there is no doubt that competition coupled with adequate disclosure will determine the actual rates. Where there is no competition, however, it is safe to speculate that the highest rates would become the prevailing rates. In the inner city markets, we cannot assume that higher maximums would permit more persons to obtain credit from legitimate sources. Truth-in-lending legislation took a long time to enact; the education of the poor to utilize disclosure and comparative shopping will take an even longer time. In the interim, at least, we cannot rely on laissez-faire. The Code's basic commitment to non-regulation of interest rates cannot be acceptable to those who believe that markets selling and lending to poor consumers continue to exist with their fraudulent practices and exorbitant prices because of the absence of competition. It may very well be that we must abandon—temporarily at least—the viewpoint that competition is always the answer to our economic problems.

CONSUMER REMEDIES

The Code does provide consumers with remedial action against erring creditors, and this will certainly be an improvement over the present fragmented state of the law. Concern has been raised, however, that the sanctions and private remedies are too weak to produce any substantial deterrent effect on creditors. The suggestion has been made by Professor John Spanogle, Jr. (University of Maine School of Law) that there is no need for uniformity in the area of "debtor's remedies," and that each state should consider the problems on its own. The Task Force intends to report on this issue in the near future.

LIMITATION ON CREDITORS RIGHTS

1. *Garnishment:* PCCI states that it has been advised "that it is quite problematical" whether either the Code or CCPA will have the effect of weakening stronger state garnishment laws. A careful reading of both measures indicates, however, that where existing state law either prohibits garnishment (Texas and California) or is more restrictive than the 25% limit of the Code (D.C.—10%; Hawaii; Illinois; Missouri; Nebraska; New Jersey—to name a few). The Code would introduce harsher garnishment. (See § 5.104, 5.105, and 5.106 or UCCC; § 303, 305, and especially § 307 or CCPA).

2. *Holder-in-Due-Course:* We fail to understand why the Code refuses to abolish the concept of holder-in-due-course in the retail installment sales area. Additionally, it is easy to express the hope that Alternative A of Section 2.404 (Assignee subject to defenses) will be adopted; but there is the possibility that Alternative B will become law in a good number of states—and this is totally unacceptable to consumers everywhere.

Even if Alternative A is adopted, the consumer's rights "can only be asserted as a

matter of defense to or set-off against a claim by the assignee." It would seem that this limitation undercuts the stated theory of the Code that "the financing institution is in a better position to guard against the seller pushing shoddy and substandard goods or services than the buyer who very likely has only a single isolated transaction with the seller." The limitations contained even in Alternative A may very well deprive debtors of the recourse granted them by § 2.403, by relegating debtors to an exclusively defensive position.

3. *Payment of Attorney's Fees:* Here too, the Code presents alternative provisions. Alternative A (§ 2.413) contains a prohibition against payment of attorney's fees by the buyer in a consumer sale; Alternative B allows a ceiling of 15% of the unpaid debt as attorney's fees providing the attorney is not a salaried employee of the creditor. Consumer groups should attempt to persuade their local bar associations of the necessity to adopt Alternative A.

The above discussion is far from complete; nor have all the pros and cons been really carefully thougth out. This is, however, illustrative of the problems of the UCCC. During the coming months, state legislatures will be asked to adopt each and every provision of the proposed Code. It has taken the National Commissioners several years to arrive at the compromise of UCCC. Now those affected by the proposal should at least have some time to study its impact.

The Task Force intends to have a more detailed analysis of the Code in the very near future. The sole purpose of this memo is to alert consumers to the fact that the Code is only a *floor* of protection. Each state is encouraged to build upon this floor, where building is politically possible.

DECEMBER 26, 1968.

To: Consumer Federation of America.
From: Benny L. Kass, Task Force Coordinator (UCCC).
Subject: Garnishment, Balloon Payments, and Holder-in-Due Course.

The task force papers are starting to arrive, and we anticipate completing most (if not all) of the detailed analysis of the Uniform Consumer Credit Code before Consumer Assembly '69, January 29–31.

Insofar as State legislatures begin meeting as early as January 3rd, 1969, it is important to alert consumers and consumer-oriented state legislators to some of the problem areas of the proposed UCCC. Our first memo, dated December 11, 1968, was a general overview of the Code. Attached you will find two memorandums dealing with the specific areas of garnishment and balloon payments. A third, on holder-in-due course will follow next week. The balloon payment memo was prepared by Anthony Roisman, a lawyer who headed up CFA's task force on Truth-in-Lending. The holder-in-due course paper was prepared by Professor Egon Guttman, an acknowledged expert on the Uniform Commercial Code and Professor at the Washington School of Law, American University. The garnishment material was prepared by myself, with the assistance of Anne Draper, an economist for the AFL–CIO.

Our objective in preparing these papers was to highlight the legal problem areas of the Code, and to suggest remedies and amendments. These materials are not in any way intended to be definitive works; we cannot look at each and every State statute as we analyze the Code—nor do we wish to do so. This task must be performed within the State itself. We urge CFA members to use this material in talking with State officials and in making decisions about the Code's adoption locally.

THE BALLOON PAYMENTS PROVISIONS OF THE PROPOSED UNIFORM CONSUMER CREDIT CODE

It is most disturbing that commentators on the Uniform Consumer Credit Code, including many who supposedly are well versed consumer spokesmen, have commended the Code for its elimination of one of the more vicious devices in the arsenal of the unscrupulous merchant—the balloon payment. The sad fact is, however, that the Code only appears to eliminate the balloon payment; in fact it restricts its future utility little.

A balloon payment contract is one which provides for one or more installment payments which are significantly larger than the usual periodic payments called for under the contract. In most cases the balloon payment is the final payment due. The purpose is to hit the unsuspecting purchaser with an unexpectedly large payment and thus force default with the resulting loss not only of the property covered by the contract but also of all payments previously made.

The Code provides (sections 2.405 and 3.402) that With respect to a consumer credit sale (loan), other than one primarily for an agricultural purpose . . . if any scheduled payment is more than twice as large as the average of earlier scheduled payments, the buyer (debtor) has the right to refinance the amount of that payment at the time it is due without penalty. The terms of the refinancing shall be no less favorable to the buyer than the terms of the original sale. These provisions do not apply to the extent that the payment schedule is adjusted to the seasonal or irregular income of the buyer."

Several problems arise at the outset. Why are "agricultural purpose" sales exempted? Is not the farmer to be afforded the same protection as his urban neighbor—especially since there is a seasonal clause at the end of the section?

What is a "scheduled payment?" That term is not defined anywhere in the Code. Could a devious creditor circumvent even the limited protection afforded by that section and through artful contract-drafting supply his own definition to "scheduled payment?" More seriously, could the whole force of the section be avoided by a creditor routinely reciting in its standard adhesion contract "that the payment schedule is adjusted to the seasonal or irregular income of the buyer?"

Assuming that a contract obligates the purchaser to make one payment which is "more than twice as large as the average of earlier scheduled payments," who will advise the purchaser of his right to refinance that payment? The Code imposes no disclosure requirement on the seller: He is free to impose a balloon payment and try to get away with it. Without being apprised of his refinancing rights it is unlikely that the purchaser will resist repossession when he is unable to meet the unexpected higher payment. It must be remembered, the Code does not in any way prohibit balloon payments.

Moreover, the limited protection afforded by the Code applies only where the balloon payment is more "than twice as large as the average of earlier scheduled payments." Thus, a most significant balloon payment could be imposed without any refinancing requirement arising. A purchaser, for example, who assumes the responsibility for monthly payments of $100 each could be hit with up to a $200 final balloon payment and he would have no right to refinance. In authorizing double payments the Code gives the unscrupulous merchant more than enough room to accomplish the devious effects of the balloon payment. If it is appropriate to leave the last of a series of payments of unspecified size to maintain even periodic payments, then the last payment should round-out the total sum without deviating much from earlier payments. Surely enough flexibility would be permitted if any one scheduled payment could deviate by as much as 10 percent from the average of all scheduled payments.

In a recent defense of balloon provisions, a bankers' association stated that balloon payments are a necessary device to protect lenders against the deterioration of credit and against adverse changes in the money market. In other words, the balloon helps guarantee the lender's ability to salvage a bad bargain. As offensive as this justification is, it clearly is inapplicable under the Code's balloon payment provision. It will be remembered that the debtor has the absolute right to require refinancing of the balloon payment at terms "no less favorable" to him than the terms of the original sale.

The presence of the balloon should not, therefore, enable the lender to recoup any greater interest charge than is provided for in the underlying contract. In effect, the Code's refinancing provisions, when exercised, provide for an extension of the contract term.

What, then, is the advantage to the lender? It would appear that he stands to gain only if the buyer fails to exercise his right to demand refinancing, a failure which is likely in view of the absence of any disclosure requirement. We must not lose sight of the fact that our primary concern is for the less sophisticated purchaser; it is he who has been systematically victimized in the past through the use of balloon payments. The Code, by requiring the victim to assert his rights thereunder, adopts a wholly unrealistic protection scheme. The unsophisticated have not succeeded in protecting themselves in the past; there is little reason to expect that they will do better in the future, especially if the unscrupulous merchant is not restricted in his actions or representations.

It is appropriate that we ask several questions before casually assuming the correctness of the Code's approach. Is there any justification for any type of balloon payment? If some degree of flexibility is desirable, should it be so lenient as to permit balloon payments which are twice as large as the average periodic payment? What has been the experience where balloon payments have been prohibited entirely? Has the availability of credit been impaired? What is the Code really driving at in view of the fact that a lender is required to refinance a balloon payment at terms no less favorable than the original contract? Does it really make sense to leave it to the debtor to protect himself?

Before any further praise is heaped upon the drafters of the Code for their "so-called" elimination of balloon payments, it is appropriate that we obtain satisfactory answers to the above questions. Whether or not there is any justification for the balloon payment, it is difficult to see any justification for a compromise that arms the unscrupulous with the means to continue their victimization of the unsophisticated.

SUGGESTED AMENDMENT TO UCCC

On September 19, 1968, S. 2589 passed the Senate of the United States. This bill, introduced by Senator Joseph Tydings (D–Md) provides for the regulation in the District of Columbia of retail installment sales of consumer goods and services. The "balloon payment" clause of S. 2589 (§ 4.103(B)) maintains the same objectives which the UCCC drafters apparently had in mind, but eliminates the objectionable features discussed above.

It is suggested that UCCC sections 2.405 and 3.402 be amended to read as follows:

"No seller or lender or subsequent assignee shall at any time take or receive any retail

installment contract or extension or refinancing agreement or loan agreement from a buyer or debtor which contains any schedule of payments under which any one installment, except the downpayment, is not equal or substantially equal to all other installments, excluding the downpayment, or under which the intervals between any consecutive installments differ substantially, except that—

"(a) the intervals for the first installment payment may be longer than the other intervals,

"(b) the final installment payment may be less in amount than the preceding installment payment, and

"(c) where a buyer's livelihood is dependent upon seasonal or intermittent income, the seller and the buyer may agree that one or more installment payments in the schedule of payments may be reduced or deferred."

THE UCCC AND GARNISHMENT

Black's Law Dictionary, the Legal Bible for law student and lawyer alike, defines the noun "garnish" to mean: "In old English law, money paid by a prisoner to his fellow-prisoners on his entrance into prison."[1]

Were the proposed Uniform Consumer Credit Code sections on garnishment enacted, it might have the effect in several states of figuratively reviving this old English law definition—despite the clear intent of the Code drafters to restrict garnishment.

Garnishment of wages has indeed resulted in leaving the debtor in prison—a prison of continuous debt and often loss of employment. The struggle to obtain restrictions on wage garnishment has been a long and extremely difficult one, both at the state and federal levels. Only through the perseverance of Congresswoman Leonor Sullivan (D–Mo) did garnishment restrictions become part of the recently enacted Federal Consumer Credit Protection Act (CCPA), more commonly known as Truth-in-Lending.

In order to understand the problems raised by UCCC, it is necessary to examine the new Federal garnishment laws, which will become effective July 1, 1970. Title III of CCPA is entitled "Restriction on Garnishment" and contains the following sections:

"§ 301. Findings and Purpose.

"§ 302. Definitions.

"§ 303. Restriction on Garnishment.

"(a) limits garnishment to 25% of 'disposable earnings' per week or the excess over $48 (30 times the Federal minimum hourly wage), whichever is less.

"(b) the restrictions in (a) are not applicable to court support orders, bankruptcy court orders under chapter XIII of the Bankruptcy Act (wage earner), and debts due for state or Federal taxes.

"§ 304. Prohibits employers from discharging any employee if his earnings are subjected to garnishment 'for any one indebtedness.'

"§ 305. Authorizes the Secretary of Labor to exempt, by regulation, the restrictions on § 303(a) garnishments in any state which provides 'substantially similar' restrictions by state law.

"§ 306. Designates the Secretary of Labor, acting through the Wage and Hour Division of the Department of Labor, to enforce Title III.

"§ 307. Effect on State Laws.

"This title does not annul, alter, or affect, or exempt any person from complying with, the laws of any State—

"(1) prohibiting garnishments or providing for more limited garnishments than are allowed under this title, or

"(2) prohibiting the discharge of any employee by reason of the fact that his earnings have been subjected to garnishment for more than one indebtedness."

Article 5, Part I of the Uniform Consumer Credit Code contains the following sections on garnishment:

"§ 5.104. Prohibits garnishment (or like proceedings) prior to entry of judgment in an action against a debtor for debt arising from a consumer credit sale, a consumer lease, or a consumer loan.

"§ 5.105. Contains almost identical language to that of § 303(a), CCPA. Only significant differences are:

"(1) CCPA refers to all garnishment proceedings; UCCC limits garnishment to judgments arising from a consumer credit sale, consumer lease, or consumer loan; and

"(2) CCPA limits garnishment to excess over $48 per week; UCCC raises the exemption to $64 per week (40 times the Federal minimum wage).

"§ 5.106. Prohibits an employer from discharging an employee by reason of any garnishment (whether one or more) under a judgment arising from a consumer credit sale, consumer lease, or consumer loan."

The garnishment provisions of the UCCC, standing alone, appear highly desirable for the consumer; in fact, they are probably a little stronger than Title III of CCPA. When one begins to compare these UCCC provisions with state laws, however, it becomes apparent that adoption of UCCC in many states would have the effect of weakening the existing garnishment restrictions. Thus, in many states the Code would provide inferior consumer protection to that provided by Federal and existing state law.

The problem areas are twofold: (1) limitation of the UCCC application, and (2) more restrictive state statutes.

1. *Limitation of UCCC application:* Whereas the garnishment provisions of the UCCC (§ 5.104, § 5.105 and § 5.106) are limited in their application to debts arising out of consumer credit transactions (sales, leases and loans), the garnishment provisions of the new Federal law (CCPA) are generally applicable to all garnishments. If the Code were adopted, the determination of garnishable wages would be governed by two different standards: debts covered by the Code and exempted from the CCPA under § 305, and other debts covered by the CCPA.

Since creditors have the ability to choose their legal remedy—for example a suit in tort rather than in contract on debts arising out of consumer credit transactions—the two different standards would not only permit "forum shopping" by the creditor but could put the consumer at the mercy of the least favorable statute.

Similarly, § 5.106 of the Code forbids an employer from discharging an employee because of a wage garnishment arising out of a consumer credit transaction. The parallel Federal provision, § 304 of CCPA, prohibits discharge for garnishment arising out of any one indebtedness. Thus, where the two different standards apply, an employee garnished three times for consumer credit debts could not be discharged (under UCCC) whereas the employee garnished once for tort and once for a credit debt could lose his job (under CCPA).

It is recognized that in some instances the UCCC provides better protection for the consumer than does CCPA. By amending UCCC to apply to garnishment for *all* indebtedness—rather than consumer credit transactions—this would eliminate application of the double standard and truly provide against the hazards of garnishment.

2. *State Statutes more restrictive than UCCC:* Under the new Federal law, state garnishment laws are pre-empted only to the extent that the federal provision (in Title III) is more favorable to the wage-earner than is the state law. Section 307 specifically does not repeal those state laws prohibiting garnishment or which provide for more limited garnishment than is allowed under Title III.

Thus, for example, garnishment is prohibited in Pennsylvania and Texas, and for all practical purposes is legally nonexistent in Florida, North Carolina, South Carolina and South Dakota. In the District of Columbia, 90% of the first $200 per month is exempt from garnishment; 80% of the next $300, and 50% of the balance due or to become due. In New Jersey, as well as in several other states, 90% of earnings due or to become due is exempt.[2]

Since these states have more restrictive garnishment requirements than CCPA, they would remain in full force in accordance with § 307. Under the Code, however, these state laws would be replaced with the garnishment formula spelled out in § 5.105—i.e. 25% of weekly wages. And the fact that the 25% applies to "disposable earnings" whereas the 10% in state laws usually applies to gross earnings, will not make up the difference.

It is to be noted that in the great majority of states which do permit garnishment of wages (i.e. California, 50% of the preceding 30 days' earnings; Massachusetts, $50 per week; Washington, $35 per week plus $5 per dependent (maximum $50 per week) for a debtor with dependents) enactment of § 5.104 and § 5.106 is clearly desirable. Enactment of § 5.105, while desirable in those states, is repetitive of Federal legislation and thus appears unnecessary.

On balance, the "advantage" of a state obtaining an exemption from the Federal CCPA is more than outweighed by the disadvantages that would result in the form of harsher garnishment provisions in many states. Although the President's Committee on Consumer Interests states that "it is quite problematical" whether either the Code or CCPA will have the effect of weakening stronger state garnishment laws,[3] the analysis above points out that, in fact, the Code would introduce harsher garnishment in many states.

When one reads the Code garnishment provisions, it is clear that they are intended to be a limitation on creditors' remedies; their very location in Article 5 of the Code would indicate this. Thus, the answer to the problems raised in this memo are simple: pick up the formula from § 307 of CCPA, and don't rely on uniformity for the sake of uniformity. The very best consumer protection is, of course, a total prohibition of wage garnishment. (See Pennsylvania Statutes, T.42, § 886; Texas Constitution, Art. 16, § 23; Civil Statutes, Arts. 3832, 3935, 4099.)

If this is not possible, the following alternative is suggested:

(a) sections 5.104 and 5.106 should be enacted in all states where garnishment now exists.

(b) section 5.105 should be rejected in all states which do not permit garnishment, as well as in those states with more favorable base exemptions and/or more restrictive percentage limitations.

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[1] Black's Law Dictionary, 4th ed., West Publishing Co.

[2] For a complete state-by-state breakdown of garnishment laws, see Wage Garnishment Restrictions under Federal and State Laws, issued by U.S. Dept. of Labor, Wage and Labor Standards Administration; July 1, 1968.

[3] Position Statement on the Uniform Consumer Credit Code, issued by the President's Committee on Consumer Interests, December 3, 1968.

(c) To improve Title III of CCPA, state laws should exempt at least 90% of disposable earnings, or a minimum exemption of at least 65 times the Federal minimum wage ($104 per week).

RECOMMENDED ACTION

Section 305 of the Federal Consumer Credit Protection Act authorizes the Secretary of Labor to exempt, by regulation, the restrictions on § 303(a) garnishments in any state which provides "substantially similar" restrictions by state law. It is recommended that letters be written now to Secretary of Labor Willard Wirtz (and after January 20th to Secretary of Labor George Shultz) urging caution in granting any exemption, especially in those states which have more restrictive garnishment laws than CCPA or which prohibit garnishment completely. Although consumers should check their own garnishment statutes carefully, a quick rundown of state laws indicates the following have garnishment laws affording better consumer protection than the new Federal law (this is by no means complete, and accuracy cannot be guaranteed): Alaska, Arkansas, Delaware (New Castle County), District of Columbia, Florida, Hawaii, Kansas, Louisiana, Maryland (not all counties), Massachusetts, Missouri, Nebraska, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, and West Virginia.

SCIENTISTS SHUN ABM

Mr. HART. Mr. President, the Members of the Senate are well aware that there are many in this body—of whom I am one—who are convinced that the plan to build an anti-ballistic-missile system is unwise, unwarranted, and wasteful. There is every indication that citizens throughout the country, as they learn of the proposal and its implications, are in increasing numbers voicing their concern.

An article in the Detroit Free Press of January 11, 1969, tells us that the scientific community, which is virtually unanimous in its opposition to the ABM system, is preparing still more forceable means of making itself heard.

I ask unanimous consent, for the information of others Senators and the public at large, that the Free Press article be inserted in the RECORD.

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

SCIENTISTS SHUN ABM

(By Boyce Reinsberger)

There are growing indications that if the Defense Department goes ahead with its plan to build an anti-ballistic missile (ABM) system, a number of key scientists and engineers will refuse to work on the project.

Most scientists who have taken a position on the controversy are opposed to ABMs for political and scientific reasons.

They believe that it is virtually impossible to make an ABM system that cannot easily be foiled and that ABMs would rocket the arms race into a vastly more dangerous international situation.

Most also oppose the government's plan on the ground that the expense, which could easily exceed $50 billion, would deprive programs aimed at solving domestic problems.

Almost no scientists of any stature are on record as supporting the plan. Strongest backing for an ABM system comes only from within the Defense Department.

In several cities where the military plans to install missiles armed with ready-to-fire hydrogen bombs, opposition has been sparked by local scientists and engineers. Their aim has been to inform the public about the dangers and technological flaws inherent in anti-missile missile systems with the hope that pressure could be brought on the Pentagon to drop its plans.

Congressional support for almost anything the military asks, however, is strong and two attempts to delete ABM funds from military appropriations have met resounding defeat in the Senate.

The more pessimistic scientists suspect the plan will go ahead and the political activists among them are now seriously considering a boycott of the project by scientists and engineers.

A first step toward organizing support for a boycott is expected to come in the form of a one-day nationwide strike for peace among the scientific community.

A scientist at M.I.T., where much of the brainpower behind military technology is concentrated, said privately that many of the researchers who are likely to be called upon to work on an ABM system may refuse to cooperate.

Scientific consultants to the military at other major centers such as Cal Tech and the University of Michigan are expected to join in the boycott.

The scientist noted that the nation's research community is today much more sensitive to the moral implications of its military work than it was at the time of the Manhattan Project to develop nuclear weapons.

He added that the work on an atomic bomb, originally begun as a weapon against Nazi Germany, was so highly secret that many of the scientists involved in separate phases of the project were never told the true purpose for their work.

The ABM system, on the other hand, has been well publicized and the scientific community is largely convinced that it would be a disastrous project to undertake.

PUBLIC PARTICIPATION IN HIGHWAY LOCATION AND DESIGN

Mr. COOPER. Mr. President, last fall, following enactment of the Federal-Aid Highway Act of 1968, the Federal Highway Administration issued proposed regulations designed to provide greater public participation and better coordination in planning the location and design of Federal-aid highways. The proposed regulations were in part, at least, a result of the urban highway hearings held by the Senate Committee on Public Works and of the Senate amendment to section 128 of title 23, United States Code, which requires the consideration of social and environmental as well as of economic effects in the public hearings held by the State highway departments.

I support the principle of two hearings on Federal-aid highway projects—the first prior to corridor location, and the second prior to specific location and design—and made my views known to the Department of Transportation, and also in a statement presented to the annual meeting of the American Association of State Highway Officials in Minneapolis on December 3, 1968. I said at that time:

I am for two hearings. I believe a corridor hearing at an early stage, before the general highway location is fixed, with a later hearing on specific location and design, will be helpful in securing public discussion and better understanding, and in bringing the issues into focus at a time when alternatives may still be open as a practical matter. I think it desirable also to have the assurance proposed in the regulations that there be full coordination with urban planning, and the opportunity at an earlier stage for all interested bodies to comment; that the hearings take place within three years of approval of route location or final design; that greater information be made publicly available; and that State Highway Departments submit to the Bureau of Public Roads a report on the alternatives they have studied together with support for their decision. I believe these steps will contribute to more informed decisions, and help reduce the lack of understanding, frustration and repeated delays which now occur and which otherwise may increase.

Objections were raised to the proposal—principally because of the appeal provision attached to it. While the legal and practical effect of the appeal provision was the subject of dispute, serious concern was expressed that it could change the Federal-State relationship, or shift the responsibility for the determination of highway location and design. The Federal Highway Administration therefore held public hearings in December, at which a great deal of testimony from many witnesses was received.

Last Friday, the two-hearing procedure was issued in final form and adopted by the Federal Highway Administration. I believe the procedure as it has now been issued is a good one, and that it has been improved as a result of the testimony taken and consideration of the concerns that had been expressed. In fact, this development itself illustrates the value of public hearings and wider participation in highway program decisions.

In statements submitted to the Federal Highway Administration, I joined with Senator RANDOLPH, chairman of the Senate Committee on Public Works, in supporting the two-hearing procedure, but urging that the appeal procedure be dropped. I understand that Congressman KLUCZYNSKI and Congressman CRAMER, the chairman and ranking Republican member, respectively, of the House Subcommittee on Roads, took a similar position. The appeal procedure was omitted, as we suggested.

While the final provision may not and could not wholly meet the conflicting desires of all, I consider it a very hopeful advance, and trust that it will be maintained.

I ask unanimous consent that there be included in the RECORD, at this point, my letter to Senator RANDOLPH of November 8, my letter of November 21 to the Federal Highway Administration, together with the letter from Senator RANDOLPH, in which I joined, and the release of the Federal Highway Administration announcing the resolution of this matter.

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

U.S. SENATE,
COMMITTEE ON PUBLIC WORKS,
Washington, D.C., November 8, 1968.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: I will be attending the North Atlantic Assembly in Brussels next week, and returning to the United Nations after that, so it may be that I will not have a chance to see you during the next two weeks. I did want you to know that I had had an opportunity to examine the proposed regulations calling for a public hear-

ing prior to corridor location as well as before right-of-way acquisition and final design of Federal-aid highways; closer coordination with local bodies and other Federal and State agencies; and consideration of social and environmental as well as economic effects, as required by the Senate amendment to Section 128 of Title 23, USC, contained in the Federal-Aid Highway Act of 1968.

I know that some fears have been expressed that this procedure could delay or even stop highway construction, that there will be appeals for delay in implementing the regulation, and that others will welcome the opportunity for more timely public hearings and broader exchange of information.

It seems to me that the principle of requiring a public hearing at an early stage, before the general highway location is fixed, and of holding a later hearing on specific location and design following the initial decision that a highway is needed and should be built within a general corridor, is a sound one. The separate hearings should be very helpful in securing public discussion and understanding, and of bringing issues before the State Highway Departments at a time when alternatives may still be open as a practical matter.

I think it desirable also to have the assurance proposed in the regulations that there be better coordination with urban planning, and the opportunity at an earlier stage for all interested bodies to comment; that the hearings take place within three years of approval of route location or final design; that greater information be made publicly available; and that State Highway Departments submit to the Bureau of Public Roads a report on alternatives with the reasons for their decision. These steps, it seems to me, move toward amelioration of some of the problems presented in the urban highway hearings held last year by the Senate Committee on Public Works. I believe they will contribute to more informed decisions, and help reduce the lack of understanding, frustration and repeated delays which now occur and otherwise may increase.

I am writing you at this time because I assume that before my return you may wish to be in touch with the Secretary of Transportation or Federal Highway Administrator about this matter. For example, if we are in accord and you should consider writing a letter prior to the November 22 date for comments, I would be glad to join with you in an expression of views supporting the two-hearing principle.

I recognize that State highway officials are used to working with Policy and Procedure Memoranda issued by the Bureau of Public Roads, rather than regulations, and that it is uncertain how much practical difference, if any, there is between the two methods. Further, the precise effect of details of the proposal may be open to question, or depend on their administration or later interpretation. But if the regulations are issued, and should in some respect prove troublesome or unworkable, I assume that the Committee could then hold hearings and provide some guidance for their constructive revision.

With kind regards, I am,

Sincerely yours,

JOHN SHERMAN COOPER.

U.S. SENATE,
COMMITTEE ON PUBLIC WORKS,
November 21, 1968.

HON. LOWELL K. BRIDWELL,
Federal Highway Administrator,
Department of Transportation,
Washington, D.C.

DEAR MR. BRIDWELL: I am in accord with and support the position expressed by Senator Jennings Randolph respecting the proposed regulations for Federal-aid highway public hearings, in his letter to you of November 21, 1968 as Chairman of the Senate Committee on Public Works, on which I serve as the ranking Republican member.

I enclose for your information, and for the record, a copy of my letter of November 8 to Senator Randolph, setting forth my views on the substance of this proposal, and authorizing Senator Randolph, as we are in accord, to submit comments on this matter on my behalf as well as his own.

With respect to the portion of the proposal specifying an appeal procedure, I note that its legal and practical effect is in dispute. Serious concern has been expressed that the provision might change the Federal-State relationship, or shift the responsibility for the determination of highway location and design. While I feel sure such a result is not intended, the appeal provision raises questions apart from the substance of the hearings proposal, and I believe should be separated from it. For that reason, I have been glad to join with Senator Randolph in his request that the appeal procedure be omitted from the proposed regulation.

With kind regards, I am,

Sincerely yours,

JOHN SHERMAN COOPER.

U.S. SENATE,
COMMITTEE ON PUBLIC WORKS,
Washington, D.C., November 21, 1968.

HON. LOWELL K. BRIDWELL,
Federal Highway Administrator, Department of Transportation, Washington, D.C.

DEAR MR. BRIDWELL: In response to the invitation contained in the notice of proposed rule making relating to public hearings, and location and design approval, I am submitting the following comments on behalf of Senator John Sherman Cooper of Kentucky and myself.

We wholeheartedly commend the substance of the proposal requiring a highway corridor hearing and a highway design hearing. While we do not subscribe to all the details of the proposed regulation, we believe the basic content of the document is materially the same as that which you described to the Subcommittee on Roads of the Senate Committee on Public Works during our hearings on urban highway planning, location and design. We believe it is absolutely essential to the proper execution of our national highway program that interested persons be involved as early as possible in the decisions which affect the future of the communities in which they live.

We have received requests to make known to you our views with regard to the proposal. These communications have requested that we explain our position with respect to the regulations so that you might have the benefit of our thinking. It makes little difference to us whether the hearing requirements are published as regulations or whether they are set forth in a policy and procedure memorandum. There are advantages to both forms and it is our understanding that there is little difference in their legal effect. Of course, the regulation does have the advantage of wider public notice than does a policy and procedure memorandum; however, regulations, because of their formality, do not lend themselves to flexible administration. We are certain that you will carefully examine all the comments which you receive with respect to form and respond by adopting what you consider to be the most propitious arrangement.

More importantly, we are concerned with the "appellate" procedure laid out in Section 3.17. It is our strong belief that such procedure will invite unnecessary appeals to the Federal Highway Administration and to the Courts. Highway location decisions are really legislative in nature. This authority has been delegated by the Congress and the legislatures of the respective States to the United States Department of Transportation and the State Highway Departments. Other than to assure that the rules have been fairly applied, there is no contribution which any Federal Court could make to the decisions relating to location and design. Decisions relating to location and design are based on judgment rather than on facts and law and it is our feeling that assuring fairness is the responsibility of both the State and Federal Administrators.

We earnestly request that the final version of the public hearing requirements, however, they may be published, be published without any "appellate" procedure at all. We believe that you, as have your predecessors, review a number of these decisions in line with the basic provisions of Title 23. We believe the decision of the Federal Highway Administrator should be final in all respects unless there is, in fact, a violation of law, in which case normal legal procedures would still pertain.

It is the goal of greater public participation which these rules seek to achieve, and this goal has the support of the Committee on Public Works of the United States Senate. It is a goal which should be achieved as soon as possible. Adjustments of the proposal, as we have suggested, will facilitate the successive implementation of this important matter of public policy.

With warm personal regards,

Truly,

JENNINGS RANDOLPH,
Chairman.

[From the Federal Highway Administration, Jan. 17, 1969]

PUBLIC PARTICIPATION PROCEDURES ADOPTED FOR ROAD DECISIONS

New procedures to stimulate public participation in highway location and design decisions were published in the Federal Register today by the Federal Highway Administration of the Department of Transportation.

The procedures, which apply to all Federal-aid highway projects administered by State highway departments, are the culmination of DOT considerations which began with circulation of a draft proposal in October, 1967. A modified proposal was published in the Federal Register on October 23, 1968. Hearings on the proposal were held December 16–20, 1968, in Washington.

Today's issuance of the procedures in final form was signed by Federal Highway Administrator Lowell K. Bridwell and Bureau of Public Roads Director Francis C. Turner.

It directs that State highway agencies provide public opportunity for the following:

Two public hearings on Federal-aid highway projects involving a new road location: creating a "substantially different social, economic or environmental effect" from the present effect, or an essential change in the layout or function of connecting roads or streets affected by the project. (Exceptions to this requirement are granted for low-density secondary roads.) One public hearing will precede route location decisions by the State highway agency. The second will precede design decisions.

A single hearing, combining location and design discussions, on projects not covered by the two-hearing requirements.

It also requires that State highway agencies:

Solicit the views of Federal, State and local resource, recreation, planning, and other bodies in considering the development or improvement of a traffic corridor, and maintain a list upon which any such body may enroll to receive notice of proposed highway projects in the area.

Consider social, economic and environmental factors relevant to the impact of each proposed project.

Give adequate notice of hearings scheduled on a proposed project.

Provide comprehensive information about alternative routes and designs being considered by the State highway agency.

The procedures also specify in detail the manner in which State highway agencies

should prepare submissions of route or design proposals for approval of the division engineer of the Bureau of Public Roads. Following the division engineer's action, the procedures require that the State highway agency shall publish a narrative description of the route design as approved by the division engineer.

The procedures differ from the proposals considered at the hearings held by DOT in December, 1968, in that they no longer include a formal provision for appeal of the division engineer's decision to the Federal Highway Administrator. FHWA said in a preamble to the procedures that its "present practice of entertaining informal appeals will continue" pending further consideration of the appeals matter, and that it "intends to solicit suggestions concerning an appellate procedure that will serve to facilitate the ultimate disposition of highway issues without unduly delaying needed highway construction."

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. ALLEN in the chair). Is there further morning business? If not, morning business is closed.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate go into executive session to consider the nominations of Gov. Walter J. Hickel, of Alaska, to be Secretary of the Interior.

The motion was agreed to; and the Senate proceeded to consider executive business.

The VICE PRESIDENT. The clerk will read the nomination.

DEPARTMENT OF THE INTERIOR

The assistant legislative clerk read the nomination of Walter J. Hickel, of Alaska, to be Secretary of the Interior.

Mr. JACKSON obtained the floor.

Mr. MANSFIELD. Mr. President, will the Senator yield without losing his right to the floor?

Mr. JACKSON. I yield.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. JACKSON. Mr. President, the Committee on Interior and Insular Affairs, in an action taken Monday morning, January 20, by a vote of 14 to 3, expressed its recommendation that the Senate should advise and consent to the expected nomination of Walter J. Hickel to be Secretary of Interior.

The nomination was not officially before the Committee because the nominations of the new President cannot be presented to the Senate until he has taken the oath of office. In accordance with the precedent of previous transitions, the committee scheduled hearings in anticipation of the nomination coming to the Senate.

The committee held open public hearings on January 15, 16, 17, and 18 at which Mr. Hickel was questioned at length. On the afternoon of January 17, the committee heard Members of Congress and public witnesses who had asked to appear. On January 18, the committee discussed in executive session the financial statement of Mr. Hickel and questioned him further. Also, on January 18, the committee spent part of the day in public session. On the morning of January 20, the committee discussed the anticipated nomination in executive session from 8:45 to 10:30, concluding with the vote announced at the beginning of my remarks.

It has been the policy of the committee to question a nominee concerning his financial affairs in executive session. In this particular case, because of allegations in the press and communications to the committee indicating public suspicions had been aroused, the committee felt it was in the best interest of Mr. Hickel and public confidence in the officers of our Government to release publicly the pertinent information received by the committee in executive session.

Mr. President, permit me to comment first on my understanding of the Senate's constitutional duty to advise and consent with respect to the selection by the President of his cabinet.

The Constitution recognizes three stages in the appointments by the President with the advice and consent of the Senate. First, the nomination of the candidate by the President alone. Second, the assent of the Senate to the appointment of the candidate. Third, the commissioning of the candidate by the President.

Alexander Hamilton, in the Federalist, explained why this procedure was incorporated in the Constitution. He made it clear that the President was not to be relieved of his responsibility for his appointments. The purpose, he said, was to place a check on any spirit of favoritism and to prevent the appointment of "unfit characters from state prejudice, from family connection, from personal attachment, or from a view to popularity."

On the first day of the hearings on this nomination, I noted that—

> History will show that the Senate has accorded the President, particularly a newly-elected President, wide latitude in his choice of those who will serve the country as members of his cabinet. Nevertheless, this Committee and the Senate must meet our constitutional obligations, and therefore, this is not a perfunctory proceeding. At a minimum, I expect it to be an enlightening and educational experience for us all. I hope we will make good use of this opportunity to examine our responsibilities here before the public.

Mr. President, that is from my opening statement made at the beginning of the hearings in connection with the confirmation proceedings of Governor Hickel.

The members of the committee and invited representatives of the Public Works Committee questioned the nominee at great length on many matters. It is my view that the committee's action in recommending that the Senate advise and consent to the Hickel nomination is taken in accordance with our constitutional obligations.

It is my judgment, and I am sure that this is shared by the ranking minority member of the committee, the senior Senator from Colorado, that an adequate hearing record has been made. The length of the proceedings and the scope of the questioning were unusual. But, so were many of the factors surrounding the nomination. The committee tried—and I believe was successful—to be fair to everyone involved throughout the proceedings.

By long established custom—particularly with regard to a newly-elected President—the Senate has followed the practice of giving the President his Cabinet, almost as a matter of course. These are the individuals selected by the President to be his principal advisers. He is responsible for their official acts. The Chief Executive is entitled to exercise wide latitude in their selection.

The Senate is neither required nor entitled to share this responsibility with the President.

We may not agree with the views of those selected by the President. Indeed we must expect there will be some, even considerable, disagreement. Senators may believe that a particular nominee does not meet a standard of qualification of competence that they themselves would set. But it is the President, not the Senate, who must set the standards of qualification and competence for his principal advisers.

Let there be no mistake about it, these are the President's men and he is entitled to have them, barring some flagrant error or abuse of his prerogatives in making his nominations.

In the examination of Mr. Hickel in accordance with the Senate's duties and responsibilities, a majority of the committee found no proper grounds on which to negate the President's choice.

Mr. President, the President of the United States must be responsible and accountable for the administration of the executive branch. We cannot hold him responsible if we deny him his choice of principal advisers for less than overriding cause. It was on this basis, Mr. President, that I voted in committee to recommend that the Senate confirm the nomination of Walter J. Hickel.

As Members of the Senate are aware, a substantial portion of the American public has expressed deep concern over some of the statements which Governor Hickel was reported to have made prior to his appearance before the committee on January 15. Governor Hickel clarified his position on many of these matters and explained his public position on others in testimony to the committee.

Mr. President, I ask unanimous consent that the statement Governor Hickel presented to the committee at the opening of the public hearing on his nomination be printed in full at this point in the RECORD.

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

STATEMENT OF WALTER J. HICKEL, SECRETARY OF THE INTERIOR-DESIGNATE, BEFORE THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, U.S. SENATE, JANUARY 15, 1969

Mr. Chairman, Senator Allott, distinguished members of the Senate Interior Committee, and other distinguished Senators:

It is a great honor and privilege to appear before you today.

I understand and respect the purpose of this hearing. We all know that no Department of government has a greater diversity of programs than the Department of the Interior. Rather than go into details on this variety of programs and unnecessarily take the time of the Committee I will seek to cover broad areas of concern, and thus leave time for Committee members to ask such questions as they desire.

I want to assist the Committee in every way I can to build a complete and accurate record here today. I will welcome any discussion with the Committee about Alaskan problems and about my past policies as Governor of Alaska. But, as we discuss those matters, I will distinguish, and I am sure the Committee will do likewise, between the vastly different responsibilities which rest upon a Governor and upon the Secretary of the United States Department of the Interior. As Secretary of the Interior, I will assume major responsibilities for the wise use, management, development, and conservation of ou. entire nation's natural resources.

I know of no department of our national government which has more varied functions or more important responsibilities. These responsibilities range from people—our Indians, Eskimos and Territorial residents—to minerals, fuels, forests, lands, waters, and even to some responsibilities for the seas surrounding our nation.

Before I go further, I wish I could come before you today and say that I know all the answers to the many problems attendant to these areas. I wish I could say that solutions will come easily. I'm certain that there are many areas which will defy, or certainly challenge, all our ingenuity, and I know that when confirmed, I will need not only the advice and consent of the Senate for the confirmation itself, but I will also need the help of you and other members of Congress for "advice and consent" in the future so that we can attempt to solve the problems in a spirit of constructive cooperation.

Now, let me discuss with you briefly where I think we are in history with respect to our nation's natural resources and where I feel we should be going.

First, I have been aware, and am becoming more informed every day, of the work that is being done in a number of important agencies within the Department of the Interior. These include:

The Bureau of Indian Affairs and Office of Territories with responsibility for improving health, education, housing and with developing local economic opportunities for Indians, Eskimos and Territorial residents;

The establishment of parks and recreation areas for the benefit of the greatest number of people through the National Park Service and Bureau of Outdoor Recreation;

The continued development of water and power projects, under the Federal Reclamation Program and Power Administrations, as well as the need for broad River Basin planning;

The multiple-use management of renewable resources under the Bureau of Land Management;

And, the investigative and research and development efforts of the Fish and Wildlife Service, Geological Survey, Bureau of Mines, and Offices of Saline Water, Water Resources Research, and Marine Resources. I welcome any comments or questions from the Committee into these areas and in no way do I intend to minimize the importance of these vital areas in the Department of the Interior. But to be brief, I will confine my formal statement to three broad areas of national concern. These are:

1. The conservation of wild areas, natural habitats and open space in our country;

2. The enlightened long-range development of the depletable minerals and fuels required in our expanding domestic economy; and

3. Finally, the need for managing our total environment for the greatest benefit to society.

CONSERVATION OF NATURAL RESOURCES

The conservation movement which started with Theodore Roosevelt, at the turn of the century, reached a high point in recent years with the enactment of landmark conservation legislation. What is of equal importance, in my opinion, is the increased awareness of interested and dedicated individuals and groups who have taken it upon themselves to alert the entire country to the need for the wise conservation and utilization of resources. It is people that bring about legislation.

Redwoods, North Cascades, Wild Rivers, Scenic Trails, Wilderness and Recreational Areas, National Seashores, Monuments and Waterways—to name only a few—all received attention and protection because of a dedicated bi-partisan effort by the Congress. The Congress, and more particularly this Committee and its leadership, can be very proud of the legislation they have put on the books. Secretary Stewart L. Udall should be, and I am sure he is, proud of the key role he played in the development of those programs.

Now I believe it should be the duty and responsibility of the new Secretary of the Interior to continue these programs established by the Congress.

I believe we should devote a period of time to the consolidation of the gains that have been made and to a reassessment of our long-range objectives. I think we should explore ways within the Department to make things work better.

Our aim in the future should be prevention instead of reaction to deterioration in the environment. Patch-work conservation will not work. We must anticipate the effects of economic growth and new technology and move now to protect our environment before, and not after, it is destroyed. Fundamental research is an area that has been neglected in recent years, and which will demand an early emphasis. Small dollar outlays for research now will pay big dividends in the future.

In addition, greater emphasis on studies of human population patterns and recreational needs are also needed if we are to prepare for the future. I don't believe we do the concept of wilderness and recreation land preservation any justice if we don't plan now for the impact that man, in dramatically increasing numbers, will have on wilderness areas and open space. Likewise, we don't do the citizens of this country justice if we manage parks and wilderness on an abstract basis and fail to recognize what great benefits these areas can give to individual people and to our society.

NATURAL RESOURCES DEVELOPMENT

Let me turn now to the question of management policies for the depletable minerals and fuels required by a healthy and expanding domestic economy. The Secretary of the Interior has a significant responsibility in the field of natural resource development. Decisions in this field involve vital policy considerations such as national security, balance of payments, conservation of resources, pollution control and abatement, and even relationships with other nations.

The problems involved in these decisions are neither simple nor free from controversy. I will discuss a few items which certain Senators have indicated are of immediate concern to them and which will also be matters of early concern to the incoming Administration.

The first of these items is the Oil Import Program. This Program, established ten years ago during the Eisenhower Administration to protect the national security, has been reviewed and maintained by both the Kennedy and Johnson Administrations. All can see, and the Middle East crises of 1956 and 1957 demonstrated, the need to maintain our self-sufficiency in the production of vital minerals and fuels. I am aware of no suggestion from responsible sources that the Program is not needed to maintain our national security. Indeed, Secretary Udall, in his farewell Press Conference last Thursday, reaffirmed his belief in this Program.

It is the administration of the Oil Import Program that has become controversial. As Governor of Alaska I have, in accord with the obligations of that Office, viewed the Oil Import Program primarily in the context of its effect upon the citizens of Alaska. As Secretary, I will study and consider this and all other problems connected with the Oil Import Program from the standpoint of the national interest.

A study and review of the administration of the Oil Import Program must be conducted in close consultation with a number of other federal offices which are vitally involved in energy policy matters. Among these are the Department of Defense, the Office of Emergency Planning, the Departments of Commerce, State and Treasury, and the President's Office of Science and Technology. All of the agencies will assist in reaching basic decisions on energy policy.

In every event, all decisions I make will be governed by the broad national need and interest.

Another subject which is equally complex is the question of oil shale development. Although I have not had an opportunity to study this question in depth or to receive the advice of national energy policy experts, I believe that we should be prepared to develop oil shale just as soon as it can compete with other sources of liquid fuel in our economy.

This leads me to say that we must emphasize the wise utilization of our domestic minerals and fuels. Such wise utilization and development includes the desirability of giving our citizens the cheapest possible products consistent with national security and balance of payments considerations. Such development must include careful planning to minimize and hopefully avoid adverse impacts on the environment such as air and water pollution, erosion, and unsightly landscapes.

Some domestic industries concerned with the discovery and development of basic mineral resources are badly in need of revitalization. Greater exploration efforts needs to be devoted to the findings of strategic minerals vital to our national security. I will give early attention to these problems, with particular emphasis to revenues which can be returned to federal, state and local governments when domestic resources are properly developed.

THE QUALITY OF OUR ENVIRONMENT

The final area of broad concern that I wish to discuss with you is the absolute necessity to protect the desired quality of our environment. Pollution, loss of open space, crowding, ugliness, the declining biological health of the human environment—these are some of the challenges at home and abroad.

These matters are an inescapable responsibility of national, state and local government. The Department of the Interior must provide leadership and assistance to other government entities in developing proper guidelines for protecting our environment. Better federal coordination must be achieved. The role of state and local governments must be strengthened. New regional approaches must be developed.

We must be willing to look into the future—1980—the year 2000. What type environment do we want? Is it attainable with the resources and technology available to us? The objective is to do today and tomorrow what is possible and to keep our long-range goals constantly in mind.

Congress has, in my judgment, wisely enacted laws establishing programs for assuring the quality of our water and air. These laws call for the states to adopt realistic programs for protecting and enhancing the quality of the environment. The laws properly allow for variations depending upon local conditions and circumstances. I think Congress was wise in adopting this format rather than setting nationwide, uniform, standards.

In my judgment, the Water Quality Act, as amended, is basically a fine tool for helping to manage our environment. However, by developing a better working relationship with the state authorities charged with administration of this program, I believe more progress can be realized.

Our President-elect has set the tone and shown the road for conservation in the Seventies.

He believes that:

". . . The battle for the quality of the American environment is a battle against neglect, mismanagement, poor planning and a piecemeal approach to problems of natural resources.

"It is a battle which will have to be fought on every level of government, not on a catch-as-catch can basis, but on a well thought out strategy of quality which enlists the aid of private industry and private citizens . . .

"Our single goal in this field is the enhancement of the life of every American."

I subscribe to these goals. I believe that with realistic environmental quality programs, adequate financing and strong enforcement of the law, progress will be made in protecting our land, water and air. You may be interested to know that I am the only Governor of the 50 states who has ever seized an ocean-going vessel for dumping oil wastes in coastal waters. They were breaking the pollution laws of the State of Alaska.

I conclude by saying that I suggest no panaceas. I will place early emphasis on performance—on making existing programs work.

I look forward to working together with you for the proper management and wise utilization of our natural resources. I look forward to working with you for the development of new techniques for improved environmental management, so that man will survive in a world that is worth living in.

I am proud to have been asked by Mr. Nixon to serve my country as Secretary of the Interior. I am honored to have the opportunity of appearing here before you today.

I welcome your questions.

Thank you very much.

Mr. JACKSON. Mr. President, the Governor's statement indicates that he recognizes the "vastly different responsibilities which rest upon a Governor and upon the Secretary of the U.S. Department of Interior."

Governor Hickel also said that he believes it is both the duty and the responsibility of the new Secretary of the Interior to continue and faithfully administer the landmark conservation programs which have been established by the Congress over the past 8 years.

A number of people have expressed the concern that the public, the Congress, and the Senate cannot accept his stated views as they were set out in his statement to the committee. It should be clear that if the hearing record means anything, it means that he came before the committee as the nominee of the President to one of the great Cabinet positions in our Government. It was the committee's duty and responsibility to raise the issues and to build the record. The committee did not question his statements where they were clear and unambiguous. The committee accepted his word.

The Members of the Senate will note that there are a number of materials—telegrams, letters and other documents—printed as an appendix to the hearings record. These documents were received and reviewed while the committee was in executive session. Time did not permit the executive session proceedings to be printed for use today. It is being prepared for printing and will be available as soon as possible. The materials in the appendix will be reprinted at the appropriate place in the RECORD.

Among the materials found in the appendix are three letters the committee received from Governor Hickel prior to meeting on Monday morning, January 20. The letters are dated January 19, 1969.

The first letter provides some corrections to materials that had previously been submitted to the committee.

The second letter outlines the requirements the committee established to govern any conflict of interest problems in connection with the disposal and future management of the Governor's assests.

The third lists the assets which the Governor intends to dispose of on assuming the position of Secretary of the Interior. The closing paragraph of the Governor's letter states:

Any assets located through the continuing efforts of my counsel and accountants will be reported to you and, where appropriate, promptly divested.

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

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

JANUARY 19, 1969.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: This is to supplement the statement transmitted to you by my letter of January 12, 1969. In a continuing effort to determine whether I own anything, regardless of its size, that might cause a conflict of interest, I have had my assistants scouring every available record. This search will continue, even beyond my taking office, to insure that nothing is missed. Particularly, the specific information which you have requested, including year-end financial statements, will be furnished. If any divestiture or other remedy is indicated, appropriate steps will be taken.

Referring to the item numbered (15) in the above-mentioned statement, it has been learned that Barrow Realty Corporation owns two, rather than one, commercial buildings in Anchorage. Neither of these is occupied by a federal agency.

The information you requested with respect to the statement of assets contained in the Consolidated balance sheet of Hickel Investment Company and subsidiaries has been furnished to you by telegram from my accountants. It reads:

Hickel Investment Company and subsidiaries, report on examination of consolidated financial statements, year ended December 31, 1967, prepared by Molitor, Doremus and Hanlin, Certified Public Accountants. The "other common stocks" in the amount of $16,091.47 listed in the balance sheet under investments at cost is comprised of the following:

Alaska Pacific Corp	$10,000.00
Northern Plaza Development	4,754.86
Bush Lanes, Inc	1,336.61
Total	16,091.47

You will note that the $10,000 common stock in Alaska Pacific Corporation is in addition to the $10,000 common stock owned by Walter J. and Ermalee Hickel in the same corporation. The investment in Northern Plaza Development has been returned because a proposed project was discontinued. The Bush Lanes, Inc. stock was received by the subsidiary, Alaskan Plumbing & Heating Company, Inc., in payment of an account.

With respect to the statement of investments in securities contained in the financial statement for Walter J. and Ermalee Hickel:

Walter J. and Ermalee Hickel, Report on Examination on Balance Sheet, dated December 31, 1967, prepared by Molitor, Doremus and Hanlin, Certified Public Accountants. Investments in securities, common stock, at cost—the miscellaneous item of $2,794.50 is comprised of the following:

Mountain Mining Co	$1,837.50
Captain Cook Hotel, Inc	40.00
Life Insurance Co. of Alaska	17.00
Cordova Investment Corp	900.00
Total	2,794.50

Other, at cost—The miscellaneous item of $1,201.00 is comprised of the following:

Presbyterian Community Hospital Association, Inc	$1,000.00
Fairview Mines	200.00
American Roofing	1.00
Total	1,201.00

The $1,000 amount in securities of Presbytrian Community Hospital Association, Inc., refers to a bond previously mentioned. I understand that the $200 amount represents an investment in one or two gold placer mining claims located west of Talkeetna, Alaska. The claims were not located by me but for me by one Frank Brink or one Ann Van Dolah of Anchorage, probably more than ten years ago. This claim, together with adjacent claims, owned by eighty (80) other persons, are leased to Ann Van Dolah who, reportedly, has failed to perform annual assessment work, causing a forefeiture of the claims. The $1 stock amount represents a written-down investment of $100 in American Roofing, an Anchorage roofing company. A copy of this telegram has been sent you.

Valley Development Corporation, mentioned in item numbered (17), of my statement transmitted to you on January 12, is not the owner of undeveloped real estate in the Matanuska Valley but a local development corporation formed to cooperate with federal agencies in providing funds for business development in the Matanuska Valley.

It appears that I am one of 78 persons who have equal interests in a 1¼ percent royalty in oil leases owned by Pure Oil Company or its successor, Union Oil Company. The leases were obtained in approximately 1958 and were to expire in 1968. Apparently, because of a two year extension, they have not yet expired. Although originally there was a greater number of acres involved, I understand that the present acreage is either 60,000 acres or 78,000 acres. My interest, which is one seventy-eighth of the 1¼ percent royalty probably has no value.

There has been some confusion concerning the trust arrangement which I made when I became Governor of Alaska. Enclosed

is a copy of the trust agreement. At the same time that the agreement was made, I resigned in writing as an officer and director of all corporations. By the trust arrangement my trustee Roger Cremo, in effect replaced my wife and me as shareholders. By voting the corporate stock, providing my personal guarantee in connection with financing, and otherwise, the trustee caused the business to continue.

Your patience and understanding are appreciated.

Sincerely yours,

WALTER J. HICKEL.

JANUARY 19, 1969.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: Based on the decision of your Committee, I have agreed to do the following:

(1) Dispose of assets in accordance with my letter to you of even date.

(2) Refrain entirely from doing any business with, and from making any investment in the securities of any company that does business with the Federal Government.

(3) Execute and deliver such other instruments as may be necessary to effect the purposes of this agreement.

(4) Refrain from divulging to managers, officers, employees, attorneys, and accountants, information concerning the activities of the Department of the Interior.

(5) Provide the persons mentioned in the previous paragraph with instructions to abide by this agreement.

I will be pleased to comply with any further suggestions or requirements that you may have.

Sincerely yours,

WALTER J. HICKEL.

JANUARY 19, 1969.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: Based on the decision of your Committee, I will accomplish the following within a reasonable time and not later than six months after taking office:

(1) My stock in Transamerica Corporation, Alaska Interstate Company, and Wakefield Seafoods, Inc., will be sold.

(2) To the extent that I may have an interest in the placer mining claims and Koslosky Development Company, referred to in my letter to you of January 19, I will sell, quit-claim, or relinquish the same.

(3) Mountain Mining Company will be dissolved and its sole asset distributed to the shareholder, La Vake Renshaw.

In addition to the above, I have under active consideration the divestiture of all assets except undeveloped real estate and those relating to the hotel, motel, and shopping center business.

Any assets located through the continuing efforts of my counsel and accountants will be reported to you and, where appropriate, promptly divested.

Sincerely yours,

WALTER J. HICKEL.

Mr. JACKSON. Mr. President, I believe the unusual attention focused on this nomination by the Senate and by the public is all to the good. It has served to increase public awareness of the vital responsibilities under the jurisdiction of the Department of the Interior which affect the lives of all Americans. These proceedings should be an important contribution to the education and enlightenment of the nominee, the administration, the Senate, and the country.

Mr. President, an editorial in today's New York Times places the issue before the Senate in proper perspective. I ask unanimous consent that the editorial appear in the RECORD at this point.

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

THE HICKEL NOMINATION

The nomination of Walter J. Hickel to be Secretary of the Interior would have been better unmade. Instead of seeking out the best man for this sensitive and onerous position, President Nixon chose a businessman with exactly the wrong kind of background.

It is hard to fault the reasoning of the three members of the Senate Interior Committee who voted against his confirmation. As Senator George McGovern of South Dakota observed, "I believe he is not qualified by understanding, experience and outlook to become the nation's chief conservationist and the major advocate of the American Indian."

But the Senate must also take into account the customary right of an incoming President to choose his own colleagues unless they are demonstrably unfit on grounds of personal character. This is a sound custom worth preserving.

On this basis, Senator Henry Jackson of Washington, chairman of the Interior Committee, and thirteen other members concluded that Mr. Hickel met "the minimum standards for Secretary of the Interior" and voted to confirm him. Unquestionably, this same view will prevail in the full Senate.

Since the protection and perpetuation of the nation's shrinking heritage of natural treasures is so important to every American, the country must hope that the adverse public reaction to Governor Hickel's nomination and the extended committee hearings have furthered his education on conservation issues. He was certainly talking differently at the end of his hearings than he was at his first press conference last month. And the concern many conservationists felt over his appointment must have been borne in on Mr. Hickel with special force by the implications for himself of the controversy which marked the closing days of the Johnson Administration.

His background, particularly his intimacy with oil companies, and his insensitivity to Indian needs, was one factor in the eagerness of outgoing Secretary Udall to protect 7.2 million acres of land in three new national monuments, two of them in Mr. Hickel's own state of Alaska.

If Mr. Udall thought he were yielding office to another convinced conservationist, he would not have been so insistent in trying to beat the Jan. 20 deadline. It is unfortunate that President Johnson did not accept Secretary Udall's advice, thus removing any uncertainty about the significance of these huge tracts. There is nothing in law or tradition which requires that a President defer to members of Congress in exercising his authority to establish national monuments.

Mr. Hickel if he is confirmed could begin to diminish the doubts about his devotion to conservation by working for the protection of the Alaskan lands as well as the Sonoran Desert in Arizona. Deeds as well as lip service are expected of a conservation-minded Secretary of the Interior.

Mr. JACKSON. Mr. President, I yield to the able senior Senator from Colorado (Mr. ALLOTT), the ranking minority member of the committee.

Mr. ALLOTT. Mr. President, I shall speak only briefly and in some general terms with respect to the nomination now pending before the Senate.

I rise to support, without reservation, the distinguished chairman of the Committee on Interior and Insular Affairs and urge that the Senate confirm the nomination of Walter J. Hickel as Secretary of the Interior.

Seldom, if ever, in the time I have been in the Senate—which now numbers 14 years—has the Senate more exhaustively investigated the qualifications, the personal history, the business history, the thought, and the philosophy of a man designated by a President to be a member of his Cabinet. The record is voluminous, although not always relevant.

I congratulate Governor Hickel, the nominee, for his demeanor and his good humor throughout 5 grueling days. He was always candid and he answered the questions to the best of his knowledge.

The prepared statement given by Governor Hickel at the beginning of the hearings has already been inserted in the RECORD by the distinguished chairman of the committee.

Certainly, the Senate cannot ask that a nominee agree with every Senator on every issue. If we put this criterion on the approval of a nominee, no nominee would ever be confirmed.

The former Secretary of the Interior held many views that I did not agree with, and we frequently discussed them in open Senate hearings. I might say we openly tried to reason together. In all candor, I was seldom able to persuade him to my viewpoint, but he was the former President's Secretary of the Interior. As such, and in the full context of the meaning of that phrase, when Secretary Udall's name was presented for nomination, I voted to confirm him. In my view, there was no legitimate ground upon which to base an objection.

After all, the voters had had an opportunity to speak, and they had entrusted the direction of this country to John F. Kennedy. Although the margin by which this decision was made was slim, nevertheless it was the decision of the electorate of this country, made in accordance with our constitutional processes; and the Senate unanimously abided by the decision of the people. In the final analysis, this was a Cabinet post where the nominee would serve at the pleasure of the President. The President would have to account to the people for his administration in the next election, and the Cabinet is essentially his administration.

The situation is the same with the pending nomination. My analysis of the testimony indicates that many of the misimpressions that have been developed are as a result of the Governor's strong stand in the protection of the interests of the State of Alaska as Governor of Alaska; and as Governor of Alaska, the State of Alaska has enjoyed a strong advocate and defender of her interests.

I would like to read just a short portion of the Governor's statement, and this appears in the fourth paragraph of his statement to the committee:

I would like to assist the committee in every way I can to build a complete and accurate record here today. I will welcome any discussion with the committee about Alaskan problems and about my past policies as Governor of Alaska. But, as we discuss those matters, I will distinguish, and I am sure the committee will do likewise, between the vastly different responsibilities which rest

upon a Governor and those which rest with the Secretary of the U.S. Department of the Interior. As Secretary of the Interior, I will assume major responsibilities for the wise use, management, development, and conservation of our entire Nation's natural resources.

And in another place, in his candor, he said:

Now I believe it should be the duty and responsibility of the new Secretary of the Interior to continue these programs—

And he had been referring to various conservation programs—

established by the Congress.

I believe we should devote a period of time to the consolidation of the gains that have been made and to a reassessment of our long-range objectives. I think we should explore ways within the Department to make things work better.

Now, there is just one other short matter, Mr President, to which I wish to allude at this time. Much of the statements in the press have been based on a statement made at a press conference by Governor Hickel on December 18, but in one sense he has been sort of excerpted to pieces; and I propose to read from that same conference, one page and part of another—this is a transcript of that conference—what he actually said. The question—it does not disclose who asked it—was this:

Governor, could you again philosophically give us your views on conservation?

Governor HICKEL. Conservation has to do with natural resources. I think that conservation basically is something that has to be taken care of area by area. Obviously where you have larger populations, it's more of a problem, and you must protect this so-called outdoor space. But just to withdraw an area for conservation purposes, a vast area—which you would not have in this part of the country, but say in the West or in my part of the country—and lock it up for no reason, or don't make it available to the general public, or make it so difficult that the general public can't use it, doesn't have any merit in my opinion.

Then I skip a short paragraph, and come to the portion that was criticized:

I think we have had a policy of conservation just for conservation purposes.

And what everybody seems to have left out, Mr. President, and what is very pertinent to this discussion, is his next sentence:

That can be done, but I think it has to be done for the greatest utilization for the total American public.

The last part of that remark, unfortunately, has been omitted from most of the press criticism.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. ALLOTT. For a question?

Mr. LONG. Yes.

Mr. ALLOTT. I yield.

Mr. LONG. Would it not be fair to say that what the Governor of Alaska was suggesting at that point is that with regard to resources, the question is how they can be used to the best advantage of the greatest number?

Mr. ALLOTT. I think that is exactly what he did say, and apparently many people have forgotten that we have a multiple-use law, which is actually on the statute books.

Mr. LONG. Is that not pretty much what we are trying to do with many of our conservation programs, to set aside one area as a wilderness area, where it is appropriate to use that area for that purpose, and, where an area should be developed, to develop it?

Mr. ALLOTT. That is entirely true; and I have found, not only in the public discussion but in my personal discussions with the Governor, nothing but sympathetic support for our present existing recreational areas, whether they be seashores, wilderness areas, or whatever they may be. But I find him almost alone, of the people with whom I have been talking, in thinking down the road to 1980 or 2000, as to what the population pressures may be, which will necessarily dictate the conservation policies of this country at that time.

I thank the Senator very much.

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

Mr. ALLOTT. I yield.

Mr. PASTORE. First of all, I compliment the chairman of the committee and the ranking Republican member for their feeling that this is a matter which should be aired publicly, the way we are doing it today. I believe that is in the public interest.

Second, while I do not impugn in any way the integrity and honesty of Governor Hickel, I am concerned, as a New Englander, not only by some of the statements this gentleman has made in pronouncing his own philosophy with regard to the natural resources of this country, but also with some of the actions that he has taken, which are inimical to the interests and the welfare of the people of that large region.

Mr. ALLOTT. What region?

Mr. PASTORE. New England. It might possibly be that the members of the committee are not so familiar with what happens on the Atlantic seaboard, for the simple reason that I do not think there is any member on that committee who comes from a State east of the Mississippi.

Mr. JACKSON. The Senator from Wisconsin (Mr. NELSON) does.

Mr. PASTORE. Senator NELSON? Well, that is not very close to New England.

Mr. JACKSON. He is pretty close to the river.

Mr. PASTORE. Now, where is the lifeblood of our economy? We have had a multitude of problems. A directive was issued during the administration of General Eisenhower, and at that time it was not intended to include residual oil, but through some interpretation residual oil was included, and we have had a bushel of trouble ever since, so much so that when Secretary Udall liberalized the policies in connection with residual oil, which is not being produced in any measure in this country because we are getting into the high octane gases, the saving to New England producers alone was $10 million in 1 year.

We have been talking about the establishment of a free port in Maine in order to alleviate the situation.

I can understand how the Governor of the State of Alaska might not be concerned about what is going on on the other side of the continent. But Alaska went a step further. He has, as the Governor, instituted a suit.

Mr. ALLOTT. That is correct.

Mr. PASTORE. In order to prevent the establishment of this free port in Maine. Now, as the Secretary of the Interior, he is going to become the judge of the very case in which he is a party. Will the Senator from Colorado explain to me the equity and justice and impartiality in this matter when a man who is a party to a suit becomes the judge of the very cause to which he is a party? I cannot reconcile that.

Mr. ALLOTT. Let me answer the Senator's question, if I may.

I should like to read, first——

Mr. COTTON. Mr. President, will the Senator from Colorado speak a little louder? I am interested in this, too, and I cannot hear him.

Mr. ALLOTT. I will do my best. I am operating under the disadvantage of a cold, but I will do my best.

He speaks of this question in his own statement, as follows:

The first of these items is the oil import program. This program, established 10 years ago during the Eisenhower administration to protect the national security, has been reviewed and maintained by both the Kennedy and Johnson administrations. All can see, and the Middle East crises in 1956 and 1967 demonstrated, the need to maintain our self-sufficiency in the production of vital minerals and fuels. I am aware of no suggestion from responsible sources that the program is not needed to maintain our national security. Indeed, Secretary Udall, in his farewell press conference last Thursday, reaffirmed his belief in this program.

It is the administration of the oil import program that has become controversial. As Governor of Alaska, I have, in accord with the obligations of that office, viewed the oil import program primarily in the context of its effect upon the citizens of Alaska. As Secretary, I will study and consider this and all other problems connected with the oil import program from the standpoint of the national interest.

A study and review of the administration of the oil import program must be conducted in close consultation with a number of other Federal offices which are vitally involved in energy policy matters. Among these are the Department of Defense, the Office of Emergency Planning, the Departments of Commerce, State, and Treasury, and the President's Office of Science and Technology. All of these agencies will assist in reaching basic decisions on energy policy.

In any event, all decisions I make will be governed by the broad national need and interest.

I say to my very good friend, having concluded this quotation, that actually it is the Secretary of Commerce who will have to issue the license for the free port.

Mr. PASTORE. If the Senator will yield at that point——

Mr. ALLOTT. Or for the free trade zone.

Mr. PASTORE. That is right. But the quotas will have to be allocated by the Secretary of the Interior. He is the fellow who will send them the oil or hold it back.

Mr. ALLOTT. The Senator is entirely correct on that point. Let me answer further. I wish to quote now from page 45 of the hearings. In response to a ques-

tion by Senator MUSKIE, Governor Hickel said:

Senator, I think you covered it well and I think that if I ever thought it was urgent, I can see now that it is more urgent and I can understand it. [Laughter.]

I think in all fairness I have got to say that there isn't any doubt, Senator, that I will take the broad national picture other than that as you indicated I might have as Governor of Alaska. And as far as it being urgent, if you have an urgent situation, then it requires urgent and prompt action.

I will promise you this, that when confirmed as Secretary of the Interior, I would think at this point one of the first things that we would have to do would be to sit down collectively with your fellow Senators and with this committee and with the executive as such and try to find a solution that is more than apparently there, and I think with that kind of an approach and with that openmindedness that I will give it, it is about as far as I could go in saying what would I do to solve the problem. But I assure you this. We will do something. At this point I couldn't say specifically what. I think it would be wrong of me to do it. It would show that I made a decision without having all of the facts and knowledge before me.

Mr. President, I think Governor Hickel was entirely honest and fair and was entirely right in what he said. I would never think one-tenth as much of him if he had bent down before the committee and made commitments on a matter as complicated as the Machiasport matter, in order to try to gain the votes of members of the committee who, he knew, were in great sympathy with the views of those who favor the Machiasport development.

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

Mr. ALLOTT. Please let me finish. I will yield in a moment.

It is true—and we intend to go into this during the course of the debate—that as Governor of Alaska, Mr. Hickel did institute that suit, because on the north slope of Alaska, in relatively the last few months, vast reserves of oil have been discovered. No one at this moment, I think, can truthfully say how much oil is there. It may be the greatest major oil discovery since the discoveries in the Mideast. No one knows. But it is believed that the reserves are tremendous.

I would say that if as Secretary of the Interior he defended and protected the interests of this country as the record shows he has protected and defended the interests of his State as Governor, I would forever be proud of him as Secretary of the Interior, but I would think less of him if he had done less as Governor of his State.

I yield to the Senator from Rhode Island.

Mr. PASTORE. I believe in the statement of the Senator just as firmly as I believe in the Ten Commandments. But I want to ask the Senator a question. This gentleman became a party to the suit in order to prevent the foreign trade zone in Maine, now he is going to adjudicate this very matter.

I am sure that the Senator will agree that if he came from the State of Rhode Island or any other State in New England, he would have reservations about the nomination. I understand the pronouncements made here that Mr. Hickel will do as well for his country as he did for his own State.

I come from the State of Rhode Island. I am interested in protecting my part of the country, just as he was trying to protect his State at the time he filed the suit.

But the main question is: Can this man be an impartial judge of a matter in which he is already a party?

Mr. ALLOTT. Will the Senator from Rhode Island yield at that point?

Mr. PASTORE. I will take my seat. The Senator from Colorado has the floor.

Mr. ALLOTT. I understand; but I think we ought to make this point clear. I do not mind the Senator questioning me at all.

Mr. PASTORE. I am not quarreling with the Senator; I hope he understands that.

Mr. ALLOTT. If the Senator remembers the suit, the Governor of Alaska was never a party to it; he was only a party as a representative of the State of Alaska. That is the only way the suit was brought. I think this has to be taken in its full context.

Later, perhaps, we shall discuss the situation of an Assistant Secretary of the Interior appointed by President Kennedy. His interests at that time were continued and were quite extensive. Yet we accepted his nomination on its face. As I recall, I moved the confirmation of his nomination. But we shall discuss that situation more fully when we get to it. However, I must say right now that that man, John Kelly, from New Mexico, served a little more than 4 years. My recollection now is—and I have never heard anything to the contrary—that he retained, and perhaps still retains, a direct interest in oil.

He was Assistant Secretary in charge of oil and mineral resources. I have never heard from any person, Republican or Democrat, in business or otherwise, one word of criticism of that man's actions while he was Assistant Secretary of the Interior. He did a fine job.

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

Mr. ALLOTT. No one, perhaps, would like to turn this whole thing over to someone else more than the incoming Secretary of the Interior. The fact is, though, that this problem has existed for a long time. Secretary Udall did not solve it. President Johnson did not solve it. So I cannot see how it will be any worse in the hands of a man who has devoted himself so assiduously to protecting the rights of his own State.

Now I yield to the Senator from Rhode Island.

Mr. PASTORE. The fact is that while Mr. Kelly was the administrator, the situation was much tighter than it was during Secretary Udall's tenure. As has already been stated, when Secretary Udall saw fit to liberalize the quota system on residual oil, we in New England saved $10 million that year. It is true that the quotas have not been so completely abolished as some of us would like to see them abolished; but they have been liberalized in recent years, to be fair. Still, because of the pronouncements of Governor Hickel, and because of the action he took, we may be turning the clock back.

I want the Senator from Colorado and the Senator from Washington to understand that I know that we must grant liberality to the President in his appointing prerogative. I was the Governor of my State, and my State never took any action or brought any suit unless I was a party to it. I hope the Senator from Colorado does not want to leave the impression here that Governor Hickel had nothing at all to do with bringing that suit, because if he was that kind of Governor, I hate to think what kind of Secretary he would make.

Mr. ALLOTT. No; he did not bring the suit personally; he brought it as the representative of the State of Alaska.

Mr. PASTORE. Of course. I make no personal attack on him. He is going to be the Secretary of the Interior. His nomination will be confirmed by the Senate. The Senator from Rhode Island is realistic enough to know that, and understands it. But he would hope that the Senate would understand that we do have problems, and we would hope that the facts we are bringing out today would lead this man to be just and fair. That is what we are striving for. The Senator from Rhode Island wants to leave this clearly in the record: I have never, never, never voted against any nomination made by any President, and I have been a Member of the Senate for—this is my 19th year. I voted, even, for Lewis Strauss for Secretary of Commerce, when many other Senators voted against him. I think I know a little something about giving the benefit of the doubt to the President.

All we are trying to do this afternoon is to present a problem that we have in our own part of the country. All we ask of this man today is that he be fair.

When it comes to the oil situation of this country, all we have to do is to read what he said at the news conference to convince ourselves that he is industry minded and is not consumer minded. If he were to change, he would have to make a turn of 180 degrees. I pray to God he can do so.

Mr. ALLOTT. I am not concerned in the least bit about Governor Hickel's ability; but what the Senator from Rhode Island has to realize is that the State of Alaska is not Rhode Island or Pennsylvania or New York, or any other State in one of the heavily populated areas of the country.

It has been a touch-and-go problem for the State of Alaska to finance itself as a State ever since it came into the Union. In that context, and realizing that over 98 percent of the land is owned by the Federal Government, believe me, one has to be thinking in terms of development.

But let us look at the conservation side of it for the moment. I wish to talk to the Senator about the consumer aspect first, and then I will talk about conservation.

First of all, this man—this is one of the interests that have been criticized so regularly by one of the columnists around this town—with a group of other people put together a company, and he

held a minor interest in it, to actually bring natural gas into Anchorage and the Anchorage area. I do not know whether the Senator has lived in a town where he had to depend upon coal alone for fuel. I have.

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

Mr. ALLOTT. I yield.

Mr. PASTORE. As a boy, I had to get up in the morning and crank the stove dry, and then go out and sift the ashes and recoup what I could of unburned coal, and wait for the stove to heat up before I could wash. Then I had to break up the ice in the sink before I could wash. Do not tell me that I do not know about coal.

Mr. ALLOTT. The Senator knows very well that I never said he did not know anything about coal. But I will say this: He never lived in Rhode Island in a community that had no gas service or oil service.

Mr. PASTORE. Does the Senator wish me to answer that, also?

Mr. ALLOTT. And he is not the only person who has risen in the morning and broken the ice in the sink.

The PRESIDING OFFICER. The Chair must ask the occupants of the galleries to be quiet. You are our guests, and order must be maintained. The Chair asks that you kindly observe that rule.

Mr. ALLOTT. If bringing natural gas for homes to an area like Anchorage is not a consumer approach to things, then I do not know what could be consumer oriented. Naturally, he expected a profit, as every other businessman does when he makes an investment, but he also was making a speculation.

I recall that when the first people to do so brought gas into my hometown, it was quite a few years before the distributing company made any profit from it.

I yield to the distinguished Senator from New Hampshire.

Mr. COTTON. I thank the Senator. I wanted the Senator to yield to me for a moment before he got into the general discussion of the consumer and conservation, before we left the matter of Machiasport and a free trade zone in Maine.

The Senator from New Hampshire is equally interested with the distinguished Senator from Rhode Island, the distinguished Senator from Maine, and every New England Senator.

The Senator from New Hampshire knows what a long, hard fight we have had, because years ago, when I was a freshman Senator, I was delegated by the New England Senators, purely in the second spot—we wanted one Democratic Senator and one Republican Senator—to go downtown. It was my privilege to go downtown with Senator John F. Kennedy and appeal to Gordon Gray, in the Defense Mobilization Department, to beg a relaxing of the quotas on residual oil imports for the benefit of New England—way back then.

This is not in the slightest degree a criticism of the late President Kennedy.

As a U.S. Senator, he pleaded for relaxation of residual oil quotas by the Eisenhower administration. As President, Mr. Kennedy viewed the problem from a national, rather than a sectional, standpoint. So, when the New England delegation again pleaded for expanding our residual oil quotas, we received very little more sympathy or action from the Kennedy administration than we did from the Eisenhower administration. I believe Governor Hickel will serve the national interest rather than any special interest as Secretary of the Interior.

Governor Hickel came to my office a few days ago for a talk, and I reminded him that he came to my room in the hotel the night before the vote on statehood for Alaska. I was one of those who had grave doubts about Alaska's statehood. He labored with me for a number of hours, and I think he was largely or partly responsible for the fact that I made up my mind to vote for Alaska's statehood. I reminded him of that. I said: "Now, I think I have a claim on you; and before you are confirmed and before you take your oath of office, I want to get in my word about seeing to it that New England gets a square deal and that you do not prejudice the matter of the free zone, the Machiasport matter, and that under no circumstances are we going to be faced with a tightening of quotas; because, in my opinion, if the oil people had been more sympathetic in the matter of relaxing quotas of oil in the years past, they would not be faced with the Machiasport situation."

I hasten to say that Governor Hickel gave me no assurance. I agree with the Senator from Colorado that if he had, I would have less respect for him. But he did satisfy me, in my office, when I raised these issues, that not only would he not be prejudiced against us, but also, as he said in the hearings, he did recognize the need and would certainly favor something being done and would go just as far as he could, with the national interest in mind. With that assurance, I can vote for his confirmation; because I happen to feel that I could do more with Governor Hickel when the chips are down on Machiasport than I could with some others I can think of who might be in this position.

I wanted to make that clear, and I thank the distinguished Senator from Colorado for giving me the opportunity.

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

Mr. ALLOTT. I yield.

Mr. METCALF. I say to the Senator from Colorado that, as he knows, in committee I voted for the confirmation of Governor Hickel.

Mr. ALLOTT. The Senator is correct.

Mr. METCALF. I shall do my best during this debate to hold to that position—that I believe that Governor Hickel should be confirmed.

But I hope the Senator from Colorado will not point to Governor Hickel's activities as the owner of a franchise for the distribution of natural gas in Anchorage as one of the illustrations of his interest in the consumer, because that franchise is the highest cost franchise of any utility in America. I do not know of any utility that earns more on equity than the franchise for natural gas in Anchorage. I do not know of any utility since the days of Insull that has earned as much as 64 percent on equity capital. The only comparable areas with respect to natural gas rates are the areas in the northeastern parts of the United States, where gas and oil are transported thousands of miles, as compared with the gas rates in the city of Anchorage, where the gas is transported 70 miles.

Mr. ALLOTT. Mr. President, will the Senator add that those rates are not governed in the city of Anchorage by the State of Alaska? I must also point out that his interest was merely 2 percent of the stock.

Mr. METCALF. I am not so sure about that. Governor Hickel testified they were not, but the statement filed by the Alaska Interstate Corp., in which Governor Hickel has 32,000 shares of stock, states they are controlled by the Commission that Governor Hickel appointed.

Mr. ALLOTT. But not the rates in Anchorage.

Mr. METCALF. Not the rates in Anchorage. The rates in Anchorage are not a part of it.

Mr. ALLOTT. That is the distinction.

Mr. METCALF. But Alaska Interstate's earnings are controlled by the Public Service Commission that Governor Hickel appointed, that he did not remember he appointed, that he did not know whether they regulated gas or oil, or how much they were paid. He did not know anything about it.

The Senator and I both know that we try to give the Governor of Alaska broad and comprehensive powers. He has more power than any of the Governors in the so-called lower 48.

This is the thing that bothers me about him. I am bothered by his concern with his consumers in the city of Anchorage, who pay one of the highest gas rates in America, and a company which has the highest return on equity in America at a time when he was Governor and he had supervision of that commission.

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

Mr. METCALF. I would be delighted to yield if the Senator from Colorado will permit me.

Mr. ALLOTT. Mr. President, I yield to the Senator from Alaska, who, I think, can inform us on this matter better than I.

Mr. STEVENS. Mr. President, I am sure the Senator from Montana recalls the testimony of the Governor, and I would repeat it as a fact for the Senator from Montana, that the actions of the Anchorage Natural Gas Co. reduced the cost of heating for the residents of Anchorage by one-third; that the cost, where there is no gas in Alaska, is as high as 59 cents a gallon for gasoline and 30 cents a gallon for fuel oil. The Anchorage Natural Gas Co. had very little equity capital. To get the 64 percent those who computed the profit figure completely ignored the borrowed capital. If they had considered a fair return on the total investment, it would be making very little money.

In my own home I consume gas from that company, and I can tell Senators of the difference in price for heating my home with gas compared with the price for heating it by oil. I would hope that in days to come we will have natural gas

for home fuel consumption available throughout Alaska. Then, perhaps some of this oil from Prudhoe Bay or the Cook Inlet will make possible a price of 10 or 12 cents for a gallon of fuel oil, instead of 30 cents for fuel oil and almost 60 cents for gas.

We are consumer minded. Governor Hickel, when he joined those people who put together the Anchorage Natural Gas Co., pioneered the gas pipeline across Cook Inlet, which has the greatest tides in the United States, excepting only the place in Maine which I cannot remember the name of. The crossing of Cook Inlet with a gas pipeline was an engineering feat. At the time they put that pipeline in they had no idea they could succeed.

We had natural gas; it was not being used. It was the foresight of people like Governor Hickel who have reduced costs to consumers in Alaska. He has demonstrated that he is consumer minded. Anyone who has paid 60 cents for gasoline and 30 cents for fuel oil is going to be interested in solving the problems of New England.

Mr. METCALF. Mr. President, will the Senator yield to me so that I may respond?

Mr. ALLOTT. I yield to the Senator from Montana.

Mr. METCALF. The question is not whether he reduced the price of heating. The question is whether or not the consumers in Anchorage are paying a fair, equitable, and reasonable rate for their gas, and they are paying an exorbitant, outrageous rate for that gas.

Alaska Interstate Corp., in which Governor Hickel owns some 30,000 shares of stock—which he acquired for $140,000 and is going to divest himself of at a price of $850,000 to $900,000—during the 2 years that Governor Hickel was the Governor of Alaska and responsible for the appointment of the Public Service Commission and responsible for the enforcement and regulation of gas rates in Alaska, the stock of Alaska Interstate appreciated fourfold. During that period the price of the stock that Governor Hickel holds appreciated six times. When we require him to divest himself of the stock in Alaska Interstate he is going to make a sixfold profit.

As I said in my prepared speech, "Happiness is Alaska's interest."

But there is a man who is primarily responsible for the appointment of the enforcement agency, the only man responsible for the appointment of that agency, by the action of this Congress because we wanted to make a Governor responsible for the people of his State. We do not have a situation like many other States where members of the agency are elected. This agency is appointed by the Governor. The Governor testified he did not know who he appointed, he did not know how he appointed, and he did not care.

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

Mr. METCALF. At the same time they are paying the highest rate there.

Mr. ALLOTT. I must interrupt. I think this is completely unfair to say what the Senator just said.

The Senator may finish his sentence.

Mr. METCALF. The people of Anchorage are paying the most exorbitant rate for their gas of all the people in the United States.

Mr. ALLOTT. Mr. President, I think it is unfair to say that the Governor of Alaska does not care. It is a fact that at the time he was asked about the appointment——

Mr. NELSON. Mr. President, I cannot hear the Senator.

Mr. ALLOTT. The Senator can move if he wishes. I am sorry but I am still suffering a little bit from the Hong Kong flu. I will do the best I can but I cannot speak too loudly.

The Senator will recall at the time he was asked this question he had already been subjected to 2 or 3 days of very grueling hearings lasting 5 to 6 hours a day. It is a fact that he just mentally shifted gears and could not recall what he had done on that specific instance at that time. But I do not think it is justified to say he does not care because when we build the record for this case, and we will as we go through the matter, it will show that this man cared more about the people of Alaska, and every type citizen, probably than any one they had ever had or will ever have.

In the newspaper this morning I noticed a story entitled, "Udall Acts on Hawaiian Oil Zone." There is another article entitled "Udall Acts To Give Hawaii an Oil Zone." I imagine this does not make many friends in the upper eastern portion of the country feel too good. I do not pretend to know all of the equities in the Machiasport matter. It is for this exact reason that I think if Governor Hickel, when he was undergoing questioning by the Senator from Maine, and the Senator was very, very insistent and very, very searching in his questioning, would have done what some people fully would have liked to see him do he would have been stultifying himself and he certainly would lose part of my respect.

Mr. METCALF. Mr. President, will the Senator from Colorado yield for 1 minute? I wish to make a brief statement.

Mr. ALLOTT. I yield. If it is brief.

Mr. METCALF. I have no way to know what the Governor of Alaska thought or whether he cared for the consumer or not. I will let the record speak for itself. The record is on page 236 of the hearings where there was an interrogatory about whether or not he knew who he appointed, whether or not he knew whether he had the appointing authority, and whether he knew what term they had and whether they regulated the gas. I will let the record speak for itself. After the noon recess, when I had asked him the question in the morning, he came back and gave—I will not say false, but he gave erroneous information as to the regulatory power of that Commission after he had had a chance to investigate and have his staff advise him.

Mr. ALLOTT. I see that the Senator used certain names there. I do not know where he got them. But I also note that the Senator from Montana was mistaken in the information on which he was questioning the Governor.

Mr. METCALF. I obtained the information from an article published by the University of Alaska and I placed it in the RECORD, as to an investigation of the natural gas regulatory agency in control.

Mr. LONG. Mr. President, will the Senator from Colorado yield at that point?

Mr. ALLOTT. I yield.

Mr. LONG. Would the Secretary of the Interior have any responsibility to determine the rates that gas will be sold for in this country? It is my impression that that would be for the Federal Power Commission to determine; am I not correct?

Mr. ALLOTT. So far as I know, the Secretary of the Interior has no control over it.

Mr. LONG. Let me say to the Senator that I would not want the RECORD to stand as appearing that there is no one against that Machiasport refinery. My impression is that if I were representing the State of Rhode Island, and certainly if I were representing the State of Maine, I would be 1,000 percent for the refinery at Machiasport. But as I am standing here representing the State of Louisiana, I am 1 million percent against the refinery at Machiasport. In other words, it all depends upon what State we represent.

If I were the Governor of Maine and I did not favor the Machiasport refinery, I am sure that I would be unpopular. If I were the Governor of Louisiana and if I did not want to maintain the oil and gas industry which accounts for 40 percent of all employment in my State, I would not be a good Governor of that State. The place one represents tends to determine where one stands upon that question.

There are many people that have something to say about oil and gas. Various Cabinet and sub-Cabinet members have a voice in determining what the production of oil should be, what the capacity should be, and what the general level of oil imports should be. There are people, other than the Secretary of the Interior who have something to say about that. As I understand it, the Secretary of the Interior primarily has a job that has to do with the vast holdings of Federal lands in this country, and when one speaks in terms of ability to hold such a Federal job, can the Senator tell me what State has more Federal land than any other State in the Union?

Mr. ALLOTT. Alaska.

Mr. LONG. Then the man from Alaska who has more knowledge of the problems of his State in dealing with the Federal Government, where Federal lands are concerned, than anyone else in any other State in this Union, should probably have some knowledge of the problems involving Federal lands; and that is the primary responsibility of the Secretary of the Interior, is it not?

Mr. ALLOTT. That is true. I thank the Senator very much for his contribution. What most people really fail to realize is the broad scope of the areas involved in the Department of the Interior.

As I look around this Chamber at my colleagues on the Committee on Interior and Insular Affairs, many of whom have

served longer than I have, I am sure that any of us would have been hard put to answer some of the questions asked in specific areas, even though we have served on that committee for a long time.

For example, it has complete control of all minerals and mineral resources; complete control over the Indians; control over the territories of this country; also water and power resources; also all Bureau of Land Management public lands; and, finally, the sixth subcommittee of the main committee deals with recreation and parks.

When we stop to consider the areas of mineral resources, we have the mineral resources themselves, the Bureau of Mines, the oil quotas; and there is the Geological Survey; the cadastral survey, the immensity and the complexity of this one Department is fantastic. I doubt whether the outgoing Secretary of the Interior—and I am not in any sense trying to be derogatory—could have done a better job under the very deep and penetrating questions which were put to Governor Hickel during this time.

Mr. President, just a few more words in conclusion. I had not intended to keep the floor this long, but I am happy to have these opportunities to answer questions, and I am also happy for the contributions of the senior Senator from Alaska and other Senators who have asked questions.

It seems to me that what we get down to here—and I might as well clear up this matter because I think it bears directly on what I am going to say about Governor Hickel—I referred to this earlier because he did do a fine job—I want to clear up the record about John Martin Kelly, who was Assistant Secretary of the Interior for Mineral Resources. He was appointed by President Kennedy. Hearings were held on March 27, 1961. The committee approved him that same day—that same day before hearings were printed—and he was approved by the Senate, the next day. He served until June 30, 1965.

At the time of his appointment, he was a consulting mining engineer and geologist, and an independent oil producer and driller as an individual.

He was president of the Elk Oil Co., a wholly owned family business. This was in addition to being a producer and a driller as an individual. That company was primarily a royalty company. He was mineral adviser to the New Mexico State Land Office.

Mr. Kelly proposed to make a gift of the stock of the Elk Oil Co. to his four minor children. He made Mr. James T. Jennings his personal attorney, the custodian of it for the children, if the court approved. According to the hearing record his own staff did continue to operate his individual business as a producer of oil on State and fee lands—not Federal lands, now—through his staff, but his Federal properties were to be divested.

That is exactly what we have required in this instance. I do not know that this is clear to everyone who may hear it but when we got through confirmation of these people, the committee, at least the Committee on Interior and Insular Affairs, goes through his portfolio and if there are any stocks in there that might possibly result in a conflict of interest, we ask that a man divest himself of these things. We agree unanimously and we never have any difficulty.

Under Mr. Kelly's direction were the Bureau of Mines, the Geological Survey, the Oil Import Administration, the Office of Mineral Exploration, the Office of Coal Research, the Office of Oil and Gas, and the Office of Geography.

Now, I repeat, I use this only as an example of how we have approached this matter and to put it in its proper context, because Mr. Kelly served for 4 years until June 30, 1965, and I have never heard one word of criticism of anything he did.

Thus, what it boils down to is that we cannot pull a man out of a vacuum, one who has never been anything or done anything, and make him Secretary of the Interior.

We have here a Governor of a State, one of the two newest States in the Union who has been, I would say, a fine and great Governor of the State of Alaska.

I propose to talk about some of those things later but eventually, I say this to Senators who believe they are opposed to this: "No matter what criteria you write into the report, no matter whether you agree with the case, as to what you will do with this whole thing, no matter what kind of trust you say a man shall set up for all the property he has, eventually you come down to one thing." That is the integrity of the individual. So I asked myself: Do I have faith in the integrity of this man? I know that his decision on Machiasport is not going to be easy. As the Senator from Louisiana has said, there are probably as many Senators in this body who are opposed to it as there are Senators who are for it.

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

Mr. ALLOTT. I yield.

Mr. MUSKIE. That is exactly the reason why we need a man who will not only be objective and fair, but a man who, once he makes up his mind, if his decision is favorable to New England's case on the merits, has the courage to really fight for that decision.

I know the crunch that comes when the oil industry has made up its mind to achieve an objective. We had understood that this administration—I am talking about the immediately past administration, the Johnson administration—was delegating its authority to the Secretary of the Interior in order to eliminate any suspicion that oil import decisions were biased. We learned, in the closing weeks of that administration, when the crunch came, that the oil industry had the political power and force to get its way.

We do not have that kind of crunch in New England. At least, we could not demonstrate it in those closing weeks, and we were bowled over.

I questioned the nominee. I did not expect him to make a decision on this case in response to my questions, but I was trying to get some feel out of his background, his instincts, his reaction to this problem, which would give me some clue as to whether or not, first, he could make such an objective decision, and, second, whether, if that decision ran counter to the interests of the oil industry, he could support or sustain it.

I did not get any clue. I did not expect it. I hoped I might, but I did not. I think the Governor referred to the New England problem as something needing solution. Well, that does not give much of a clue. He suggested we needed a solution that was not apparent, but we think the solution is pretty apparent. But if he rejects the one that is being considered as one he cannot see, that may be prejudging the matter, perhaps.

He suggested, in response to another question, that we have to use our imaginations to find a solution. Well, we have, for some 8 years, and apparently the solution we came up with does not seem imaginative to him on this kind of exposure.

In all fairness, there is not much clue in his answers. Probably we could not expect them. Probably we could not expect a decision.

So I am left with this decision. Here is a problem of a critical nature to my region.

Mr. ALLOTT. I understand that.

Mr. MUSKIE. We had understood for 8 years, or perhaps 5 years, that we were going to get objective treatment and that if decisions on the merits leaned our way, we could expect that they would be decided on their merits.

January 20 came and went. Frankly, it was not my view that that is the kind of treatment we got. So now I am asking, as a Senator from New England, whether or not, once more, we are going to take the situation on faith, when there is some evidence in the nominee's record that he is oriented in a direction—I am not speaking of orientation in the sense of prejudice; I have no evidence of prejudice—that makes it impossible for him to look at this problem from our point of view; one who, having looked at the problem and having reached a decision, can fight for a decision that runs against his background, his orientation, and the particular pressure of the oil industry. I think that is a lot to ask of a man.

If we confirm him and he is required to go through this problem, can we know what his reaction will be? All I am asking is, do we, for a number of years, in addition to those we have had in the past, just act on faith, against our doubts, to put this decision in the hands of this man?

I have very serious doubts, as I have indicated. I have a statement to make later. I am not impugning the nominee's motives. I am not a member of the Committee on Interior and Insular Affairs. The committee has made no suggestion that the man is dishonest. I have no quarrel with the fight he has made for the interests he has represented or for the interests he has had in the past. I agree with the Senator that we cannot take a man out of a vacuum and put him in office as Secretary of the Interior, but we cannot divorce him from the past.

The Secretary of the Interior, in my judgment, ought to be the No. 1 conservationist for the country, because there is no other place to put him in the Federal Establishment. When I say "No. 1," I mean a man who does not neglect all other considerations, but a man who puts conservation priorities first. Whether a man does, it seems to me, is decided before he is appointed Secretary of the Interior. If he has not had this kind of priority in his mind in the past, he cannot generate it in a few days of hearings before the Interior and Insular Affairs Committee or in a few days of debate on the Senate floor. It is not against a man if he does not have those priorities. Not all Americans are going to be conservationists first, but I say the Secretary of the Interior ought to put conservation first.

Again, we have to take some chances and resolve some doubts. I agree with the Senator's statement that, on any person, whether a Democrat or a Republican is named Secretary of the Interior, we are not going to come up with complete agreement; but I have some doubts about this nomination, and I will make a statement later.

I want the Senate to understand that, as far as I know, Governor Hickel is a man of honesty. As far as I know, he is a man of courage, within the circumstances under which he has had to operate. But when he comes up against the oil industry, he is going to find himself in a circumstance he has never met before. The only way to meet it the way we have is to become a Senator from New England.

Mr. ALLOTT. I thank the Senator, and I sympathize with his position.

I see that Secretary Udall gave Hawaii an oil zone. I expect my feelings would be expressed even a little more strongly if I were a Senator from his portion of the country, particularly his State, if I had read this article, which I ask unanimous consent to be placed in the RECORD, and had not received consideration for my own.

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

UDALL ACTS TO GIVE HAWAII OIL ZONE

(By Spencer Rich)

Secretary of Interior Stewart L. Udall, the central figure in one of the last great feuds of the Johnson Administration, signed two new oil import quota regulations before leaving office. The action paves the way for foreign oil to enter Hawaii through a trade zone arrangement.

The regulations, which apply to Hawaii and the West Coast, set out rules under which the Hawaiian Independent Refinery, Inc., can build a 30,000-barrel-a-day refinery to bring foreign oil into a foreign trade subzone for which application is pending and then refine and sell it in Hawaii.

The new regulations, announced yesterday were seen by some as a possible precedent for the politically controversial Machiasport, Maine, foreign trade zone refinery favored by New England Congressman as a means to reduce fuel costs in New England.

Normally, material imported into an area designated as a "foreign trade zone" or subzone can only be sold abroad. The oil industry fears that if low-cost foreign oil, refined in foreign trade zones, is allowed to be sold in the United States—even after obtaining an oil import quota—the oil quota system that helps prop up domestic oil prices will eventually be breached.

The Hawaii-West Coast regulations signed by Udall are the first ever setting forth the conditions for import of oil into a foreign trade zone. But before they can be applied, Hawaii must obtain from the Foreign Trade Zones Board (consisting of the Secretaries of Commerce, Treasury, and Defense) approval of its application for the foreign trade subzone in which the refinery would be built.

It was not clear what role Udall's oil order played in the still-sputtering controversy over former President Johnson's failure last weekend to set aside three huge areas of the public lands in Alaska and Arizona as parts of the National Park System. The President, apparently at the last minute, decided not to set aside as "national monuments" 4.1-million and 2.2-million-acre areas in Alaska and a 911,700-acre area in Arizona. He can do this under the 1906 Antiquities Act.

The Interior Department had already announced on Saturday afternoon that the President was acting on these three areas, and Secretary Udall later that day, in a reportedly stormy phone conversation with Mr. Johnson in lieu of a planned face-to-face meeting which didn't come off, offered his resignation.

One source said yesterday that it may have been irritation with Udall's proposed oil order that helped decide President Johnson against the parkland action, which Udall had been pushing for months.

But the Johnson camp countered that Udall may actually have "slipped over" the oil import orders Monday because of anger with the President following their weekend dispute over the park land.

Yesterday Johnson partisans took the offensive, saying it was not presidential pique that led to Mr. Johnson's decision—as some in the Udall camp were implying—but Secretary Udall's failure to pave the way politically on Capitol Hill for the three new monuments.

One source suggested that Udall, in his enthusiasm for creating the new monuments from existing federally owned lands, had underestimated opposition on Capitol Hill. He said the President was furious when at the last moment he learned of the depth of opposition.

Udall, it was understood, discussed the proposed land orders with Senate Interior Chairman Henry Jackson (D-Wash.) and senior House Interior Republican John Saylor (R-Pa.) three to four weeks ago and obtained their backing.

But he did not brief or inform some of the other interested members until late last week, on Thursday or Friday, when he met with the Arizona, Alaska and Utah delegations and informed House Interior Chairman Wayne Aspinall (D-Colo.) of the plans.

But that apparently was too late to be consulting Congressional leaders. It badly ruffled the feathers of some senior Senators and House members. It left Aspinall—in his own words—"dumbfounded, chagrined, completely upset." He has long believed that only Congress should create National Park System units.

Sen. Alan Bible (D-Nev.), the second-ranking Democrat on the Senate Interior Committee, which has jurisdiction over parks, was not advised of the proposals, for example, until late last week. Nor were Arizona's two Senators, Barry Goldwater and Paul Fannin, both Republicans. Fannin said he opposed the land actions in his State.

Sen. Ted Stevens (R-Alaska) also opposed the two massive monuments in his State.

A source close to Mr. Johnson said the President was worried about putting aside areas of such huge size by executive action when it was Congress that would have to appropriate the money. He feared such action might make Congress angry and prejudice the future of the park system.

"The C&O Canal in Washington was the last area put aside through executive action (on Jan. 18, 1961) under the Antiquities Act," this source said. "And it has never received a penny in funds for development in the eight years since because of Aspinall's disagreement with the use of the executive power to set aside the area.

"So in the end, the President eliminated the most controversial, huge areas and approved only four smaller areas" (totaling 384,500 acres in Arizona, Utah and Alaska).

The Udall camp conceded that the President never actually made a final commitment on the three larger areas although it was believed he favored them. But it also denied that Udall flubbed the Congressional liaison, pointing out that "the way LBJ works, you don't brief people until it's set."

"The President was well aware there would be strong Congressional opposition," said one source denying that Udall had misled him on this matter.

Udall himself said yesterday that the major arguments for the two Alaska areas set aside was that this might be the last opportunity to preserve these land areas in their natural state. Alaska, he said, is soon to take over for state use 103 million acres of Federal lands, perhaps including some of the best wild areas.

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

Mr. ALLOTT. In just a moment.

Mr. MUSKIE. The Senator has put his finger on a troublesome problem. In the Hawaii case, I hope what was done was the establishment of a precedent that will be helpful to us. I suspect Secretary Udall would have done more for us than he did were it not for the pressures that were at work prior to January 20.

The Senator will recall my questions to the Secretary-designate. I said this to him, and, of course, he could not answer it:

New England has been pressing for a decision before January 20, but the oil industry has been pressing to delay until after January 20, and each side can see that January 20 has been the focal point, because each side assumes, Governor Hickel, that after that date you will be disposed to be favorable to the oil industry and unfavorable to New England.

There is no question but that these two movements had taken place prior to January 20 for this reason. It puts Governor Hickel in an awfully hot spot.

Mr. ALLOTT. Mr. President, will the Senator yield? Let me say something at that point. Does the Senator know of any man in the United States, who would be conceivably qualified for this job, taking into consideration all of the things involved, who is not going to be on the hotspot when this matter comes along for consideration?

The Secretary of the Interior is not going to be the only man who takes part in this decision. The State Department and other agencies, the Office of Emergency Planning, the Commerce Department, and others, will be involved in the matter. But does the Senator know of any man who could go in there and not be on the hotspot, when the matter comes up for decision?

Mr. MUSKIE. The Cabinet level is a hot spot in every Department. That is not the point I make. This is a special hot spot, and a special hot spot espe-

cially for a man whose orientation creates additional problems for him.

Mr. ALLOTT. What orientation is the Senator talking about? Does the Senator know—and I want the Senator from Alaska to correct me if I am in error on this—that while Governor Hickel was Governor of Alaska, he raised the oil tax in Alaska from 1 cent to 4 cents? Is that not correct?

Mr. STEVENS. One percent to 4 percent.

Mr. ALLOTT. One percent to 4 percent. As a matter of fact, contrary to what has been said in the papers——

Mr. MUSKIE. The Senator is raising another question.

Mr. ALLOTT. He has received a lot of heat for raising these taxes.

Mr. MUSKIE. Oh, I have no doubt of that. But he is not oriented to New England's problems; he is oriented to a State which has discovered large oil reserves, whose development requires cooperation at the Capitol and cooperation with the existing oil industry in this country.

When they come into a situation, they do so on their terms, and they know how to protect themselves. That is their business. It is not the business of the Secretary of the Interior.

If I had been in his shoes as Governor of Alaska, and if I were nominated to be Secretary of the Interior, I think I would have some doubts as to my ability to be objective in this position, and to be sympathetic and understanding to the problems of a region like New England. Let me state it in that sense.

What I am talking about has nothing to do with the personal integrity of Governor Hickel. It has to do with whether or not, in the light of his experience as Governor of Alaska, the need, as Governor of Alaska, to develop its resources, to explore its oil reserves, to develop them, and to invite into the State the capital and the companies and the management necessary to do that, he can then move into a spot like the office of Secretary of the Interior with all good faith, honesty, and intention, and serve fairly and objectively, when the crunch comes, the interests of a region like New England.

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

Mr. ALLOTT. I yield to the distinguished Senator from Iowa.

Mr. MILLER. Mr. President, the Senator from Maine has expressed his disappointment that Governor Hickel was not able to give a "clue" to his position on the New England problem.

Mr. MUSKIE. I did not express disappointment, may I say, I said I had hoped that he might, and understood when he could not.

Mr. MILLER. Certainly the Senator, having expressed the hope, implied his disappointment that no clue was given. That is the point.

The response to that point, I think, is this: The Senator should have been disappointed if he had given a clue, because then he would have removed the objectivity with which he is supposed to tackle this problem.

Mr. MUSKIE. If the Senator will yield, I said I did not expect him to make a response to my question.

Mr. MILLER. The Senator from Maine said that, but that is not what I am talking about. I am talking about the expression of concern by the Senator from Maine that he had not indicated a "clue," not a response or decision.

Mr. MUSKIE. I asked the question hoping I might get one, not expecting one, and I did not get one. If the Senator wishes to embroider my answer with such words as "disappointment" and the rest of it, that is his privilege, but that is not what I said, and I like to be somewhat precise when I comment upon things as closely related to the integrity and honesty of a man as we are in discussing Governor Hickel. I do not like my impressions of a man, in those circumstances, embroidered with someone else's interpretation of what I said.

I said very precisely that I asked the question hoping I might get a clue, not looking for anything specific, not expecting one, and I did not get one. I leave my observation at that point.

Several Senators addressed the Chair.

Mr. ALLOTT. I yield to the Senator from Iowa.

Mr. MILLER. I ask the Senator from Maine, then, if he did not expect a clue, why has he brought this matter upon the Senate floor in the first place?

Mr. MUSKIE. Would not the Senator expect me to act in the interests of my State, at a hearing in which the nomination of the Secretary of the Interior is considered?

Mr. ALLOTT. Mr. President, I believe I have the floor.

Mr. MILLER. The Senator has yielded to me, I believe.

Mr. ALLOTT. I have the floor.

Mr. MILLER. Will the Senator permit me to continue briefly?

Mr. ALLOTT. Yes, the Senator may continue briefly.

Mr. MILLER. I think it is very important to put this matter in perspective. I share the sympathy of the Senator from Colorado with the problem of the Senator from Maine, but my point is that instead of furnishing a clue, whether it is expected or not, I think that the Secretary-designate was most prudent in not furnishing a clue. If he had, then his objectivity would have been damaged. So I, for one, think it is a good thing that he did not do so.

I should like to mention just one other point.

Mr. MUSKIE. Mr. President, will the Senator from Colorado yield so that I might comment on that just once more?

Mr. ALLOTT. Let me yield to the Senator from Iowa.

Mr. MUSKIE. Mr. President, I would like to add one word, if I may.

Mr. MILLER. Mr. President, I believe the Senator from Colorado yielded to me.

Mr. ALLOTT. Mr. President, I will yield the floor to the Senator from Maine in a moment.

Mr. MUSKIE. No; I have had enough.

Mr. MILLER. Mr. President, there has been a lot of expression of interest over this January 20 date. What has happened to this interest in the last 8 years? Why was there not an equal amount of interest 3 years ago, or 4 years ago? Since I have been in the Senate, and I am sure since everyone has been here, there has existed this perennial oil import problem of New England. Surely a solution will be required, but why must it focus on January 20?

I should think that Governor Hickel would realize that there has been a Democratic administration for 8 years which has not come up with a solution; and common prudence would indicate that he should not risk his objectivity by indicating a clue on how he would propose to solve it. He recognizes that a solution is required, and I think that is as far as he could go.

I thank the Senator from Colorado.

Mr. ALLOTT. I thank the distinguished Senator from Iowa very much.

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

Mr. ALLOTT. I yield to the distinguished Senator from Louisiana.

Mr. LONG. Mr. President, I, for one, would join the Senator, if I correctly understood him, in his view that the question of the Machiasport refinery should not really be decisive, or really should play no part if a Senator is being impartial, in the matter of the confirmation of the appointment of a Secretary of the Interior.

They would have us believe they seek only to provide New England with fuel on the same basis as the rest of the country, as I understand them. My impression, however, is that this is a movement to provide New England with fuel at a cost far below the cost to even the area that has produced such fuel. I have favored the creation of a free trade zone insofar as it would help solve the problem of a depressed area at Machiasport, which is a small seaport city. My objection, however, is that we will lose two jobs in a State like Louisiana for every job they gain at Machiasport.

We in Louisiana not only produce the oil, we refine it; and if they build a big petrochemical complex there, for every job they gain, we will lose one at the place where the refining of the oil has historically and logically been carried out—where they produce it.

While it is true that Machiasport can be regarded as a depressed area in that part of northern Maine, at the same time, if you compare New England to oil-producing areas like Louisiana, east Texas, Mississippi, Arkansas, and Oklahoma, the per capita income in the New England area is twice as high as it is in our area.

So all of these things should be taken into account. I may say that if New England is not satisfied about the matter, then Louisiana has a right to be satisfied, or vice versa. But about all that the man can do, it seems to me, is to do what he said he would do—to study and consider it and take into account every angle when it comes up.

If Senators want to debate that matter, I hope they will look into it as one of many of our problems. It certainly is a major one.

New England may gain 3,000 jobs at the Machiasport refinery. But they should take into account that they do not have quotas.

They may have 3,000 jobs in shipyard areas which would have to be abolished, and those people would have to look for other jobs.

I am talking about problems that affect Louisiana equally. We have many industries that pay good wages, and those jobs will be sacrificed if we want to embark upon a policy of free trade and other policies which some persons would recommend.

Mr. ALLOTT. I thank the Senator from Louisiana. I want to conclude my remarks, but we keep getting into matters which are basically extraneous to the question under discussion.

I have no quarrel with the interest of the distinguished Senator from Maine in this matter. But one thing is certain: We are not going to resolve that matter on the floor of the Senate. We are here to consider the qualifications of a man who has been nominated to be Secretary of the Interior.

Some persons might read implications into certain things that have been said. I do not say that they were said. But I want to inform the Senate that Governor Hickel raised the oil tax in Alaska from 1 percent to 4 percent. I also note in the record that he directed the State to file a $200,000 damage suit against the owners of a 735-foot oil tanker following the arrest of the vessel on the charge of illegal discharge of ballast oil into the waters of Cook Inlet. So this man's record as Governor is fine.

Governor Hickel has shown a great deal of aggressiveness on behalf of his State. As I see it, it all comes down again to one thing: The integrity of the man who takes office. I have referred to one case, because it was so outstanding, and the man who did it was outstanding and did an outstanding job. I fully believe that Governor Hickel can and will do the same kind of job, although he recognized that there are many new problems, including many that we do not know of yet, that we will face in this country, that will come under the Department of the Interior. I think he can solve them, if anybody can.

I yield the floor.

Mr. PROXMIRE. Mr. President, I oppose the nomination of Governor Hickel as Secretary of the Interior. The President should have the right to choose the members of his official family. I would give his nominees the benefit of the doubt.

However, the Constitution gives to the Senate the power, indeed, the duty to advise and consent to the President's Cabinet appointments. Senators have a clear consitutional responsibility to reject a nomination if they conclude the accession of the nominee to office would not serve the public interest.

PRESS CONFERENCE REMARKS

Governor Hickel's remarks at a press conference shortly after he was nominated first awakened my fears that he was not the proper man to assume the vast responsibilities of the Secretary of the Interior. Statements such as he was opposed to "a policy of conservation for conservation's sake," that it was wrong to "lock up lands for no reason or to make it so difficult that the general public could not use them," and that the domestic markets cannot be left "wide open" to imports of foreign oil prompted me to write to Governor Hickel on December 26, 1968—about 4 weeks ago—at President Nixon's New York headquarters to find out what he meant by them. I ask unanimous consent that the text of this letter be printed in the RECORD at the conclusion of my remarks:

The PRESIDING OFFICER (Mr. HOLLINGS in the chair). Without objection, it is so ordered.

(See exhibit 1.)

Mr. PROXMIRE. Mr. President, I have just received a reply from Governor Hickel. As a matter of fact, it came to my office a half hour before the Senate convened today. I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. PROXMIRE. My questions and Governor Hickel's replies are short. I asked Governor Hickel:

1. You stated that you were opposed to "a policy of conservation for conservation's sake," that it was wrong to "lock up lands for no reason or to make it so difficult that the general public couldn't use them." Did you mean that you were opposed to the current policy of protecting the wilderness areas under the jurisdiction of the Interior Department? If so, how would you modify it to "unlock lands for public use"?

Governor Hickel replied:

1. I support and will seek to effectively administer the Wilderness Act as passed by Congress.

Of course, the nominee will, I am sure, enforce the laws of the land. I would not have expected him to answer the question in any other way. But he was the one who raised the question himself at a press conference after he was named to be Secretary of the Interior. He stated his attitude toward conservation. So I submit that his reply to the first question is just not responsive.

My second question to Governor Hickel was as follows:

2. You stated that, although the domestic markets cannot be left "wide open" to imports of foreign oil, the Government cannot protect oil prices "to the point that consumers would be penalized." "It's entirely possible some imports are necessary." Did you mean that you would support policies designed to expand the amount of foreign oil permitted to enter this country in order to bring down consumer prices? Or would you be inclined to restrict further the import of foreign oil?

Governor Hickel responded:

I will not, at this time, make any specific statements regarding oil import policies.

It was Governor Hickel's specific statement earlier that I was asking him about. I did not ask him to make those initial statements; he made them voluntarily at a press conference. So it would seem to me that if he had any interest in clarifying his position, he should have done so when I afforded him the opportunity to do so. He went on to say:

In testimony before the Senate Interior Committee, I repeatedly stressed that future policies must be based upon both national security considerations and the needs of the consumer. I have pledged an early study of the administration of the Mandatory Oil Import Program in consultation with the many other federal officials, departments, and agencies which are vitally involved in national energy policy matters.

This is commendable, but he did not clarify the initial statement he made to the press conference.

In the third place, I asked Governor Hickel:

3. You stated that a "joint (industry-government) program might be possible" to develop the oil shale reserves owned by the Federal Government. Did you mean that the Government should actively investigate means of economically producing oil from oil shale, holding off leasing these lands until such a process is developed? Or did you mean that the Government should proceed to lease more of these oil shale lands now before it conducts substantial additional investigations?

Mind you, once again, it was Governor Hickel's assertion that a joint industry-government program might be possible to develop oil shale field reserves owned by the Federal Government. His reply to my question reads:

3. I have not had an opportunity to study the question of oil shale development in depth or to receive the advice of national energy policy experts. I am told that Secretary Udall has taken several steps in the right direction with respect to oil shale development but that the results of a recent test lease offering were not satisfactory from the government's point of view. I intend to make an early study of the reasons for the failure of that offering.

I submit, once again, that if the distinguished Secretary of the Interior-designate had not had a chance to study the question, he had not had a chance to discuss it with people who have studied the question, his initial impression, which he stated at the press conference when he was Secretary of the Interior-designate is one that should have been clarified by him when he had the chance and the right to do so.

He did not clarify it. He just said he did not know anything about it. He said that—

I am told that Secretary Udall has taken several steps in the right direction with respect to oil shale development but that the results of a recent test lease offering were not satisfactory from the government's point of view. I intend to make an early study of the reasons for the failure of that offering.

The last question I asked Governor Hickel was this:

You stated "it will be catastrophic to allow the (oil) quota limitations on foreign oil to be circumvented through the device of (a) foreign trade subzone."

Those were the words of Governor Hickel when he was Secretary of the Interior-designate—

It will be catastrophic to allow the quota limitations on foreign oil to be circumvented through the device of (a) foreign trade subzone.

It has been brought out very emphatically in the debate that has taken place this afternoon that he, as Secretary of the Interior, would determine whether or not that crude oil would be made available from foreign sources, without which the Machiasport refinery simply could not function.

I asked him:

Did you mean that you do not intend to evaluate the use of foreign trade zones as a means of helping our national security and economy? It would seem to follow—unless you change your position that you would

oppose the Machiasport proposal or any similar effort to hold down consumer costs.

Governor Hickel's response:

While the question of Foreign Trade Zones will not come directly under my jurisdiction when I become confirmed as Secretary of the Interior, I have pledged to give the fuel supply needs of the various regions of the country my early attention. Every study and decision which I may make in the future will certainly be prompted by an effort to help our national security and economy.

Once again, after he was designated as the Secretary of the Interior by the new President, after having made the statement that it would be catastrophic to go ahead with Machiasport, he did not take the opportunity to retract that statement, so I presume it is the statement upon which he stands.

Although I realize that the past 3 weeks have been hectic ones for Governor Hickel, and while I take no personal offense at the lateness of the reply, it does mean that I must rely largely upon the basis of the hearings held by the Interior Committee to form a judgment on this nomination. As usual, those hearings were well and fairly run by the Senator from Washington (Mr. JACKSON).

From the facts brought out at the hearings before the Interior Committee, Governor Hickel's record, while he was Governor, leaves much to be desired. He has continually placed the interests of business before the interests of conservation and of the people. His impulsive actions without regard to the legal limitations on his powers indicate to me an incapacity to handle the vast powers he would possess as Secretary of the Interior. His close connections with the oil industry, his obvious unconcern with conflict of interest, and his lack of understanding of the great conservation problems facing our Nation all lead me to oppose Governor Hickel's nomination.

OIL AND THE INTERIOR DEPARTMENT

Mr. President, it is this, Governor Hickel's close identification with oil, which is the prime reason for my opposition to his appointment. Later in this speech I shall document the particular and principal responsibilities Governor Hickel will have over the oil industry as Secretary of the Interior. The Secretary is the principal defender—must be the principal defender—of the public interest where the oil industry is concerned; and, believe me, where the oil industry is involved, the public needs a defender. Does the evidence suggest that Governor Hickel will be the champion of the public interest when it comes into conflict with oil? I will consider that question in detail.

VAST RESPONSIBILITY FOR RESOURCES

The Secretary of the Interior, of course, also bears a great responsibility for protecting the public's interest in the natural resources of the Nation. The degree and extent of his responsibility is little recognized. One can gain some insight into the extent of these powers by merely listing the titles of his Assistant Secretaries and the offices he and they supervise.

There is an Assistant Secretary for Fish and Wildlife and Parks. Under him are the Commissioner for Fish and Wildlife, the Bureau of Commercial Fisheries, the National Park Service, the Bureau of Sport Fisheries and Wildlife, and the National Fisheries Center and Aquarium.

The Assistant Secretary for Mineral Resources has under him a number of bureaus and offices which are vitally important to the people of the United States if we are to preserve and control our natural resources. These include the Bureau of Mines, the Geological Survey, the Office of Coal Research, the Office of Minerals and Solids Fuels, the Office of Oil and Gas, and the Oil Import Administration.

But this is not all. There are at least three other major areas in the Department of the Interior which affect our natural resources.

There is an Assistant Secretary for Public Land Management. Under him are the Bureau of Indian Affairs, the Bureau of Land Management, the Bureau of Outdoor Recreation, and the Office of the Territories.

JURISDICTION OVER ONE-THIRD OF THE LAND

To give one an idea of how important just one of these offices under merely one of the various Assistant Secretaries is, let me single out the Bureau of Land Management.

According to the U.S. Government Organization Manual:

The Bureau of Land Management is partially or totally responsible for the administration of mineral resources on about 765 million acres, approximately one-third of the area of the United States. (P. 260.)

The Bureau has exclusive jurisdiction over 453 million acres of this land and also shares the responsibility for managing the mineral resources of the federally owned submerged lands of the Outer Continental Shelf.

As Senators know, the royalties which have come into the Treasury from the oil on the Outer Continental Shelf have now run into the billions of dollars and should bring in billions more. Yet the Bureau of Land Management which controls these vast amounts is only one of dozens of offices and bureaus in the Department of the Interior. It is merely the tip of the iceberg.

The Assistant Secretary for Water and Power Development also has tremendous responsibilities which affect the great natural resources of the United States. Under him are the Bureau of Reclamation, and the Bonneville, Southeastern, Southwestern, Alaska, and Defense Electric Power Administrations.

Finally, there is an Assistant Secretary for Water Pollution Control. He has under his jurisdiction not only deputies for scientific programs and applied science and engineering but also the Federal Water Pollution Control Administration and the Office of Saline Water.

GREAT IMPORTANCE OF NATURAL RESOURCES

I will go into some of these areas in greater detail. But, first, it is important to say something about the importance of our natural resources and the Department of the Interior.

As our country has become more complex, as it has become highly urbanized and mechanized, and as each of us becomes more dependent on the other, things we once took for granted are now of vital importance to all of us.

As our population grows, will we continue to have enough land and resources to feed our people and to fuel our industries unless our land and resources are carefully nurtured and preserved?

We must take action to clean up our streams and prevent smoke and smog from polluting the environment in which the American people live. To preserve the human spirit, to give the American people places where they can rekindle their energies, and to know the land and the water as it was originally created, we need parks and open spaces to which the people can repair.

Because of this, the Secretary of the Interior will have increased responsibilities as time goes on to protect, to preserve, and to conserve our land and our resources from those who would plunder them for narrow gain instead of saving them for future generations of Americans. The Secretary of the Interior must understand all of this if he is to perform his job.

OIL AND GAS

In addition, one area is of special importance to the American people. That is the area of responsibility of the Secretary of the Interior over oil and gas.

I should like to point out to the Senate that the worst scandal this country has ever had was, of course, the Teapot Dome scandal. That scandal was brought about because of the action of the oil industry with a Secretary of the Interior. I believe this is something that every Senator must keep in mind at any time we consider the nomination of a Secretary of the Interior. We should recognize the great pressure, the great incentive, that the oil industry has to use the Secretary of the Interior and his vast powers in order to increase their profit and their opportunity for profit. Believe me, the opportunity is there, in spades.

THE OFFICE OF OIL AND GAS

One of the major Interior Department offices is that of the Office of Oil and Gas. It was established by the Secretary under a Presidential letter in May of 1946. As the Government Organization Manual points out:

The Office of Oil and Gas was established . . . as the agency in the Federal Government having primary responsibility for leadership and information on petroleum and gas, and to serve as the principal channel of communication with the petroleum and gas industries. (P. 246.)

In addition, Mr. President, under an Executive order of February 14, 1962, it was assigned additional defense planning responsibilities.

Under its charter this office has responsibilities for oil policies both at home and abroad. Domestically it provides the data for establishing and carrying out Government policies and programs for oil and gas. It provides information to agencies about strategic and economic factors affecting the oil and gas industries both at home and abroad. And it provides advice about our international oil policies.

This office prepares the national emergency plans for oil and gas. It takes part with other agencies in the oil and gas

activities of international organizations. It is involved in planning programs designed to meet our needs and the needs of our allies under emergency conditions.

It receives advice about the oil and gas industry from a dozen or so important industry advisory committees. It works with the States, with the North Atlantic Treaty Organization, the OECD, with the Economic Commission for Europe, the United States-Canada Joint Emergency Resources Planning Committee, and with the Interstate Oil Compact.

We all know that the interstate Oil Compact Commission, in the name of conservation, controls the amount of the domestic oil production in this country and indirectly maintains the price of oil.

This is a great power and a great authority. It has been said today in debate that the Secretary of the Interior cannot regulate the price of natural gas. However, through the Interstate Oil Compact Commission he has great influence in the amount of domestic oil production in the country and the price of oil.

As the Organization Manual and the Presidential letter setting it up both state, the Office of Oil and Gas is the agency in the Federal Government having primary responsibility for leadership and information on oil and gas.

THE OIL IMPORT ADMINISTRATION

Another major office in the Interior Department is the Oil Import Administration. Under a Presidential proclamation of March 10, 1959, entitled "Adjusting Imports of Petroleum and Petroleum Products Into the United States," the Secretary of the Interior controls the amount of foreign oil which comes into the United States and indirectly the price of oil.

Supposedly, in the interests of national security, it imposes restrictions upon the importation of crude oil, unfinished oils, and finished petroleum products. Here is the power that the Secretary of the Interior will have as far as the Machiasport refinery is concerned because if they are to function, they must get that crude oil over which the Secretary has power.

The Administration allocates imports and issues import licenses. As any one who reads the newspapers knows, these functions affect the cost of living of countless millions of American consumers who either depend on oil and gas for fuel or who pay a price for their fuel which is affected directly by the actions of this office. Not only are individuals affected by its policies but also large sections of this country are affected by what this office does.

This agency has the authority over the importation of oil for foreign trade zones, a subject which has been of much interest lately, especially in connection with the State of Maine's application for a foreign trade zone at Machiasport. This is a responsibility of the Secretary of the Interior.

THE OIL IMPORT APPEALS BOARD

The Oil Import Appeals Board was established by the Secretary of the Interior. He appoints one of its three members. Its major job is to consider petitions by those who are adversely affected by the decisions of the Oil Import Administration operating under regulations issued by the Secretary of the Interior.

OTHER ACTIVITIES AFFECTING OIL AND GAS

There are dozens of other activities under the jurisdiction of the Secretary of the Interior which affect oil and gas. For example, the policies followed by the Bureau of Mines in its fuels research affect oil and gas as it develops new and competing products, does research into such items as oil shale, which would vastly affect the existing oil institutions, or develops methods of reducing the costs of existing fuels.

The jurisdiction which the Secretary has over Indian affairs and Indian lands involves gas and oil. Further, whether public lands, other than Indian lands, are to be opened to development or preserved, and in what manner, involve gas and oil, and is very largely in the discretion, authority, and power of the Secretary of the Interior.

Whether a new national park or national monument is to be designated or whether such an area is to be opened to development affects the gas and oil industry.

As in the past those with vital economic interests at stake will bring great pressure to bear on the Secretary of the Interior to open up lands for leasing and development, oppose preservation and parks, and generally support their narrow interest as opposed to the general public interest.

Amassed on one side are the powerful economic groups, especially oil and gas, with their vast holdings, their dozens of special tax and other privileges, their ability to affect elections, and their power in the councils of the banks and industry and international companies.

On the other side are the ordinary citizens of the United States whose power and influence are diffused, and who are no match for the concentrated influence of the oil and gas corporations.

THE POWER OF THE OIL INTERESTS

Very few people realize just how powerful the oil interests are. They have tax privileges which in extent and amount are almost unbelievable to the ordinary citizen who pays his taxes, does his duty, and supports his country through the payment of a large proportion of the income he earns.

OIL TAX PRIVILEGES

Let me just list some of the tax privileges which the oil industry has. This will help put their power in perspective. I will not list those deductions which are available, and quite properly so, to all industries, such as the ordinary costs of doing business, travel, salaries, and operating expenses. The oil and gas industry gets much more.

First of all, the cost of dry holes is written off completely against the income received from successful drillings.

In the second place, the oil companies can deduct what are known as intangible drilling and development costs. What this does is to allow the big oil companies to "expense" in the first year from 75 to 90 percent of their drilling, development, and exploration costs. This means that they can write off in 1 year, as an expense, items which most companies have to write off over the life of the asset.

I have been told by those who are close to the industry that the intangible drilling and development cost privilege is at least equal and maybe superior in value to the infamous oil depletion allowance. My understanding is that it amounts to at least $2.5 billion a year to the industry.

This is a tax privilege which the oil industry has which most other industries do not have.

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

Mr. PROXMIRE. I am happy to yield to the Senator from Tennessee who is an expert in these matters and who is a member of the Committee on Finance.

Mr. GORE. I thank the Senator. I find the Senator's remarks very interesting. I wonder if the Senator would mind using a different word when he refers to depletion allowance and say percentage depletion allowance because they get a percentage whether there is actually any depletion or any relationship in the depreciation.

Mr. PROXMIRE. The Senator is correct. It is in a percentage, which is 27½ percent of the gross, up to 50 percent of the net, and they can use it over and over again. A study made a few years ago by the Secretary of the Treasury showed that on the average these wells are not written off once or twice but an average of 18 times. It is like someone in business buying a machine and writing it off on his taxes 18 fold. That is the kind of advantage they have.

Mr. GORE. This is one reason why the percentage depletion allowance actually has no relationship to depletion. It is merely a formula for tax deductions.

Mr. PROXMIRE. The Senator is correct.

The third major tax privilege the oil industry has is the depletion allowance. The oil companies receive a tax deduction equal to 27½ percent of their gross income up to 50 percent of their net income, which is completely free from taxation. The depletion allowance can be used to offset income from sources other than oil. Those who invest in gas and oil often do so in order to reduce their taxes from other sources.

This privilege amounts to over $3 billion a year just for oil and gas alone. Because of it and the other points I have listed, Atlantic Richfield which earned $145 million in 1967 paid not 1 cent in Federal income tax.

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

Mr. PROXMIRE. Mr. President, I am happy to yield to the distinguished Senator from Iowa, who is also a member of the committee.

Mr. MILLER. Do I understand the Senator to say percentage depletion deductions can be offset against other income?

Mr. PROXMIRE. The Senator is correct.

Mr. MILLER. It is the understanding of the Senator from Iowa that the per-

centage depletion deduction is only available with respect to oil properties, or the income from oil properties. If I understand the Senator's statement, he has a different understanding.

Mr. PROXMIRE. I certainly do. That was my initial understanding. I thought it was a shocking advantage given to one industry. When I discovered it was applicable to income from other sources, I was particularly unhappy, and it redoubled my determination to do all I could, to reduce it, and to cut it back to about 15 percent.

Mr. MILLER. May I say to the Senator from Wisconsin, who always does his homework very carefully, that I would have to have powerful evidence to the contrary. Before I came to the Senate, I prepared tax returns involving oil operating interests and never have I heard that percentage depletion could be offset against anything except oil production.

Mr. PROXMIRE. I shall be delighted to get the information. I do not happen to have it with me on the floor at the present moment, but I shall be delighted to obtain it and give it to the Senator from Iowa.

Mr. MILLER. Furthermore, as the Senator has accurately pointed out, it cannot exceed 50 percent of net income, and that net income is from the oil property or the oil income and not from other income. This is a technical area of the tax law and I can understand how one could be confused over it.

Mr. PROXMIRE. That is right.

Mr. MILLER. This is particularly true where there has been a great deal of misinformation spread around. I thought I should get this point over, because if what the Senator says is true, it should be fully substantiated for the RECORD.

Mr. PROXMIRE. I thank the Senator.

Mr. President, there is another privilege which the oil and gas industry uses because of its vast holdings in Canada, Mexico, and Venezuela. It is known as the 14-point Western Hemisphere deduction. This deduction is taken after the other deductions and credits are taken. When a final figure for taxable income is arrived at, these companies may then reduce their actual tax rate by 14 points, or from 48 to 34 percent for corporations with income over $25,000. That is another reason why many of our major oil companies pay little or no tax.

Another privilege the oil companies have is that oil royalties paid to foreign areas, especially to the Middle Eastern kings, potentates, sheiks, and rulers, are offset against the taxes they owe at home. This is called the "golden gimmick."

These payments are not treated as expenses or as deductions from income, which would be a proper thing to do. They are treated as taxes paid and are credited dollar for dollar against the actual taxes owed at home by the American corporations. That makes it very convenient, of course. What the foreign country does is to have the royalty equal the taxes which otherwise would be paid. As a result, the big international corporations do not have to pay any Federal tax to the Federal Government at all.

These are among the special tax privileges which the oil and gas companies receive. They are the reason why many companies pay little or no income tax on their earnings.

OIL COMPANIES PAY FEW FEDERAL TAXES

The August 5 issue of Oil Week gave details on the tax payments of 23 of the country's largest oil refiners. With few exceptions, the data gives the Federal and other tax payments from 1962 through 1967.

Only five of these 23 companies paid more than 20 percent of their net income in taxes in any one of the 6 years. The average Federal tax payment in every one of the 6 years for these 23 major oil companies, was less than 10 percent.

Some of the figures are really astounding. In 1967, Texaco paid only 1.9 percent. Standard of California paid 1.2 percent. Marathon paid 2.8 percent.

Look at the figures for Standard of New Jersey, the largest of them all. It had a substantial income ranging from $1.3 billion up to $2.1 billion. From 1962 through 1967 it paid, respectively, 0.6 percent, 4.3 percent, 1.7 percent, 4.9 percent, 6.3 percent, and 7.9 percent.

In the case of Atlantic-Richfield, the figures are truly amazing. In 1965 the two separate companies were merged. In the years 1962–64, Atlantic paid no Federal income tax whatsoever. After the merger, there is no evidence that the new combined company paid a single cent in Federal income taxes. Yet, in this period the company had net income of from $56 million to $145 million.

While Richfield paid nominal taxes in 1962 and 1963, in 1964 it not only paid no taxes but received a Federal income tax credit of $629,000 even though it earned over $26 million that year before taxes.

Mr. President, the lowest tax bracket for individuals is 14 percent. The ordinary taxpayer must wonder why he pays 14, or 16, or 20 percent of his hard earned income to the Federal Government when a company like Richfield paid no taxes whatsoever on $26 million and, in fact, got $629,000 back.

The Secretary of the Treasury, in testimony before the Joint Economic Committee last week, predicted that unless we did eliminate some of the loopholes in our tax laws, we were going to have a real taxpayer revolt on our hands in this country.

These are the powerful economic forces with which a Secretary of the Interior must contend.

Mr. President, I ask unanimous consent that a copy of these figures be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 3.)

THE OIL LOBBY

Mr. PROXMIRE. Mr. President, the tax privileges and the problems of import quotas give us only a small understanding of the power and influence of the gas and oil lobby and the interests they have to protect.

The Congressional Quarterly of November 29, 1968, gave some information about the oil and gas lobby which shows how this immensely powerful industry puts pressure on Congress and what it can throw into the battle with the Secretary of the Interior.

The industry includes among its numbers the largest companies in the United States. Even though the industry does not produce military hardware, no less than six of its companies were among the 100 largest defense contractors in fiscal year 1968.

In 1967, the value of the crude oil it produced at the well-head was $9.3 billion. Natural gas at the well-head was worth almost $3 billion. Oil refineries, at a later stage in the processing, shipped products worth over $20 billion annually. Over $1 billion of chemicals and fuels were extracted from the natural gas. The value of the assets owned by the industry were of course many many times greater than the annual production.

As the Congressional Quarterly points out, there are at least eight major lobbying organizations here in Washington whose job it is to look after the interests of gas and oil. It is no reflection on the men involved to say that these organizations hire former key Congressmen to run their organizations. We all know that the most influential and able law firms in Washington represent their interest. And none of us are unaware of the tremendous influence the industry has at election time with their direct and indirect contributions, and their ability to influence the organization, legislation, and the work of the Congress and executive agencies.

Among the great issues over which they contend are the depletion and other tax privileges, the question of import quotas and domestic production quotas, and the leasing and development of our public lands.

I ask unanimous consent that a copy of the Congressional Quarterly article be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 4.)

SECRETARY MUST WITHSTAND PRESSURE

Mr. PROXMIRE. Mr. President, it is therefore very clear, very clear, Mr. President, that unless the Secretary of the Interior understands how powerful the oil and gas companies are and is willing to defend the public interest against them, the oil and gas industry will have their way at the expense of the American people.

A weak or ordinary man cannot do the job. As Secretary, such a man could not stand the pressures from such powerful groups. He must be an extraordinary man. He must understand these forces. He must have great moral courage. It takes that to defend the land and resources of the people of the United States against oil and gas and other powerful interest groups.

Governor Hickel is neither a weak nor an ordinary man. But he has extraordinarily close ties to the oil industry which has so often been the adversary of the American public interest. The job of the Secretary of the Interior is important because he represents the public in the contest with the oil industry. That is

why we are so concerned about it and the man who is nominated to fill it.

Here is a job which has jurisdiction over the great natural resources of our country—our land, our minerals, oil, many of our forests, and our waters, to name a few of them.

It is a job which is subjected to the pressures of the largest and most powerful economic interest groups in the Nation. It demands a man who believes deeply in defending the resources for the benefit of the people and who can resist the pressures of the huge economic interests, especially the oil and gas lobby and their narrow interest.

A LOOK AT THE RECORD

It is a job which must be filled by a man who has the deepest understanding of the word "stewardship." That is what the job is all about.

The question is, from the past record and statements of Governor Hickel: Is he such a man? Or are his record and statements such as to draw into serious question whether he would protect and defend these vast resources—as I have said, over one-third of the land area of the United States—on behalf of the American people?

That is the question.

What is the record of Governor Hickel? What has he said and done? What was his testimony before the Senate Interior Committee? Let us look at the record.

IMPULSIVE ACTION

Under questioning by Senator METCALF, Governor Hickel was unable to remember—as has been brought out—who his commissioners of public utilities were and how they were appointed. It was hard to believe that he could not remember the names of the people whom he appointed, or even that he had appointed them himself. Certainly this raised doubts as to his capacity to administer a department as complex as the Department of the Interior.

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

Mr. PROXMIRE. I am happy to yield.

Mr. STEVENS. I wonder if the Senator knows that the Governor of Alaska appoints all officers of the State and that a State public service commissioner's job is not a full-time job. Those men meet from time to time to set policy. I do not see how anyone could pull those names out of a hat. How could he remember the names of the members of some 160-odd commissions, all of which comprise at least five members?

Mr. PROXMIRE. I appreciate the response of the Senator from Alaska to my question, but in response to the committee's questions, the Governor ought to know whether he has the power to appoint members of the Public Utilities Commission.

Mr. STEVENS. If the Senator will permit me to discuss this matter a little, I served for 4 years in the State legislature. I could not name them, and I voted every year to confirm them. The Senator ought to see the list. Does the Senator think a man who has been under that tiring questioning for 3 days, and who is not a lawyer, could tell the committee the names and whether or not he had the power to appoint them? That would include the question of whether he appointed them, as he sometimes does, or whether he appointed them with the advice of the legislature, as he sometimes does. I was not surprised. He looked at me and said, "Ted, is that the way it is? I do not recall." Neither did I.

Mr. PROXMIRE. Will the Senator enlighten me as to what the Public Utilities Commission does in his State?

Mr. STEVENS. It is the Public Service Commission. There is no public utilities commission. It regulates rates, but it does not regulate the rates of oil and gas in pipelines.

Mr. PROXMIRE. But it does regulate rates?

Mr. STEVENS. Of utilities outside municipalities in the State of Alaska. There is a continuing body. The members do not meet all the time. There are about three people on the staff, as I recall, who try to do the job.

Mr. PROXMIRE. Let me interrupt at this point to say that I think the Senator from Alaska makes an excellent point, but I think he ought to keep in mind that, as complicated as is the job of the Governor of Alaska, it is nothing, it is a far simpler job, than being Secretary of the Interior. As I pointed out, the Secretary of the Interior will have a very much broader area, and much greater and more complex problems than does the Governor of Alaska. I say that with much respect for the Governor of Alaska and his job there. After all, 160 people are not many. The Department of the Interior will have jurisdiction over many, many more, and its job will be far more complex and over a much more ramified field. So if the Governor does not know whether he would appoint people who regulate outside the cities in Alaska, I think it would raise a question as to his capacity to administer a department as complex and as vast as the Department of the Interior.

Mr. STEVENS. I will only say that I served for some years as Assistant to the Secretary of the Interior and I comprehend very well the duties of the Secretary of the Interior.

Mr. PROXMIRE. But the Senator is not up for appointment. He might have my vote if he were.

Mr. STEVENS. I thank the Senator. I might need some votes for my present position later. I merely say that, having a government as we have in Alaska—and it is unique—the Governor appoints members of boards and commissions, some of whom he appoints without the advice and consent of the legislature and others for whom he must have the approval of the legislature. So to ask the Governor the question that the Senator asked and to get the answer he received showed to me it was a perfectly honest response and that Governor Hickel was trying to tell the committee exactly what he had in mind and to be honest.

Mr. PROXMIRE. I do not have any doubt that it was his honest response. It shows what was in the Governor's mind. But it also raises a question as to whether he had a grasp of the government of Alaska, which is far simpler than the Department of the Interior.

Mr. STEVENS. I do not wish to be personal about this, but I do not remember even the names of the Assistant Secretaries of the Interior who served in the last few years. But the Senator voted for them. I wonder if the Senator could name the Assistant Secretaries of the Interior under Secretary Udall.

Mr. PROXMIRE. Of course not. I did not appoint them.

Mr. STEVENS. But the Senator voted to confirm those nominations.

Mr. PROXMIRE. The Senator knows I could not name all of the Under and Assistant Secretaries under Secretary Udall. He knows that is a completely irrelevant question.

UNFAMILIAR WITH CONSERVATION

Under questioning by Senator McGOVERN, Governor Hickel admitted that he acted impulsively in preventing the Japanese from buying fish from the Kuskokwin fishing cooperative. He agreed that at the time of his action he had no knowledge of any legal basis for his action and that, even today, great doubt exists whether he had any legal power to act. But in the job of Secretary of the Interior, no man can or should act impulsively when the issue of our great natural resources is at stake. No man should act without clear legal authority when the great resources of the people of the United States are involved.

Under questioning by Senator NELSON, my colleague, Governor Hickel admitted that he was not familiar with most of the great conservation issues facing our Nation. Although no one can expect him to be familiar with all the details and minor issues in the Department, the country cannot afford to have in that office a man who is unfamiliar with the very rudiments and basic principles of conservation.

It is the most important conservation position in our Government.

CAN HE STAND UP TO THE OIL INTERESTS?

But the primary reason that I am opposed to Governor Hickel is that he has not shown the capacity or the willingness to stand up to the oil industry which, as we all know, is one of the most powerful groups in our Nation.

Without a strong Secretary of the Interior, willing to do battle to protect our resources, the oil industry will dominate the oil policies of our Government as it has not since the Harding administration.

I certainly hope that Governor Hickel, if confirmed, will prove me wrong; that he will protect our resources and the consumers from the oil industry. But so far he has not shown any inclination to do so.

OPPOSED OWN PARTY NOMINEES

Let me make one thing clear: My opposition is not based on any partisan reason. I would have exactly the same attitude if Hubert Humphrey had been elected and had nominated Governor Hickel for Secretary of the Interior.

OPPOSED GOVERNOR CONNALLY

In fact, in 1961, when President Kennedy nominated Gov. John Connally as Secretary of the Navy, I spoke at some length against the nomination. I cast what I believe was the only vote against

his confirmation. I did this for a reason very similar to the primary reason why I oppose Governor Hickel.

As Secretary of the Navy, Governor Connally was the principal purchaser of oil for the armed services. But he was also the executor of the Richardson estate, which at that time represented one of the largest single oil holdings in the world.

OPPOSED JOHN M. KELLY

I also opposed another Kennedy appointment, that of Mr. John M. Kelly to be Assistant Secretary of the Interior for Mineral Resources.

That name has been raised several times by the distinguished ranking minority member of the Committee on Interior and Insular Affairs (Mr. ALLOTT).

Again I believed that Mr. Kelly had ties too close to the oil and gas lobby to resist their pressures on his office. Under him was the Office of Oil and Gas, which has primary responsibility for leadership and information on petroleum and gas.

OPPOSED LAWRENCE J. O'CONNOR

In August 1961, I held the Senate floor for 34½ hours to oppose President Kennedy's nomination of Mr. Lawrence J. O'Connor to the Federal Power Commission. Again, this connection with the oil lobby was my principal reason.

OPPOSED JOE T. DICKERSON

In 1964 I fought the nomination of Mr. Joe T. Dickerson to be the Director of the Interior Department's Office of Oil and Gas, which was under the Assistant Secretary for Mineral Resources which Mr. John M. Kelly filled. That nomination merely compounded the earlier error.

We won that fight when Mr. Dickerson asked Secretary Udall to withdraw his name. We established that Mr. Dickerson's pension plan with Shell Oil Co. included a clause that prevented him from acting against the interests of his former employer. This was a clear conflict of interest.

But equally as important, we should not put oil men in charge of the office in the Federal Government with primary responsibility over the activities of oil and gas.

GOVERNOR HICKEL'S ASSOCIATION WITH OIL

Governor Hickel, as Secretary of the Interior, would have a far more powerful position in relation to the oil industry than any one of the four men I opposed when proposed by my own party.

As Secretary of the Interior, he would make the final decisions on oil policy. But his record as Governor indicates to me that he is unlikely to subordinate the industry's needs to the Nation's needs.

COMPANY ASSOCIATIONS

Governor Hickel has long had an active interest in the oil industry and its related parts. Although he testified that he had no direct interest in the oil industry, he had been chairman of the board of the Anchorage Natural Gas Co. and, while Governor, held stock of the company in trust.

His former company, the Anchorage Natural Gas Co., is totally dependent upon gas supplied from the Kenai Peninsula by the Union and Marathon oil companies. Both of these companies are exploring wide areas of Alaska for oil and both could benefit greatly from favorable actions of the Secretary of the Interior.

As a matter of fact, his former company seems to be doing remarkably well. In the first half of 1966 it made a profit of 64 percent on its equity capital. As Senator METCALF pointed out the average utility is delighted to earn 12 to 13 percent on its equity, but Governor Hickel's former company earned 64 percent. Imagine, 64 percent. The company must have made a very advantageous contract with Union and Marathon oil companies and, apparently, is not passing out on the benefit to the consumers. I should think that any public utilities commission which is doing even a minimal job would have cut down the utilities rate of return long ago. But, according to Governor Hickel, this company is not within the jurisdiction of the State public utilities commission because it only serves the city of Anchorage.

PAST OIL LEASES

Mr. President, this morning's column by Drew Pearson listed an oil lease on Alaskan lands which Governor Hickel held in conjunction with the Colorado Oil & Gas Corp.

I have obtained a copy of that lease, and I ask unanimous consent that it be included in the RECORD at the conclusion of these remarks.

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

(See exhibit 5.)

Mr. PROXMIRE. I bring up this lease to the attention of the Senate not to show that Governor Hickel has committed any improprieties, but to show his close connections with the oil industry over a long period of time.

This lease, which was addressed to Governor Hickel in care of the Colorado Oil & Gas Corp., originated in 1956 and did not end until 1963, Colorado Oil & Gas Corp., according to Standard & Poors has a 40 percent interest in 77,000 acres of oil land in Cook Inlet which is one of the largest oil and gas producing areas in Alaska. In addition, it is reputed to be the fourth largest lease holder on the north slope of Alaska, the area of probably the largest oil fields in the world.

I think this lease is further evidence of Governor Hickel's long association with the oil industry. I think this evidence all together brings into question whether he will combat the gigantic power of the oil industry. The Secretary of the Interior must be willing to stand up to them. He has under his jurisdiction the Office of Oil and Gas, vast public lands, and the powers over leasing and development of great areas of natural wealth belonging to all the people. The pressures from the industry on the Secretary to act in their interests rather than the public interest will be constant and demanding. I question whether a man with such close past association with the industry can do the job.

OIL APPOINTEES

I was particularly shocked when I read the testimony that Mr. Hickel named Thomas Kelly as his Commissioner of Natural Resources without ever asking whether Mr. Kelly had disposed of his oil stocks.

Mr. Kelly had been the executive vice president of the Halbouty Oil Co. But Governor Hickel did not ask whether Mr. Kelly had disposed of his oil stocks because the possibility of a conflict of interest did not occur to him as Mr. Kelly was with an independent oil company rather than a major oil company.

As Commissioner of Natural Resources for the State of Alaska, Mr. Kelly was responsible for protecting the State's interest in its dealings with the oil companies. It seems clear from his range of responsibilities that he should not have held any stock in any company which could have benefited from his action. However, it is apparent from Mr. Kelly's own statement that he did not consider this to be a problem. Not only did he retain his stock in various oil companies, but while he was Commissioner he bought stock in the British American Petroleum Corp. This stock represents about one-half of his total stock holdings. British American Petroleum Corp. is one of the leading oil explorers in Alaska and, as Commissioner, Mr. Kelly, according to Governor Hickel, had complete access to their exploration reports.

TRADE ZONE VIEW

As Governor of Alaska, Mr. Hickel sent a telegram to the Foreign Trade Zone Board and, indeed, filed suit against the State of Maine's application for a foreign trade zone at Machiasport. I need not go into detail over the application and its ramifications because it has become a very sensitive issue as the debate has already indicated. But my friends in New England tell me that this is the only way that the consumers in New England can get lower cost home heating oil. The consumers in New England use 20 percent of the home heating oil consumed in this country, yet live in the highest energy cost area of the country and are thus forced to pay higher costs than others for heating their homes.

But neither the overwhelming majority of the oil industry nor Governor Hickel appeared to be concerned with the effects of this action. Of all the 291 refineries in the country not one is located in New England, which consumes 20 percent of all the home heating oil used in the United States. This project would not increase the level of imports which are allowed to come into the country. That is not the issue. The only effect on the imports which come into the country would be that the share of the quota would be smaller for the oil companies which already have them. As it stands now the Federal Government, in essence, grants import tickets worth $1.25 a barrel to refiners, most of whom never actually use the foreign oil, but, in effect, sell the import tickets for a profit. By placing a quota on imports, the effect is to raise the price, which is a subsidy to the industry. This fight is not over the total imports but over which groups will get the quotas.

I do not understand why Governor Hickel is so opposed to the project. I realize that as Governor of Alaska he would try to keep the price of oil up to give the oil companies more incentive to

explore and develop the new Alaskan oil finds, but I cannot see any circumstances in which the Alaskan oil could be transported all the way across Canada into New England. In any case, the level of oil imports would remain the same.

This brings me to another aspect of Governor Hickel's background which worries me. That is his unwillingness to protect the consumer from the oil industry. Governor Hickel, as Governor of Alaska, did all that he could to encourage the exploration for oil in Alaska and its exploitation, because he felt this was the quickest way to develop the State's economy. As Secretary of the Interior he would be in a much better position to help the oil industry exploit the oil resources lying under Alaskan soil. Would he, or could he, take the national interest as his primary concern when as Secretary he has the authority and the ability to speed up the economic development of Alaska?

THE YUKON-PORCUPINE LAND

If his actions in regard to the mineral lands north of the Yukon Porcupine line are any indication, I question whether he would do so.

Alaska is bisected from east to west by a line known generally as the Yukon Porcupine line. North of that line under the Alaskan Statehood Act Congress reserved to all the people of the United States the mineral wealth that was known to be present. The only way that the State of Alaska can control any of that land is by permission of the President or his designate, presumably the Secretary of the Interior. Yet among his final acts as Governor, Mr. Hickel designated 3 million acres of land right near the major oil find, which is north of the line, for Alaska. He gave as his reason for choosing this land that he had to make a choice of mineral lands before the time alloted by Congress for the choice ran out. Congress had already extended the time for such choice once, but he had to make the choice in the last few days before the extension ran out. He did not check to find out whether he had the power to make such a choice, but chose to act and hope for the best.

As a matter of fact, he was not altogether clear in his testimony whether he made the choice before or after he became the nominee for Secretary of the Interior. If afterward, then he put himself in the situation where he chose oil lands which were not available to Alaska under the Statehood Act except by the permission of the President or his designate.

Who is the President's designate? That would probably be the Secretary of the Interior. Then, presumably as the President's designate he would approve his own initial choice. This would be in direct conflict with the intent of Congress in key sections of the Statehood Act.

OIL SHALE DEVELOPMENT

Finally, we come to one area that must concern us deeply: Governor Hickel's attitude toward oil shale development. His position on this vital issue is not clear. I wrote him, and as I say, I thought his answer was completely ambiguous.

He told the Senate Interior Committee:

I think basically oil shale development will come about by two methods. One will be an economic need and the other possibly would be by government direction. And when I stated that it could be possibly a combination of public and private. And I think above all, regardless of who does it, and the minimum the government should do should set the guidelines of how it should be developed, and possibly I don't know at this point whether royalties are set now, or what the guidelines are, but under Federal lands and State lands, as one of just general philosophy I think we definitely have to set the guidelines of how and when it should happen, other than that of economics.

This obviously is a statement that can mean all things to all men. It gives us no concrete information on how these shale lands are to be developed.

Governor Hickel went on to say that if atomic energy were used to create an underground explosion and thus convert oil shale to shale oil underground, the so-called in situ method, the Government would have to have some responsibility because private industry, in the Governor's words, "literally can't do it at all or couldn't do as well." However he went on to say that the last study contemplating a joint industry-Government effort to develop the resource in this way, he understood, "wasn't too favorable."

THE ISSUES ARE IMPORTANT

Many people may ask "Why the big fuss over oil shale? After all, the Secretary of the Interior tried to lease three large tracts and the highest bid he could get was a paltry $250,000, or $199.04 per acre." To many these low bids seem to indicate that the resource is not worth a great deal. But as principle sponsor of the Oil Shale and Multiple Minerals Development Act I can tell you with complete conviction that this is far from the truth.

First we must recognize that the company bidding on tracts recently put up for lease by the Interior Department, the Oil Shale Corp., otherwise known as TOSCO, stated through its President, Hein Koolsbergen, that a geological evaluation carried out by TOSCO "has tended to confirm the existence of oil shale reserves of such quality and extent to justify a larger bonus bid," but that other geological indications "raise serious questions of mineability."

To quote Mr. Koolsbergen further:

Despite these uncertain conditions and lease-terms, we have made an unconditional bonus bid of $250,000. We acknowledge, however, that if the unfavorable geological conditions can be disproved, and if the indicated reserves are confirmed, a $20 million delayed bonus bid of Tract 2 would not impose any actual cost, in excess of the high cost of royalty payments, on a successful developer. Even at the high royalty rates imposed under the lease, such a leasehold could be commercially developed using the TOSCO system.

Thus it is clear that this land is likely to be worth an enormous amount of money—in my estimation a great deal more than the bonus royalty TOSCO was willing to pay—if such questions as the presence of severe fracturing and the presence of water in the formation above the mineable oil shale could be satisfactorily resolved.

WAITING FOR CHANGE IN ADMINISTRATION

Other reasons have been given for the low bids on this land. For example, many commentators have felt that major oil companies simply believe that they can get the land more cheaply, without difficult conditions attached to the lease agreements, under the Nixon administration, and of course this is precisely where my concern about the views and intentions of Governor Hickel assume great relevance.

For instance the recently proposed lease terms would have required a lessee to produce during the 3 years preceding the 11th anniversary of the lease an average of 25,000 barrels per day of shale oil, in the case of one lease, and 40,000 barrels per day for each of the other two leases.

But why would not big oil lessees want to produce shale oil from leased land? And why are they not producing shale oil from the 300,000 acres, more or less, now in private hands? Chris Welles, a former reporter for Life magazine, who was asked to resign after a story he wrote on oil shale was killed at the last moment, answered the question this way in an article in Harper's magazine:

A flood of cheap shale oil could drastically weaken the carefully supported price of crude and might, as a respected energy expert put it, make "Texas and Oklahoma start looking like another Appalachia." Given the financial and political muscle of the oil industry—which has managed through import quotas and depletion allowances to keep prices and profits high despite a world crude surplus—this prospect seems remote. But since it is a possibility, the oil industry has hedged its position by doing everything it can to keep the shale below ground. It has more or less dictated the Federal government's do-nothing shale policy. It has either bought or acquired control of most of the privately owned shale land, and at the same time has refused to invest anything more than token amounts in shale research.

If we accept Mr. Welles' argument, it is easy to see why the industry would not be interested in acquiring lease rights in shale-oil land if those rights were accompanied by a duty to develop the land and develop it quickly. Those were the terms of the lease.

The lease terms for the land recently offered also made it crystal clear that environmental and recreation values were to be safeguarded. For instance the lease terms read "overburden, mine waste, spent shale, slimes and other solid or suspended wastes shall be disposed of in accordance with the following requirements." The lease terms then go on to list seven requirements. It is only natural to expect that potential lessees would carefully weigh the possibility of leasing this land under more favorable conditions insofar as conservation requirements are concerned under the Nixon administration, particularly when the Secretary of the Interior-designate has indicated his opposition to conservation for conservation's sake.

Others have said that Secretary Udall

received nonresponsive bids for the three test oil shale leases because recent discoveries of vast crude oil reserves on Alaska's north slope have unsettled the domestic market, thus dictating a cautious approach to other oil investment decisions.

RESERVES WORTH BILLIONS

A third explanation is that the major oil companies, feeling that they already have the technology to develop an oil shale operation, prefer to use that technology on land they already hold, thus avoiding the payment of royalties to and sharing of patents with the Federal Government.

One need only go back to the report of the Oil Shale Advisory Board, a group appointed by Secretary of the Interior Udall to analyze the problems associated with the development of oil shale land and including such pro-industry figures as Orlo Childs and Milo Perkins, to recognize that oil shale land has great value. In the words of that report:

An area in the heart of the (oil shale) basin of about 350 square miles contains some 600 billion barrels of oil equivalent, and in parts of this area a single 5,120-acre plot—the size of the lease presently provided by the leasing laws—contains as much as 18 billion barrels, an amount equal to nearly 60 percent of the Nation's proved reserves of petroleum.

In May of 1968 the Department of the Interior published a study titled "Prospects for Oil Shale Development." On page 5 a chart listed the known recoverable reserves of shale oil in the United States as 50 billion barrels, and this is oil recoverable at current prices. Undiscovered recoverable resources are listed at 2,000 billion—2 trillion—barrels. A technological advance or breakthrough could obviously be the key that opens a treasure chest of hundreds and hundreds of billions of barrels of shale oil.

These, then, are the reasons why we must not downgrade or underplay the extent and value of the oil shale lands—80 percent of them in the hands of the public. And it is why we must do all we can to see that the land is developed in the public interest, not just for the economic well-being of a few private oil giants.

Perhaps the biggest single natural resource the country has ever had, perhaps its most valuable resource, is estimated today to amount to the equivalent of $25,000 for every one of the 50 million American families, and it belongs at this point to the Federal Government and to the general public.

How will Secretary-designate Hickel handle the oil shale question? Will he protect the public interest, or will he surrender to industry pressures and alienate these precious acres? When one considers this generous treatment of the oil industry in Alaska, and when one considers his past record on conservation, there is very little to lead us to believe that he will be a forceful advocate of the public interest.

SUMMARY

Mr. President, to sum up, the Secretary of the Interior has jurisdiction over billions upon billions of dollars of land and mineral resources which belong to the people of this country. In fact, one-third of the land of the Nation is under his Department.

Included in these vast resources are huge areas where oil and gas are found or produced. Under him is the Office of Oil and Gas, the chief Government agency which deals with the industry.

The oil and gas lobby is the most powerful in the country. Oil companies are the giant corporations in America. They are in the first flight of our defense industries. They have huge tax privileges which they are determined to protect.

They engage in some of the most powerful lobbying activities in the Capitol. Their contributions have a vast influence on elections. They influence legislation in Congress. Their agents bring great pressures on those who determine how our land is to be used, how our mineral resources are tapped, how oil import quotas are determined, and how oil shale is to be developed.

In examining the record and statements of the Secretary-designate of the Department of the Interior, Gov. Walter Hickel, I find an association in the past with the huge oil interests which I think is far too close for the prospective Secretary to have.

I have opposed no less than four nominees from Presidents of my own party who were proposed for positions less powerful and less important as they affect oil and gas than that of the Secretary of the Interior.

I find that because of his closeness to the oil industry Mr. Hickel is not the man for this job. Mr. President, I shall therefore oppose this nomination.

I yield the floor.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., December 26, 1968.

Gov. WALTER J. HICKEL,
New York, N.Y.

DEAR GOVERNOR HICKEL: I have been disturbed by many newspaper accounts of your position on conservation and on oil imports, both of which programs fall within the responsibility of the Department of the Interior. Some other Senators share my concern that your vision of the Nation's needs may give insufficient concern to the broad public interest.

Before the vote on your appointment as Secretary of the Interior is held in the Senate, explanations of the following statements would be helpful:

1. You stated that you were opposed to "a policy of conservation for conservation's sake", that it was wrong to "lock up lands for no reason or to make it so difficult that the general public couldn't use them." Did you mean that you were opposed to the current policy of protecting the wilderness areas under the jurisdiction of the Interior Department? If so, how would you modify it to "unlock lands for public use"?

2. You stated that, although the domestic markets cannot be left "wide open" to imports of foreign oil, the Government cannot protect oil prices "to the point that consumers would be penalized." "It's entirely possible some imports are necessary." Did you mean that you would support policies designed to expand the amount of foreign oil permitted to enter this country in order to bring down consumer prices? Or would you be inclined to restrict further the import of foreign oil?

3. You stated that a "joint (industry-government) program might be possible" to develop the oil shale reserves owned by the Federal Government. Did you mean that the Government should actively investigate means of economically producing oil from oil shale, holding off leasing these lands until such a process is developed? Or did you mean that the Government should proceed to lease more of these oil shale lands now before it conducts substantial additional investigations?

4. You stated "it will be catastrophic to allow the (oil) quota limitations on foreign oil to be circumvented through the device of (a) foreign trade subzone." Did you mean that you do not intend to evaluate the use of foreign trade zones as a means of helping our national security and economy? It would seem to follow—unless you change your position that you would oppose the Machiasport proposal or any similar effort to held down consumer costs. Is this true?

I am looking forward to hearing from you about the points which I raised and any others which you think might help to clarify your concern for the broad public interest.

Sincerely,

WILLIAM PROXMIRE,
U.S. Senator.

EXHIBIT 2

THE SECRETARY OF THE INTERIOR,
Washington, January 20, 1969.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: Your letter of December 26, 1968, was recently received at the transition office in the Department of the Interior.

I believe that most, if not all, of the areas concerning you in your letter, were dealt with by me in my formal statement to the Senate Interior Committee on January 15th.

For your benefit, I offer the following in response to your four points.

1. I support and will seek to effectively administer the Wilderness Act as passed by Congress.

2. I will not, at this time, make any specific statements regarding oil import policies. In testimony before the Senate Interior Committee, I repeatedly stressed that future policies must be based upon both national security considerations and the needs of the consumer. I have pledged an early study of the administration of the Mandatory Oil Import Program in consultation with the many other federal officials, departments, and agencies which are vitally involved in national energy policy matters.

3. I have not had an opportunity to study the question of oil shale development in depth or to receive the advice of national energy policy experts. I am told that Secretary Udall has taken several steps in the right direction with respect to oil shale development but that the results of a recent test lease offering were not satisfactory from the government's point of view. I intend to make an early study of the reasons for the failure of that offering.

4. While the question of Foreign Trade Zones will not come directly under my jurisdiction when I become confirmed as Secretary of the Interior, I have pledged to give the fuel supply needs of the various regions of the country my early attention. Every study and decision which I may make in the future will certainly be prompted by an effort to help our national security and economy.

If I may be of further assistance to you, please feel free to call upon me.

Sincerely yours,

WALTER J. HICKEL,
Secretary of Interior-designate.

EXHIBIT 3

FEDERAL TAXES OF LARGEST REFINERS

[Dollars in thousands]

	Net income before tax	Federal tax	Percent	Foreign some States' tax	Percent	Profit after tax
Standard (New Jersey):						
1962	$1,271,903	$8,000	0.6	$423,000	33	$840,903
1963	1,584,469	69,000	4.3	496,000	31	1,019,469
1964	1,628,555	29,000	1.7	549,000	33	1,050,555
1965	1,679,675	82,000	4.9	562,000	33	1,035,675
1966	1,830,944	116,000	6.3	624,000	34	1,090,944
1967	2,098,283	166,000	7.9	700,000	33	1,232,283
Gulf:						
1962	488,351	19,389	3.9	128,871	26	340,091
1963	540,065	30,870	5.7	137,842	25	371,353
1964	607,343	52,443	8.6	159,782	26	395,118
1965	655,727	53,559	8.1	174,935	26	427,233
1966	813,868	90,008	11.0	219,098	26.9	504,762
1967	955,968	74,142	7.8	303,539	31.8	578,287
Texaco:						
1962	546,371	13,000	2.3	5,1700,000	9	481,671
1963	615,768	10,250	1.6	58,850	12	545,668
1964	660,761	5,500	.8	77,900	11	577,361
1965	726,198	10,000	1.3	79,500	11	636,698
1966	845,466	32,500	3.8	103,100	12	709,866
1967	892,986	17,500	1.9	121,100	13.5	754,386
Mobil:						
1962	379,339	8,300	2.1	128,700	33	242,339
1963	437,352	23,000	5.2	142,500	32	271,852
1964	464,660	27,700	5.9	142,800	30	294,160
1965	508,016	33,900	6.6	154,000	30	320,116
1966	555,412	23,200	4.4	176,100	31.7	356,112
1967	594,593	26,900	4.5	182,300	30.7	385,393
Standard (California):						
1962	348,181	5,800	1.6	28,600	8	313,781
1963	356,568	2,900	.8	31,600	8	322,068
1964	393,188	8,300	2.1	39,600	10	345,288
1965	455,425	9,000	1.9	55,200	12	391,225
1966	515,118	29,800	5.7	61,300	11.9	424,018
1967	513,067	6,000	1.2	85,400	16.6	421,667
Standard (Indiana):						
1962	168,843	3,105	1.8	3,381	2	162,420
1963	208,022	22,182	10.6	2,748	1	183,092
1964	204,817	8,486	4.1	1,480	.7	194,851
1965	263,098	39,578	15.0	4,248	2	219,272
1966	300,531	----------	----------	49,672	----------	255,869
1967	366,847	74,021	20.2	10,576	2.9	282,250
Shell:						
1962	173,555	7,200	4.1	8,680	5	157,675
1963	211,575	19,100	9.0	12,623	5	179,852
1964	213,575	2,800	1.3	12,585	5	198,190
1965	274,507	26,600	9.6	13,876	5	234,031
1966	313,085	46,100	14.7	11,785	3.7	255,200
1967	342,022	44,940	13.1	12,233	3.6	284,849
Phillips:						
1962	158,320	48,000	30.3	3,365	2	106,955
1963	160,954	52,000	26.2	3,491	2	105,463
1964	152,197	32,229	22.2	4,950	3	115,018
1965	165,876	31,745	19.1	6,415	4	127,716
1966	218,382	59,163	27.0	7,595	----------	151,624
1967	227,766	52,255	22.9	11,496	5.0	164,015
Sunoco:						
1962	73,477	1,065	1.4	3,335	5	69,077
1963	99,665	9,143	9.2	3,157	3	87,365
1964	112,009	8,725	7.7	3,175	2	100,109
1965	142,051	6,865	4.8	39,035	27	96,151
1966	204,632	24,670	12.0	64,330	31.4	45,632
1967	241,362	30,031	12.4	62,369	25.8	148,962
Cities Service:						
1962	84,143	20,773	24.7	3,185	3	60,185
1963	101,976	20,188	21.4	4,283	4	77,505
1964	105,299	19,819	18.9	967	.9	84,513
1965	137,068	31,973	23.3	977	.7	104,118
1966	194,456	51,760	26.7	902	.4	141,794
1967	165,289	32,347	19.6	5,105	3.1	127,837
Union:						
1962	59,421	8,000	13.5	5,500	9	45,921
1963	73,028	13,100	17.7	6,000	8	53,928
1964	87,564	13,300	15.2	7,200	8	67,064
1965	119,214	15,604	13.2	8,840	7	94,770
1966	170,782	18,398	10.7	10,144	5.9	142,240
1967	163,820	10,400	6.3	8,457	5.2	144,963
Sun:						
1962	$66,395	[1] $200	0	$13,400	20	$53,195
1963	79,976	1,300	1.9	17,460	22	61,216
1964	88,577	2,400	2.7	17,670	20	68,507
1965	113,405	10,300	9.0	18,220	16	84,835
1966	131,544	16,600	12.6	14,370	10.9	100,574
1967	146,946	24,700	16.8	13,670	9.3	108,576
Atlantic:						
1962	61,110	0	0	14,844	24	46,266
1963	56,747	0	0	12,734	22	44,013
1964	61,081	0	0	14,005	22	47,076
1965	105,299	0	0	15,188	14	90,111
1966	127,384	----------	----------	13,900	12.7	113,484
1967	145,259	----------	----------	15,254	10.5	130,005
Marathon:						
1962	36,064	[1] 2,200	0	205	.5	37,889
1963	50,058	(2)	0	933	2	49,125
1964	63,220	(2)	0	2,844	4	60,376
1965	97,416	(2)	0	37,345	38	60,071
1966	130,927	2,400	1.8	59,700	45.9	68,826
1967	138,520	3,700	2.7	60,962	44.0	73,858
Getty:[3] 1967	132,762	3,687	2.8	10,909	8.2	118,166
Sinclair:						
1962	57,936	----------	----------	10,586	18	47,350
1963	85,731	[1] 1,200	0	10,201	12	75,230
1964	66,444	[1] 3,119	0	10,827	15	58,736
1965	96,072	4,100	4.4	15,299	15.9	76,673
1966	123,232	13,996	11.3	14,892	12	94,344
1967	130,017	10,585	8.1	24,060	18.5	95,372
Standard (Ohio):						
1962	37,235	9,275	25.0	3,738	10	24,222
1963	54,008	15,225	28.1	4,896	9	33,887
1964	70,252	21,150	30.2	5,334	7	43,768
1965	82,848	26,300	31.7	6,386	8.3	49,712
1966	84,481	21,200	25.0	6,345	7.5	56,936
1967	101,496	29,200	28.8	8,412	8.3	63,884
Sunray DX:						
1962	41,203	3,850	9.3	1,152	3	36,201
1963	48,223	4,321	8.9	1,374	2.9	42,528
1964	34,716	[1] 2,407	0	1,330	3.9	35,793
1965	41,445	980	2.3	1,597	3.9	38,868
1966	57,372	10,025	14.9	1,754	3.0	45,593
1967	74,526	17,672	23.7	2,390	3.2	54,464
Ashland:						
1962	24,324	6,201	25.8	2,799	11	15,324
1963	28,769	10,556	37.7	104	.3	18,109
1964	36,385	9,672	26.8	2,977	8	23,735
1965	50,594	15,500	30.6	2,440	5	31,594
1966	69,324	20,830	30.0	5,570	8	42,924
1967	72,212	23,718	32.8	3,952	5.5	44,542
Tidewater:						
1962	35,191	228	.6	2,387	6	32,576
1963	42,795	[1] 63	0	3,384	8	39,474
1964	40,508	377	13.7	4,426	11	35,705
1965	60,397	58	.9	3,783	6	56,556
1966	80,542	3,350	4.1	5,301	6.5	71,891
Skelly:						
1962	22,674	1,260	5.7	250	1	21,164
1963	27,479	3,025	7.7	275	4	24,179
1964	26,601	785	1.2	275	2	25,551
1965	39,995	5,625	14.0	375	.9	33,995
1966	42,762	5,300	12.3	[1] 500	1.1	36,962
Pure:						
1962	27,680	[1] 2,546	0	1,276	4	28,950
1963	28,582	[1] 1,212	0	27	.01	29,767
1964	32,282	[1] 600	0	164	.5	31,518
Richfield:						
1962	36,615	6,000	16.6	0	0	30,615
1963	29,767	1,300	4.4	773	3	27,894
1964	26,255	[1] 629	0	5,249	21	21,455
Total:						
1962	4,198,331	169,492	4.0	838,954	19.9	3,194,770
1963	4,921,577	304,985	6.2	951,255	19.3	3,663 037
1964	5,175,289	235,931	4.5	1,064,540	20.5	3,874,447
1965	5,814,326	403,687	6.9	1,199,659	20.4	4,209,420
1966	6,810,244	585,300	7.6	1,450,358	21.0	4,709,595
1967	7,225,880	637,875	8.8	1,581,034	21.9	5,006,971

[1] Cr.

[2] Marathon Oil's 10K filing with the SEC doesn't reveal how much Federal income tax Marathon paid in years prior to 1967.

[3] Getty income for 1967 includes companies previously listed as Tidewater and Skelly.

[4] State income tax.

Note: Figures for some companies have been changed from last year's table in Oil Week because of amended filings by refiners where income taxes have been changed due to altered tax status. U.S. income tax figures reported in 10K statement of income files may exclude capital gains on extraordinary items.

EXHIBIT 4

[From the Congressional Quarterly, Nov. 29, 1968]

OIL-GAS INDUSTRY IS POWERFUL LOBBY FORCE

In the array of large and successful lobbies based in Washington, D.C., the oil-gas industry ranks as one of the most effective. Central to its success is the fact that since 1926, it has kept intact the 27.5 percent oil and gas depletion allowance despite constant condemnation and bitter legislative wrangling.

But Congressional staff members who have observed the industry and worked with it have told Congressional Quarterly that preserving the depletion allowance is only a part of the industry's overall effort—the most controversial and visible part. They say the industry is "up to its ears" in a number of other issues, including the establishment of natural gas rates, gas pipeline safety standards, oil import quotas, and many others.

One Congressional staff member described the industry's success by saying that it usually gets what it wants, and occasionally it has to settle for—in the phrase many lobbyists use to describe the successful outcome of a fight—"something we can live with."

But within the industry itself, CG heard no claims of great success. In interviews with CQ, most spokesmen emphasized their problems—problems with the Federal Power Commission (FPC) over natural gas rates, problems with the Interior Department over oil imports, problems with Congress over establishing an import program, and other difficulties.

This Fact Sheet describes the makeup and the lobbying objectives of the oil-gas industry as well as recounting past legislative battles in which the industry was heavily involved. It is the first in a series of CQ "profiles" on major lobbies.

PROFILE OF THE INDUSTRY

The oil-gas industry has several different segments—the large international oil and gas producing companies, the independent producers, the refiners, the pipelines, the transporters, the wholesalers and the retailers.

Some of these, such as Texaco Inc. and the Gulf Oil Corp. are world-wide operations, producing, refining and distributing all over the world. Some are small, independent firms with a few wells in one or two states, dependent only on sales of crude oil for a viable operation.

Some are independent refiners, with no source of independent supply other than purchases, and no source of distribution except sales to wholesalers. Other independent refiners operate on a large scale, with some of their supply coming from their own sources, and some of their sales made through their own outlets.

But when the transportation companies such as pipelines are added to the segments of the industry, and the retailing aspect is added, the huge size and geographical distribution and economic distribution becomes evident.

Several figures illustrate the size of the industry and its consequent strength. According to the Bureau of Mines, the value of crude oil as drawn from the wellhead in 1967 was $9,375,727,000. The value of natural gas at the wellhead was $2,898,741,000. The value of natural gas liquids, liquid fuels extracted from natural gas, was $1,179,936,000. Shipments from oil refineries were estimated at $20 billion annually. The employment figure given for the oil and gas industry in 1967 was 445,562, and this does not include the distribution of products, only production and refining.

Some of the industry's efforts, such as preserving the depletion allowance, affect the entire industry. Some, such as oil import quotas, pit domestic independent producers against the international oil companies that produce both in the United States and in foreign countries.

Lobbying Structure. The segments of the industry are represented by their own associations in Washington; some big oil companies maintain year-round representation, and there are groups that represent more than one segment. The American Petroleum Institute (API) is considered the umbrella organization, watching over the interests of the entire industry. Powerful lobby groups representing various segments of the industry are the Independent Petroleum Assn. of America, the Independent Natural Gas Assn. of America, the National Oil Jobbers Council, the National Petroleum Refiners Assn., the Assn. of Oil Pipe Lines, the American Gas Assn., the American Public Gas Assn. and various regional associations representing both oil and gas interests. *(For description of groups and names of lobbyists, see box below.)*

The biggest oil companies such as Standard Oil of New Jersey, Standard Oil of California, Gulf and Texaco, and some smaller (but still very large) companies have registered lobbyists in Washington.

These lobbyists work mostly on legislative or administrative agency matters that only affect their company—on matters which would not involve industry-wide problems.

Industry-wide problems, such as pipeline safety, or an occupational safety bill, would be handled by the umbrella association—the American Petroleum Institute or by pressure groups representing general business interests, such as the National Assn. of Manufacturers or the Chamber of Commerce of the United States.

Oil-gas industry companies are influential in both of the latter organizations, and have been effective in mobilizing them to seek the decisions the oil-gas industry wants. Notable examples are the water pollution control and occupational safety bills (S 3206, HR 14816) which were defeated in the 1968 session of Congress after vigorous lobby fights. *(Weekly Report p. 3010)*

It is thought that many persons who work for the industry in Washington do not register as lobbyists. This is due to a loophole in the 1946 Federal Regulation of Lobbying Act, which required persons to file reports of their lobby spending only if they obtain money for the principal purpose of engaging in lobbying of Congress and only if the lobbying involves direct communications with Members of Congress. *(For details of filing, see Weekly Report p. 1753.)*

In 1967, the API filed a report showing that it spent $33,199 for lobbying that year. The Assn. of Oil Pipe Lines reported lobby spending of $1,005 in 1967. The Independent Natural Gas Assn. of America reported it spent nothing for lobbying in 1967. Several individual companies reported lobby spending of relatively small amounts. *(Weekly Report p. 1753)*

Congressional Power: Some critics of the industry have contended that oil "owns" Congress because of its enormous economic power and the fact that it operates in so many different states. The largest oil-gas states are Texas, Louisiana, California, Oklahoma, Wyoming, New Mexico and Kansas, but the industry is significant in others, including Illinois, Mississippi, North Dakota and Arkansas.

The industry states have chairmen of the two powerful Congressional committees which directly affect the oil-gas industry—the tax-writing House Ways and Means and the Senate Finance Committees. Rep. Wilbur D. Mills (D Ark.) is chairman of the Ways and Means panel, and Sen. Russell B. Long (D La.) is chairman of Senate Finance. Staff members on both committees told CQ they could not recall the last time the panels considered reducing the depletion allowance. Lobbyists, who generally shy away from headlines, consider it their greatest success if they can bottle up a bill in committee.

The importance to a big oil-gas state such as Texas of having representation on the Ways and Means Committee can be perceived by the House action July 30 appointing Omar Burleson (D Texas) as a member of that panel. Burleson resigned from the Committee on House Administration, where he was chairman; Foreign Affairs, where he was third-ranking Democrat, and from the Joint Committee on Library (chairman) and Printing (vice chairman), to move to Ways and Means.

An oil-state Member does not have to preside over a committee directly affecting oil and gas to exert influence in the industry's behalf. If he is chairman of another committee, the mere fact of his chairmanship, his power to push a bill in his committee that is sponsored by a friend who supports the depletion allowance, and to sit on a bill sponsored by an enemy of depletion allowance, is of great importance.

Texas has four House chairmanships. Appropriations, Banking and Currency, Veterans' Affairs and Agriculture.

Louisiana has Sen. Allen J. Ellender (D) heading the Agriculture Committee and Sen. J. W. Fulbright heading Foreign Relations. New Mexico has Sen. Clinton P. Anderson (D) heading the Aeronautical and Space Sciences Committee.

Although opponents of the depletion allowance have included such Senate powers as former Sen. Paul H. Douglas (D Ill. 1949–67), it had such potent supporters as former Sen. Robert S. Kerr (D Okla. 1949–63), who was often called "The Uncrowned King of the Senate." Kerr, as second ranking Democrat on the Finance Committee, always kept an eye out for his state's oil interests.

The industry also has Congressional strength through sheer numbers of Senators and Representatives from oil-gas states.

Natural Allies: The oil-gas industry is only one of many enjoying depletion allowances of varying percentages. Coal, clay, aluminum and many others also have percentage depletion allowances. Because of the geographical spread of these minerals across the nation, there is a mutual interest between oil state Senators and Representatives and those from the other mineral states to preserve the depletion allowance system.

Also, many oil and gas companies are diversified owning industries totally unrelated to the parent business and located far from the producing states. This gives the oil-gas companies an opportunity to approach non oil-gas Senators and Representatives from states in which subsidiaries are located, to ask for support of the industry on the basis that what helps the parent company helps the subsidiary.

Industry-Agency Relationships. Much of the work of the trade associations representing the industry and/or its segments is before Federal regulatory agencies. The natural gas segment looks to the Federal Power Commission (FPC), which regulates gas prices. The independent oil producers look to the Interior Department's Oil Import Administration, which controls import quotas. Other segments have direct and important relationships with the multiple agencies which regulate American commerce.

Generally, the attitude among the industry is that the relationship is not good. Spokesmen for segments do not like to openly criticize departments they have to deal with continually. "We've disagreed with some decisions they've made," said one association's spokesman, in a discussion of industry-agency relationships.

A Congressional staff member who works with the industry and the agencies, however, was more explicit. He was particularly critical of the Interior Department, saying it had "turned a deaf ear" to the industry, and "frustrated" the industry's attempts to pursue its goals.

An Interior spokesman acknowledged that controls produce inequities and that "there is no question the program is in need of an overhaul." But he said that the Department is receptive to the presentations of the domestic producers.

"They are afraid we are going to constantly ease up on the quota," he said.

The quota is usually given as 1.1 million barrels a day, excluding residual oil, and is set by Presidential proclamation.

The Interior spokesman also said that Interior has "exceptionally good relationships" with the National Petroleum Council, a governmental body whose membership comes from the industry and advises Interior on petroleum policy, and the Foreign Petroleum Supply Committee, an industry committee with a government-appointed chairman.

Department of Defense. A Defense Department spokesman said the Pentagon is "considered the world's biggest buyer of petroleum products," and keeps a strong watch on all aspects of the industry, both domestic and international. Six oil companies were among the 100 contractors doing the most business with the Defense Department in fiscal 1968: Standard Oil Co. (New Jersey), 25th place; Standard Oil Co. (Calif.), 44th; Texaco Inc., 46th; Asiatic Petroleum Corp. 49th; Mobil Oil Corp., 51st; and Gulf Oil Corp., 78th. *(For list of top 100 contractors, see Weekly Report p. 3181.)*

National Petroleum Council. The National Petroleum Council is a semi-governmental organization set up to provide the Interior Department with information sought by the Department on any matter relating to the petroleum industry. It does not act until it is asked for advice and recommendations by Interior, and its board has the authority to decline to act on a request. A non-council government spokesman described it as "the

cushion between government and the industry"

Intra-Industry Relationships. Because the oil-gas industry is not one huge monolith, but rather a complex collection of segments, it sometimes becomes difficult for the segments to work together.

"Everyone is looking at his own problem, not the industry's problem," one Congressional staff member said.

There is even some diversity on the depletion allowance, an objective so important to the industry that it is generally described as having universal support. But a spokesman for the oil jobbers said his segment of the industry believed the big independent production companies use it to subsidize their own marketing operations for oil, and so cut profits for jobbers.

The greatest diversity of view in the industry is over the oil import quota. The big companies, called the "majors," such as Standard Oil of New Jersey, Mobil, Texaco, Gulf and Standard of California, have sought to keep control of the quota in the hands of the Interior Department, where adjustments can be made administratively. The independent domestic producers have sought legislation establishing absolute limitations on the imports.

In a controversy such as this, when two segments of industry confront each other, the usual result is a standoff, because each side has the Congressional power to block the other.

But when segments are not in conflict they support each other, several spokesmen for various oil-gas segments said.

CONTINUING FIGHTS

There are three major controversies which confront the industry continually. One is keeping the 27.5 percent depletion allowance intact. Another is oil import quotas. The third is federal regulation of natural gas prices.

Depletion Allowances. President Truman in 1950 said there was no tax provision "so inequitable" as the "excessive" oil-gas depletion allowance. The industry has maintained it is an offset for the exhaustion of oil and gas and was needed to ensure that companies are encouraged to invest in the risky venture of exploration and development of new oil-gas possibilities.

The depletion allowance allows oil and gas companies to deduct 27.5 percent of gross income from taxable income, providing the deduction does not exceed 50 percent of taxable income. According to Internal Revenue Service preliminary statistics for fiscal 1967, the allowance amounted to $3,053,548,000. Thus if the allowance did not exist, the industry would have had to pay taxes on an additional $3 billion.

The tax benefit actually began as an allowance limited to the recovery of costs, similar to depreciation. In 1926, however, it became a percentage allowance with no relation to costs, and in many cases permitted the kind of tax-free recovery far in excess of costs that prompted Mr. Truman to call it the most inequitable provision of the tax law.

The industry has been capable of mustering its combined vast strength to defeat all attempts to decrease the depletion allowance below 27.5 percent. Sen. William Proxmire (D Wis.), a leader in the fight against the allowance, tried to reduce it in 1967 by an amendment to the Investment Tax bill (HR 6950–PL 90–26), but was defeated by a voice vote. Previous attempts to reduce it were made by amendments to the Revenue Act of 1964 (HR 8363–PL 88–272), but were defeated by Senate roll-call votes of 33–61 and 35–57. *(1967 Almanac p. 297, 1964 Almanac p. 536)*

Industry spokesmen said geography was more important than ideology in organizing forces to support the depletion allowance. For instance, both Texas Senators, Ralph W. Yarborough (D), a liberal, and John G. Tower (R), a conservative, support the allowance. The geographical influence affects many states because the industry operates across a wide area.

The fight shifted to the administrative level in 1968, when the Internal Revenue Service proposed changes that would increase tax receipts an expected $100 million a year. Industry spokesmen have condemned the proposal and are fighting it.

The industry was also watching closely and making its views known as the Administration prepared a final set of recommendations concerning tax reforms, which could include a change in the depletion allowance. *(For background on depreciation allowances see Congress and the Nation p. 402; for an example of how the allowance is computed, see p. 985.)*

Import Quotas. The quota limiting the amount of crude oil imported into the United States is the bulwark of the domestic oil-producing industry. Without it, cheaper foreign crude would flood the country, and domestic producers say they would have to shut down production. So, preserving and strengthening the limits on imported crude is the biggest lobbying objective of the domestic industry.

Imports are regulated by the Interior Department, but the domestic producers want Congress to enact legislation fixing firm limits on imports. The "majors," companies such as Texaco and Gulf, which produce internationally, are opposed to legislation setting firm limits. They want to retain flexibility in the amount of oil that may be brought in. *(Weekly Report p. 1841).*

But according to spokesmen for the majors and for independent producers, both segments of the oil industry oppose proposed "free trade zones" which have been requested so that refineries can be built using imported oil. One request is for a free trade zone, an area where tariffs on imports are not charged, at Machiasport, Me. Occidental Petroleum Co. of Los Angeles planned to build a refinery using 300,000 barrels of imported crude oil a day. A bitter fight between Gulf Coast refining interests and Eastern interests has been going on for months over this request. Late in November, it did not appear that the issue would reach the point where Interior Secretary Stewart L. Udall would make a decision on the oil import request, and it was likely that the resolution of the fight would be in the next administration. *(For background on quotas see Congress and the Nation p. 976, for a story on the Machiasport fight see Weekly Report p. 2862.)*

Natural Gas Price Regulation. From the time of the passage of the Natural Gas Act of 1938 until 1954, the natural gas segment of the oil-gas industry successfully opposed regulation of natural gas prices. Consumer interests historically have sought this regulation, because the price of natural gas at the wellhead determines its ultimate price to the consumer. After a 1954 court decision which authorized the FPC to regulate gas prices the FPC began active regulation. Congressional supporters of the industry regularly introduced legislation exempting the industry from regulation, but big city Congressional representation opposed it, and one has passed. *(For box on 1968 action, see p. 5.)*

The FPC regulated on a company-by-company basis, because of the different production costs at different wells, and this became a monumental task with a huge backlog. In 1960 the FPC started a legal effort to regulate on an area basis, and in 1968 the Supreme Court approved area regulation in the Permian Basin case. *(For background see Congress and the Nation p. 980 and Weekly Report p. 1130.)*

The industry continued to fight the price regulation administratively, in the FPC, and in the Congress, by strongly supporting bills introduced in each Congress to exempt it from regulation.

Although it is able to muster its usual Congressional strength, it is opposed by other powerful blocs, such as mayors' organizations which want low gas prices for the consumers in cities. The legislation also would naturally be opposed by large consumers of natural gas and by competitive sources of power, making the fight an intense battle between powerful interests.

CONCLUSION

President-elect Richard M. Nixon in his campaign book, "Nixon on the Issues," said that he favored the 27.5 percent depletion allowance, so the industry knows the allowance has a friend in the White House.

But it also knows that it has enemies in Congress, and that it can expect to have to continue to fight for the depletion allowance, at least to keep it at its present level.

The oil import quota situation will also require action by the Administration if not by Congress, and the fight over gas price regulation will continue.

It appears that the major issues affecting this huge industry will continue to loom important as the new Administration and the 91st Congress assume the responsibility for directing the Government.

VIEWS OF LOBBYING VARY

To many people, the words "lobby" and "lobbying" have sinister connotations, i.e., under-handed efforts of a special interest to get something from Congress that benefits the interest and hurts the general public.

Other persons may have mixed feelings about lobbies, depending upon their view of the interests the lobby represents. Sympathizers of the labor movement would not resent the AFL–CIO's lobbying for higher minimum wages and other legislation generally beneficial to labor. Most businessmne would have no qualms about the U.S. Chamber of Commerce's efforts against occupational safety laws.

Oil and gas spokesmen, asked to comment generally about their work, felt they were involved in legitimate efforts to protect an industry that employs hundreds of thousands of people and generates billions of dollars of business.

Lobbyists believe they have a constitutional right to perform their functions. The First Amendment says in part "Congress shall make no law . . . abridging . . . the right of the people . . . to petition the government for a redress of grievances."

Congress did pass the Federal Regulation of Lobbying Act of 1946, requiring any person or group paid to attempt to influence federal legislation to register with the Clerk of the House and the Secretary of the Senate. From 1946 through the 1968 Congressional year, 8,641 lobbyist registrations have been filed.

LIST OF MAJOR OIL-GAS LOBBIES—INCLUDES PRODUCERS, REFINERS, OTHER GROUPS

American Petroleum Institute (API), 1101 17th St., N.W., Washington, D.C., Frank N. Ikard, president. Ikard served in Congress (D Texas 1951–61) before joining API as a vice president. He became president in 1963 and continues in that position. Ikard has registered as a lobbyist for API. John H. Bivins is vice president-public affairs.

The membership of API holds about 85 percent of the total production, refining and marketing business volume in the oil-gas industry.

API is considered the oil-gas industry's umbrella organization; it represents all of the segments of the industry. But because it represents all segments, including the "majors" who do not want import quotas fixed in legislation, and the independent pro-

ducers, who want a fixed quota, it does not act in this area.

It testifies at hearings for the industry, represents the industry before administrative agencies, and serves as the focus for the industry's overall effort in Washington.

Independent Petroleum Assn. of America, (IPAA) Ring Bldg., 18th and M Sts. N.W., Washington. Minor S. Jameson Jr., executive vice president. Jameson was on the Federal Trade Commission staff from 1935 to 1937, and has been an official of the association since 1937. L. Dan Jones is general counsel, and has registered as a lobbyist for the association.

The IPAA was formed to represent independent American oil producers, and about 60 percent of the independent producers belong to the association. Some American independents have grown large enough to produce overseas also, but not in the quantity of the majors.

The independent producers' major effort is to control imports, and it currently is seeking legislation setting firm limits on the amount of oil allowed into the United States from foreign countries.

Independent Natural Gas Assn. of America, 918 16th St. N.W., Washington, former Rep. Walter E. Rogers (D Texas 1951–66), executive director. Rogers at the time he retired from Congress was chairman of the House Subcommittee on Communications and Power, which handles gas pipeline legislation. He registered as lobbyist for 12 pipeline companies in 1967, when the gas pipeline safety bill was in its first year of Congressional action.

All of the major companies are members of the organization, but it has representation on its board from the production and distribution segments of the natural gas industry.

The FPC regulates gas pipelines certification and gas prices, two matters of prime concern to pipeline companies, and the major thrust of the association's effort is to work for favorable decisions for the industry.

A spokesman said that several recent decisions by the FPC on rates of return for producers were considered low by the association. Low rates of return cause slackening of exploration and production, which means less gas through pipelines and less business for the association's members, so the association works for favorable rates of return for the producing companies.

It is interested in legislation providing that the FPC reflect changes in the purchasing power of the dollar in fixing rates for transporting natural gas and in fixing the prices for gas that is being shipped for resale, but it does not speak hopefully of getting such legislation enacted.

National Oil Jobbers Council, 1701 K. St. N.W., Washington, Wilfred H. Hall, executive vice president. Hall has registered as a lobbyist.

The council's membership is made up of independent marketers who buy gasoline and heating oil from refineries and sell the products at the wholesale and retail level. About 75 percent of the nation's 12,000 jobbers are members.

The council watches legislative activity in two major areas—mergers and gasoline prize games. Mergers of big companies are potentially damaging to the jobbers selling the products of a refiner who is being absorbed, because the take-over refiner may not want to continue to do business with the jobbers of the absorbed refiner. Concerning gas station games, a council spokesman said "there is a pretty good size feeling that we don't want them—but we want the option to decide ourselves without federal regulation." *(For a story on gas station game hearings see Weekly Report, p. 1808.)*

The council is also interested in Federal Trade Commission action on mergers and gas games, and on Internal Revenue Service rulings affecting advertising by competing sources of energy, such as homes for sale advertisements which feature all-electric utilities.

It has an interest in import quotas also, and wants enough flexibility maintained so that if an international crisis developed slowing oil shipments to the United States, there would still be alternate supplies available. (This attitude caused its Texas affiliate to withdraw from the council; Texas, center of much oil production, is strongly against imports because of their effect on domestic producers' sales.)

National Petroleum Refiners Assn., 1725 DeSales St. N.W., Washington, Donald O'Hara, executive vice president. O'Hara has previously registered as a lobbyist for API. (Thus, he does not have to register ever again even though he shifts his employment.)

The association is made up of domestic refining companies, and represents about 90 percent of refinery production in the country.

Its major effort involves keeping its membership informed of legislative and administrative developments which affect the industry, and of representing the refiners before committees considering labor and safety legislation.

Because its memberships include major companies which use imported as well as domestic oil, it does not take a position on oil imports. But its board has announced the association's opposition to the proposed refinery in Maine which would import 300,000 barrels of foreign oil daily.

Assn. of Oil Pipe Lines, 1725 K St., N.W., Washington, J. Donald Durand, general counsel. Durand was an attorney in the Treasury Department and the Internal Revenue Service from 1937 to 1942. He has also been with the Air Transport Assn. and the Aerospace Industries Assn. Durand registered as a lobbyist for the pipelines in 1965.

Virtually all oil pipeline companies in the United States belong to the association.

Although the association watches legislation affecting pipelines closely, the major thrust of its work is with regulatory agencies. The Interstate Commerce Commission regulates oil pipelines generally and the Department of Transportation regulates safety aspects.

American Gas Assn., 1725 I St. N.W., Washington, George H. Lawrence, associate director-government relations. Lawrence formerly worked for API, mainly concerning himself with natural gas, and registered as a lobbyist for that group. The American Gas Assn. has lobbyists registered to represent it and was registered itself as a lobbying group.

Approximately 400 private (non-publicly owned) gas companies that sell directly to consumers are members of the association. Several publicly owned gas companies are also members.

Its major thrusts concern keeping watch on and testifying on legislation which affects gas distribution companies, and working with the FPC, which regulates gas prices. It has also recently expanded its effort to promote gas sales to the government.

American Public Gas Assn., 2600 Virginia Ave. N.W., Washington, Charles F. Wheatley Jr., general manager-general counsel. The organization has not registered as a lobbyist and has not employed lobbyists.

Its membership is made up of about 300 municipally owned gas companies.

It is concerned with many of the same issues that affect privately owned gas companies, such as pipeline safety, and keeps a legislative watch and testifies on proposed legislation.

An association spokesman said the public gas group keeps a tighter watch on gas price decisions than the private group, because of the political nature of the relationship between municipally owned companies and the companies' customers, the voting public.

Regional organizations. There are several regional organizations represented in Washington, including the Mid-Continent Oil and Gas Assn. and the Western Oil and Gas Assn. Frank W. Rogers of the Western Oil and Gas Assn. said the associations work on problems peculiar to their region; in his association's case it is oil and gas under public lands.

Campaign Contributions

The oil and gas industry, heavily regulated at every level of government, is considered a major source of contributions to political campaigns. Prominent oil-gas industry individuals are listed frequently as donors of large sums to the political parties.

But because of weak campaign contribution reporting laws, both federal and in most states, there is no accurate figure on the amount of money spent on election campaigns. (CQ's estimate for total contributions made to all political campaigns in 1966 was $120 million. It is generally believed between $200 and $250 million was spent on all of the 1968 campaigns. No estimate could be made on the portion of the total that came from the oil-gas industry, however.)

Usually, contributions are made privately to campaign committees for candidates with views similar to those of the contributing special interest, by officials of firms or by officials representing the special interest as a group. Outwardly, these are considered contributions by individuals, and they seldom come to the public's attention.

Less than a month before the November 1968 elections, however, an incident arose in which a prominent oil-gas state Representative charged that oil company officials had attempted to bribe him by offering him a campaign contribution with a condition attached.

In a statement placed in the *Congressional Record*, House Majority Whip Hale Boggs (D. La.) said officials of Occidental Petroleum Corp. and its subsidiary, Hooker Chemical Co., wanted him to refrain from testifying against Occidental's application to be allowed to build a refinery in Maine and import foreign oil. Occidental immediately denied the charge and its chairman, Armand Hammer, challenged Boggs to disclose the amount of campaign contributions he received from Louisiana oil interests.

Boggs had made the charge first in his office, and so did not have the Congressional immunity from legal action he would have had if he had made the statement on the House floor. He in turn challenged Occidental to sue him for libel or slander. *(Weekly Report p. 2862.)*

The issue is still unresolved. But it served to bring attention to the fact that contributions are made by corporations involved in a heavily regulated industry, and the public seldom finds out about them.

Excess Influence. The industry was involved in lobbying scandals over bribes and campaign contributions twice in the 1950s. In 1956, Sen. Francis Case (R S.D. 1951–62) told the Senate an oil company lawyer had offered him a $2,500 campaign contribution while a vote was pending on a natural gas bill. In 1958 a Texas Republican official invited oil and gas men to a $100 a plate dinner for then Minority Leader Joseph W. Martin Jr. (R Mass. 1925–67), but in the invitation letter said Martin should be supported because he would be needed to deliver Republican votes for an industry-sought natural gas bill. *Congress and the Nation p. 983, 1736.*

Pipeline Safety Bill Was Big Lobby Victory

The most recent major legislative battle fought by the oil-gas industry occurred in 1967 and 1968 during Congressional action on natural gas pipeline safety. The final version of the pipeline safety bill (S 1166—PL 90–481) signed by President Johnson on Aug. 12

showed the strength and lobbying ability of the industry.

As the 90th Congress began moving toward enactment of the pipeline safety, the industry faced a threatening situation. A few years before, on March 4, 1965, a high-pressure transmission line near Natchitoches, La., exploded, killing 17 people and cremating everything combustible in a 13-acre area. At that time there was no federal pipeline safety legislation, and 22 states did not have pipeline safety legislation.

On March 17, 1965, Senate Commerce Committee Chairman Warren G. Magnuson (D Wash.) introduced a bill authorizing the Federal Power Commission (FPC) "to prescribe such standards, rules, regulations, restrictions, conditions, or orders with respect to the construction, extension, operation and maintenance of pipeline transportation facilities of natural gas companies as, in its opinion, are necessary for the promotion of safety."

Hearings were held in 1966, but no legislative action was taken until 1967, when the Senate passed a pipeline safety bill (S 1166) by a 78–0 roll-call vote. Supporters of safety legislation considered it a good bill, the Administration said it was "a good bill" but could be strengthened by adding criminal provisions for violators, and the fact that no votes were cast against it showed the Senate agreed that the bill would achieve its objectives without hurting the industry. (*1967 Almanac, p. 726*)

The industry did not like the bill. However, it recognized the sentiment for it in the Senate and knew there was going to be another arena—the House—where it could fight for the changes it wanted.

After Senate passage, the industry went to work in the House Interstate and Foreign Commerce Committee's Subcommittee on Communications and Power, and succeeded in getting the Subcommittee to amend the Senate bill, incorporating the industry-sought changes. The full Committee accepted them after supporters of strong legislation lost the fight to restore the Senate provisions. (*Weekly Report p. 1189, 2221*)

Several Committee members wrote a letter to *The New York Times* May 3, saying: "In our opinion the bill was essentially gutted at the behest of the gas pipeline lobbies, most of whose proposals were adopted verbatim." Another House Member used the words "industry sell-out" to describe the action. A legislative assistant said industry lobbyists "were in the office day after day, with copies of the amendments they wanted." (*Weekly Report p. 2223*)

The House supporters of strong legislation made a last-ditch fight, but all attempts to amend the bill and strengthen it on the floor were beaten, most by voice votes. The conferees generally followed the House views on pipeline safety, and the industry ended up with a major victory. (*Weekly Report p. 2028*)

After both Houses accepted the conference report, William H. Davidson Jr., a Trans-Continental Gas Co. official and spokesman for the Independent Natural Gas Assn. of America, told CQ he believed the public was protected, the industry could operate under the bill and no excessive lobbying had taken place. "Certainly it isn't altogether what we'd like if we'd sat down and written the bill ourselves," he said. His view of the House changes were that they "improved" the bill.

EXHIBIT 5

12.1 O&G (ACT OF FEBRUARY 25, 1920), SERIAL NO. ANCH. 058593

(Case closed)

Walter J. Hickel, c/o Colorado Oil and Gas Corp., Denver Club Building, Denver 2, Colorado.

DESCRIPTION OF LAND

Anchorage 058593 (Non-unitized Lands): Beginning at a point 80.1 miles east and 19 miles south of the NW Corner Sec. 30, T. 21 S., R. 18 E., C.R.M., thence east 1 mile, south 1 mile, west 1 mile, north 1 mile to the point of beginning, which will probably be when surveyed: All Sec. 34; T. 24 S., R. 31 E., C.R.M. Containing 640 acres. Rental $320.00.

ACTION TAKEN

February 1, 1963: Segregated out of unitized lease Anchorage 025122 effective June 12, 1962. Eff. date of base lease is April 1, 1956

April 11, 1963: Lease Terminated, March 31, 1963. Case closed.

March 15, 1965: Case Permanently Transferred to GSA Federal Records Center, Seattle, Washington, April 13, 1964.

Mr. METCALF. Mr. President, there is an established tradition that the Senate will accord a President a free hand in the selection of members of his Cabinet. This is especially true in the event of a change of administration and the selection of a cabinet by a President of a political party different from that which controls the Senate. In the whole history of the country only eight such appointments have been rejected. Four of these occurred in 1843 and 1844 because the Senate desired to embarrass President Tyler and not because of any objection to the candidates for confirmation. In 1939 Harry Hopkins was nominated for Secretary of Commerce. In the debate on his confirmation, Senator Walsh, of Massachusetts, said that the President's nominations to his Cabinet should not be rejected "except for grave and unmistakable disqualifications." In that same debate Senator Glass, of Virginia, said that he disapproved of practically everything that Hopkins had said or done but that the President should have the "widest possible latitude" in his choice of his Cabinet and "if he wants men of the Hopkins type to advise him, I think that he ought to be allowed to select them."

In 1945 there was a controversy over the selection of Henry Wallace to be Secretary of Commerce and Walter Lippmann wrote that to reject a man because a majority of the Senate did not approve him or approve of his ideas would be contrary to well-established constitutional usage and a "usurpation" by the Senate of an Executive function.

The question is not whether or not I would appoint this man to be Secretary of the Interior. I would not, I would reappoint Stewart Udall. Mr. Hickel is President Nixon's choice. If President Nixon wants Governor Hickel to be his Secretary of the Interior, intends to follow his advice and counsel, then he should have him. There is nothing in Governor Hickel's record that shows that he is not an honorable man, a person of integrity. He has been naive in the choice of his assistants, he has been derelict in his duty to the consumers of natural gas in Anchorage, he has made rash and imprudent statements in press conferences that have alarmed conservationists and those who seek preservation of wilderness areas and wildlife and waterfowl areas. But he has explained those statements in detail in the hearings and has propounded a philosophy that should be acceptable to everyone.

Under the guidance of Secretary Udall, the Department of Interior has gained the interest of all the people of America. It should have always been this way. Unfortunately for most of our national history the concerns of the Secretary of Interior have been shrugged off by the East and the South as the concerns of a "western" agency. Thus it was, that only a national scandal involving the exploitation of national resources in heroic proportions would arouse the people of the Nation. An example of that is the Teapot Dome affair. But under the leadership of Secretary Udall and President Johnson and Mrs. Johnson and the last four Congresses, the Department of Interior has become national in scope and in interest. The creation of wilderness areas, seashores areas, recreational sites, the development of water recreation on Bureau of Reclamation lakes, the Land and Water Conservation Act, the drive to bring open land to the East, the concern in preservation of our few remaining wild rivers and the transfer of the administration of the Water Pollution Control Act to the Secretary of Interior have all dramatically demonstrated that the people's resources belong to all the people of the Nation wherever the resources are located or wherever the people live.

It is difficult to follow an act such as that put on by Secretary of Interior Udall in his 8 years in office under two Presidents. It is a high challenge to meet the standards set by your predecessor when you are nominated to succeed the ablest, the most innovative and the most farsighted Secretary that ever served.

That is the problem confronting Mr. Walter J. Hickel, President Nixon's nominee to be his Secretary of the Interior. There is nothing in Walter Hickel's background that indicates that he can meet the challenge of the job to which he has been nominated. He has been a Governor of the largest State in the Union, geographically. He has been a fortunate contractor and speculator in real estate, he has been active as a citizen in working for the development of Alaska, and that is about all. But huge as Alaska is, it is dwarfed by the size of the United States as a whole. Great as are the land and water and timber and mineral resources of Alaska, they are insignificant when compared with the combined resources administered by the Department of the Interior. The scenic wonders, the problems of the Alaska natives, the problems created by increased tourism into natural areas, all of these and more, great as they are in Alaska, are insignificant when measured against similar problems in the entire country.

There is no job that completely trains a man for the varied and gigantic problems presented by the Department of the Interior. However, Governor Hickel's testimony, his statements and his previous actions give an indication of his attitudes that enable us to determine whether or not to vote for his confirmation under the duties imposed by the Constitution upon the Senate to advise and consent in these nominations.

As Governor the nominee was concerned with the administration of the resources of Alaska. Unlike in many older States, the Governor of Alaska has al-

most complete executive authority and is responsible for the acts of his administration. Therefore, the question as to the men he appointed to office, their conduct in office, and the judgment he used in selecting these men became a part of the consideration of the committee. A great deal was made of the appointment of the oil man, Tom Kelly, as his commissioner of natural resources in charge of, among other things, the issuance of oil leases on State lands. The record does not show any abuse on Mr. Kelly's responsibilities nor any special privilege extended to members of the oil industry.

Governor Hickel testified that he never asked and was not concerned about whether or not Mr. Kelly had oil interests. Such casual and unsophisticated acceptance of a man to administer the people's resources of a great State such as Alaska indicate that the Congress will have to maintain a constant surveillance on appointees. But that is our responsibility in any event for the Under Secretary and Assistant Secretaries.

Mr. President, the gravest concern in my mind about Governor Hickel's qualifications for the office of Secretary of Interior is his casual attitude toward administration of the law.

During the hearing Friday, I pointed out to him that the Anchorage Natural Gas Corp. and Alaska Pipeline Co.—of which he had been board chairman and director respectively, until he became Governor—made an extraordinary return of 64 percent on stockholders' equity during the first half of 1966. The source of that information, which appears in the hearing record—page 223—is the February 1967 issue of the Alaska Review of Business and Economic Conditions, published by the University of Alaska.

In Alaska such regulation of utilities as there is, is by the Alaska Public Service Commission, a three-man board appointed by the Governor. Governor Hickel was asked if he had not failed in his responsibilities to the consumer who he represented as Governor in his failure to have this commission insist on rates for the natural gas users that were more equitable than those enabling the distributing company to earn the biggest return of any utility in America.

The pipeline and the franchise for the distribution of gas in Anchorage are owned by Alaska Interstate, a holding company, whose stock increased fourfold on value during the 2 years Hickel was Governor. This is one of the stocks that Hickel is going to sell.

He responded, after working over the question at the noon recess, as follows:

I would like to clarify one point. If I may respond to the question asked before lunch and I worked all lunch hour to work it out and give you the facts. It is basically while I was Governor I owned stock in a company that appreciated in value, and could have been benefitted by the exercise or the failure of my exercising the power as Governor or through public agency under my jurisdiction.

I would like to make it real clear that Anchorage Natural Gas received a franchise from the greater Anchorage area by public referendum in 1959, and the utility is not now, never has been under any State control, and during that time, as near as I can figure out today at noon, there has never been an increase in rates in any of its systems. There has been two slight increases of rates in the sale of gas to REA and the sale of gas to the City of Anchorage for power generation.

I only mention this to state very clearly that if any Governor or anyone else wanted even to help that Company, I wouldn't know how, because we have no jurisdiction.

Mr. President, contrary to what Governor Hickel said, the Alaska Public Service Commission does have jurisdiction over the Anchorage Natural Gas Corp. The November 22, 1966, prospectus of Alaska Interstate Co., the holding company which controls Anchorage Natural Gas Corp., Alaska Pipeline and certain other companies, states as follows, on page 28:

Anchorage (Natural Gas Corporation) is subject to the jurisdiction and regulation by the City Council of the Cities of Anchorage and Soldotna and by the Public Service Commission of the State of Alaska as to rates, rules and regulations and service areas.

Additionally, the form S–1 registration statement of Alaska Interstate Co., filed with the Securities and Exchange Commission on June 4, 1968, states as follows, on page 30:

The State of Alaska, through its Public Service Commission, regulates public utilities, which term, as presently defined, includes Anchorage (Natural Gas Corporation) . . . as to, among other things, rates.

The fact that the State commission has jurisdiction over gas utilities is further supported by the Alaska Public Service Commission's report to the Senate Subcommittee on Intergovernmental Relations which is summarized in "State Utility Commissions," Senate Document No. 56, 90th Congress, first session.

So, Mr. President, Governor Hickel, while head of the utility, was apparently oblivious of the regulatory laws. This says something about State regulatory laws, which are supposed to protect consumers. And it says something about Governor Hickel's qualifications to learn and abide by the laws of Congress.

And what of the Governor's record, in regard to utility regulatory law, during the period that he was Governor? This was a period during which Alaska Interstate Co. prospered. His stock in the company allegedly had been put in a trust. The record will show that under examination by Senator Moss, Governor Hickel revealed this so-called trust was little more than a power of attorney. Governor Hickel had acquired 32,316 shares for $141,207.50. The price of that stock ranged from 6¾ to 7½ during the first quarter of 1967. It ranged from 15 to 21 during the first quarter of 1968.

Current price is 26 and 29. So the value of the stock increased fourfold during his 2 years as Governor. The value of his portfolio, which he has agreed to sell, has increased sixfold. Happiness is Alaska Interstate.

During this period, when the value of his utility stock was rapidly appreciating, what was he doing, as Governor, to protect the public in Anchorage, to enable it to share the benefits of living close to a fabulous gas field? This return of 64 percent on stockholders' equity during the first half of 1966, to which I have made previous reference, is frankly the highest return I have heard of, for any utility, during recent times. As Governor, he had direct responsibilities for ratepayer protection, because of the jurisdiction of the Alaska Public Service Commission over gas rates of Anchorage Natural Gas. Was he exercising these responsibilities?

Mr. President, at this point, let me turn for the answer to Governor Hickel's testimony, in response to my questions:

Senator METCALF. How are public service commissioners in Alaska selected, Governor?

Governor HICKEL. I think they are—gee, I should know that. I think they are appointed and are they confirmed by the Senate?

Senator METCALF. The Governor appoints them?

Governor HICKEL. I think that is right. I think there are guidelines, however, how I do that. I can get that information for you again, Senator, but I just don't have it at my fingertips.

Senator METCALF. I have been informed that the Governor appoints the public service commissioners.

Mr. President, we then went on to a discussion of the membership of the regulatory commission. Let me quote again from the hearing record:

Senator METCALF. It is true that every single active member of the commission at the present time——

Governor HICKEL. Yes.

Senator METCALF.—was appointed by you?

Governor HICKEL. If you have the facts on that and tell me that, yes. I couldn't name the commission members right now.

In summary, Mr. President, the man whom President Nixon has selected as his Secretary of Interior, the former board chairman of a gas utility, testified that the utility was not subject to State regulation, when indeed it was. He was not sure how the State regulators were selected, although indeed he had named them himself. He did not know who they were. Meanwhile, Alaska Interstate of Houston, Tex., and its subsidiaries fare fabulously, while the Anchorage gas consumers pay rates comparable to those in eastern cities, hundreds and hundreds of miles from gas fields. Natural gas should be one item that a family can purchase in Anchorage at far below the price in the lower 48.

I participated in the native claims hearings in Anchorage, Alaska, in 1968. I have been concerned about the fate of the land that the natives claim. Secretary Udall has placed a freeze upon the selection of State land until the native land claims are settled. This would seem to be appropriate. Governor Hickel, as Governor of Alaska, testified vehemently against the land freeze in the hearings held in Anchorage. However, in a series of colloquies with the chairman of the committee, he has unequivocally declared that he will maintain the freeze until the Congress has enacted legislation to recompense the Alaskan natives for land taken or until it expires upon the adjournment of the 91st Congress next year. This agreement both indicates the urgency of congressional action and preserves for a reasonable time the status quo.

One of Governor Hickel's statements in his prepared text before the committee gave me some apprehension. Governor Hickel said:

I believe that we should devote a period of time to the consolidation of the gains that have been made and to a reassessment of our long range objectives. I think that we should explore ways within the Department to make things work better.

This coupled with his interview that he was not for "conservation for conservation's sake" and that he did not want to "lock up" resources seem to indicate that during the next 4 years we would not be expanding our wilderness areas, making any additions to our national parks nor purchasing any additional land for the waterfowl refuges or game ranges.

However, under a series of questions from Senator BIBLE and the chairman of the committee, Senator JACKSON, Governor Hickel agreed that the program for land acquisition and land set asides for recreation and wilderness purposes was far from complete. As a member of the Migratory Bird Conservation Commission, I asked him about the continuation of the accelerated program for the acquisition of about 3½ million refugee acres, and he agreed that this program should go forward as rapidly as possible.

Dave Brower, probably the leading and one of the most respected spokesmen for preservation of natural areas in America if one such spokesman could be designated, referred to some of the statements that Mr. Hickel had made as Governor and as a private individual relative to the Arctic Game Range. I am in complete accord with Mr. Brower and with the Sierra Club and other national organizations which insist that the Arctic Game Range must be preserved and maintained. I have scant sympathy with those who express the "passenger pigeon syndrome" that because Alaska is so vast and there is so much land, we do not have to worry about its preservation.

Mr. Brower quoted Governor Hickel as follows:

I believe we can do the things that have to be done there in the intent of the withdrawal and still not lock it up to get the resources that are in the area * * * (Press Conference, December 18, 1968.)

Take the Kenai Moose Refuge. One million acres for the Kenai moose. That is more acres than some of the people down here have. I think it could be smaller. (Native Claims hearings, op. cit., p. 99.)

I can't see any reason why they (the moose) couldn't have the million acres and have it upon the slopes of the Chookat Mountains or the Kenai Range rather than just have the vast areas of wonderful flatlands they have now. (Ibid.)

I would like to tell the Federal Government that we can't live within its laws. (Anchorage Daily Times, March 3, 1968.)

If we lived within the letter of the law, we'd be one big national park. (Anchorage Daily Times, March 3, 1968.)

I asked Mr. Hickel some questions about his attitude toward oil development on the Arctic Game Range, and he promised that he would not open any of that area for oil development unless instructed to do so by Congress—page 210 of the hearings.

Bristol Bay, Cook Inlet and the Izembeck National Wildlife Refuge are some of the most important areas in the world for the propagation and nesting of waterfowl, the home of marine mammals and the site of the world's greatest salmon fisheries. Such an area is extremely sensitive to oil pollution. A thin film of oil can destroy salmon, ducks, and marine mammals. Governor Hickel vetoed an act of the Alaska Legislature restricting oil drilling offshore in these areas. This gave cause for alarm that he would support the development of oil drilling in these areas. This is an especially delicate conflict because the Bristol Bay area is the source of most of the ducks on the Pacific flyway and the States south of Alaska would reap the benefit of wildlife protection whereas the State of Alaska itself would benefit from oil development.

I asked Governor Hickel why he had vetoed the bill. He said:

The law as passed only had control of pollution on the surface of the water, and so we thought, and I feel very strong on this point, that we must have pollution control not only on the surface but under the water because we had that problem at Cook Inlet. So I requested the fish and game board for such a resolution and they granted it to me. The fish and game board has the power to do that.

I can assure my colleagues that close oversight will be maintained by the Migratory Bird Conservation Commission to insure that Cook Inlet, Bristol Bay, and other important waterfowl, marine mammal and fishing areas will be kept clear of pollution, and that Governor Hickel as Secretary of the Interior keeps his commitments that he will act in the national interest.

Much has been written about this nominee. The cliches that he has used to indicate his approach to the most important domestic position in President Nixon's Cabinet have been unfortunate and ill advised. His testimony at the hearing was much more to the point. There is little use in holding a hearing unless it is the basis for decision. I cannot say that this man who agreed at the hearing to programs in the national interest that he opposed as Governor of Alaska was not telling the truth to the committee. I cannot say that this man chosen by President Nixon to be his advisor in the protection and preservation and management of our natural resources is deceiving the committee. I believe him when he assures me that he will protect the Arctic Game Range, that he will continue to move forward for wild rivers and recreation areas, that the accelerated program of the duck stamp fund acquisition of refuges will not be halted. I believe him when he assures the chairman of the committee, Senator JACKSON, that he believes in the perpetuation of our National Park System, and when he assures Senator BIBLE that his administration will not mark the end of the creation of parks and seashores and recreation areas. Who can tell how a man will grow with the responsibilities of his job? On the record before the committee and before the Senate, Governor Hickel could become one of our best Secretaries and carry forward the policy of Secretary Udall. He could disappoint me and my conservationist friends and fall far short in his promises. These are things that are unpredictable. If Governor Hickel devotes to the job of Secretary of Interior the energy that he has devoted to his real estate and contracting business that enabled him to build a fortune, and appoints knowledgeable and competent assistants to help him carry out his awesome responsibilities, he will do well and earn the accolade even of those who have opposed his confirmation. If he fails to do that, he will have failed President Nixon, he will have broken his word to the committee and he will go down in history with some of his predecessors who have violated the public trust and attain the contempt and obloquy he will deserve. I do not believe Governor Hickel will fail; I shall vote for his confirmation.

Mr. TYDINGS. Mr. President, I rise to inform the Senate that I intend to cast my vote against the confirmation of Gov. Walter J. Hickel, of Alaska, to be the next Secretary of the Interior.

I do this without any consideration of either personality or political partisanship. I do it solely on the belief that by experience and understanding he is not qualified to hold the No. 1 conservation office in the Federal Government.

To vote against a Cabinet choice of a newly elected President is an extremely important vote and I have given considerable time and thought to Governor Hickel's nomination.

Dismayed as many were, by some of his early reported remarks, I welcomed the decision of our Interior and Insular Affairs Committee to hold 3 days of extended hearings on these and other views of the nominee. The hearings brought to light much useful information. And the Governor is to be congratulated for the cooperation which he showed the committee in their efforts to build a complete record.

But the evidence of the hearings suggests to me a basic misunderstanding of the meaning of conservation and a failure to appreciate how we in America have permitted the rape of our natural environment.

I am well aware that upon final consideration, the committee voted to approve the nomination. I regret that I am unable to concur with its view. But there are times when one's personal convictions must override the respected judgment of trusted colleagues and this is one of those times.

I am going to vote against confirmation, Mr. President, for essentially five reasons. Given the importance of the vote today, and my own personal interest in matters affecting the quality of our environment, I would like to discuss these five in some detail.

The first reason is what I take to be the inadequacy of the Governor's experience. As we all know, in the Senate experience counts for a lot and, in this instance, I feel Governor Hickel's is insufficient for the knowledge and decisions required of a modern Secretary of Interior.

Alaska is still a frontier State. With its marvelous abundance of natural resources and its limited number of inhabitants Alaska still lives in a time that passed by "the lower 48" some 60 years ago. Our country today, by and large, however, is an urban Nation with complex and difficult urban problems. Too few parks and open spaces, too much contaminated air, too often polluted

waters, and too little consideration of esthetics are familiar problems to most of our Nation's citizens living in the cities, towns, and suburbs. Solution of these problems require new ideas, energetic leadership, and most importantly, a creative and sophisticated understanding of the environment in which they exist.

Governor Hickel's background, however, is unlikely to provide such an understanding.

These problems have not confronted him as Governor of Alaska. He has been concerned with the exploitation of natural resources rather than their conservation. With bringing industry in, rather than watching over them to prevent any natural despoiling. With developing open spaces, not preserving them.

Science magazine has written:

> Despite its abundance of resources (its fish, timber, oil and gas, and magnificent scenery and wildlife), Alaska is still economically undeveloped by camparison with most states among the "lower 48," and the financial resources available to the state government are very limited. And while the state has attracted some settlers who put a high value on conservation, it has attracted many, and they seem the most vocal and politically active—who see themselves as pioneers entitled to the same freedom to exploit resources that western pioneers enjoyed a century ago. Accordingly, proposals such as the one for a $2 billion Rampart Dam hydropower project, which would destroy a major nesting area for waterfowl by flooding the Yukon flats and creating a reservoir larger than Lake Erie, are popular with Alaskans. The Rampart project, though favored by Hickel as well as by other politicians was stymied even before he took office—by an adverse report from the Department of the Interior under Secretary Stewart L. Udall.

This quotation illustrates my concern. The environmental problems facing urban America in the late 1960's and early 1970's are far different than those confronting Alaska. We need as Secretary an individual who is familiar with these problems. Who knows them—and their intricacies and nuances—as long-fought foes, not as newly found opponents.

Simply stated, we need a man whose knowledge and sensitivity to problems of the environment is deep-rooted, long-term, and without question.

I believe that Governor Hickel does not, and probably cannot, fill this requirement.

The second reason involves his close ties with the oil industry. Governor Hickel at one time was chairman of a natural gas company in Anchorage and is listed as such in "Who's Who." Upon becoming Governor, he discharged a nonpartisan, well-respected commissioner of natural resources and appointed in his place a geologist drawn from the executive offices of an oil company. An important supporter of the Governor is head of a major oil company. And finally, as Governor he opposed an increase in the severance tax against oil companies operating in Alaska even though the University of Alaska found in a study that the companies could afford to pay a 10-percent tax on all oil drawn from Alaskan soil.

Now there is nothing wrong with being in the oil business or being associated with the industry. Nor do I mean to suggest in these remarks that the Governor acted with any impropriety. I only mean to question whether it is desirable to have a man with such connections as Secretary of the Interior. The Secretary will have under his administration several million acres of Government-owned oil rich land. And it is the Secretary who determines how, and by whom, at what cost, and if these reservoirs are tapped. He must be a man who can view the oil industry with clarity and objectivity.

Let me give an example of the type of difference I can foresee. According to Science magazine, Governor Hickel asked the Interior Department to grant an application to permit exploratory drilling for oil in the Arctic Wildlife Range, an ecologically fragile area of almost 9 million acres lying east of the Prudhoe Bay oilfield. The Department denied the application. Their policy was, and is, to deny such permits pending a study of the area. Perhaps the range should be developed but if it is a valuable and ecologically fragile area, certainly a thorough examination of the consequences of such action should take place first. This seems to me to be the prudent approach. Yet Governor Hickel was disinclined to do so.

My third reason for casting my vote against the Governor's confirmation as Secretary concerns his attitudes toward water quality standards. During the hearings the Governor indicated that he favored approaching the problem first, through the States with the Federal Government entering the picture only if the States there dragged their feet.

But this is not precisely the approach which has prevented needed progress in our efforts to restore the quality of our waters? By leaving it to the States first our waters have remained polluted. Only Federal action, as illustrated by the Water Quality Act of 1965 and Clean Water Restoration Act of 1966, can do the required job. Only the Federal Government has the money, the talent; and will forge ahead in this field.

Possibly I am misinterpreting the Governor's remarks here. Perhaps his views are closer to mine than they at first appear. Nevertheless, I am certain, based on my service on the Air and Water Pollution Subcommittee, that a strong and dominant Federal role is essential if we are ever to clean up the Nation's rivers and streams.

Mr. President—let me here say in passing that the December 23, 1968, issue of Sports Illustrated mentioned the nomination of Governor Hickel. The magazine quoted Mr. Robert Weeden, president of the Alaska Conservation Society as saying:

> Mr. Hickel is a very strong personality and he could be an effective voice for conservation if he wanted to be. However, if a conflict arose between conservation and economic interests, I think he would definitely favor the economic interest.

The fourth reason involves what has become known as the Kuskokwim Eskimo affair. This has received considerable publicity so I do not intend to recount what happened here. Suffice it to say that the Governor blocked an effort by a small Eskimo cooperative to sell some fish to a Japanese fishing concern and thereby improve its meager lot. The Governor acted overzealously and with shocking insensitivity toward the Eskimos. As Secretary of Interior, he would be in charge of a large number of Eskimos, as well as Indians; the neglected, underprivileged native Americans. We therefore need a man who is genuinely concerned and has a feeling of compassion for these people. Anything less would be an injustice.

The fifth and final reason for opposing Governor Hickel's confirmation revolves around his view of what conservation means in today's complex and difficult world. Despite his performance in the hearings, I am not convinced that one who has come so lately to knowledge about environmental quality truly comprehends the principles and problems involved. Or, for that matter, understands what is really necessary to do in order to restore this quality.

Conservation today means far more than the simple preservation practices of Teddy Roosevelt. In essence, it means that human activities must not be undertaken without regard for their impact on the total environment. And even this is misleading if it suggests that man exists on the environment. Rather, he exists with it. He is part of the system.

And it is a system with every part affecting other parts. No segment is independent of the other. Water quality affects marine life and is itself affected in turn by land use. No part of the environment exists in isolation and a change in one element will greatly affect other elements and possibly disturb the entire system.

Based on my reading of Governor Hickel's testimony, I do not believe that he truly comprehends what conservation in the 1960's and 1970's is all about. I do not think he is fully aware of the problems we face nor of the efforts required to restore the integrity of our environment.

Thus, Mr. President, I cannot in good faith vote for Governor Hickel's confirmation as Secretary of Interior.

I have heard it said that the Senate should respect a newly elected President's prerogative to pick his own team. Further, that we should give them all any benefit of the doubt and a chance to prove themselves in office.

Certainly on the face of it this seems fair.

But two points must be emphasized. The first is that as legislators we have a responsibility to look after the national welfare. This takes precedence over any presidential prerogative. The second is that while it is true that everyone should have a chance to prove themselves in office, the Secretary of the Interior, a Cabinet position, is no job for a beginning student. The people of this country have the right to expect an appointee to be already qualified. The Cabinet is not a school. It is a place where a previously acquired expertise or competence is a minimal requirement. And if this is not available there should at least be no past actions or words indicating the appointee's inexperience and lack of under-

standing of the fundamental problems and issues involved. The stakes with which we are dealing are far too high.

Some years ago, President John F. Kennedy wrote of our need "to recover the relationship between man and nature and to make sure that the national estate we pass on to our multiplying descendants is green and flourishing." That need is as great today as it was then. The Secretary of the Interior will play a crucial role in fulfilling this need. His is a job of overriding importance to both our country and our citizens. We need a man eminently qualified for the post.

Mr. McGOVERN. Mr. President, I regret the necessity of voting against confirmation of the nomination of Gov. Walter J. Hickel for Secretary of the Interior. I do so only after careful evaluation of his qualifications.

I shall vote against confirmation primarily because I feel that the Governor is not qualified by experience, understanding, or outlook to become the Nation's chief conservationist, and the major advocate of American Indians.

The Secretary of the Interior is the trustee of America's vast resources—land, water, minerals, timber, parks, and wildlife. As such, he presides over most of the factors which will determine the total environment in which future generations of America will live.

It is my judgment that Governor Hickel does not have the background, the philosophy, or the insight to meet this responsibility so essential to the Nation's future.

I am also disturbed with the lack of evidence that Mr. Hickel places sufficient importance on protecting the interest of the Indians and other native Americans who would be under his special jurisdiction.

I have just visited with a man expert in our national forest situation. He tells me that we are confronted with a timber shortage in this Nation in a matter of years, and that the pressures on every timbered area in the Nation, be it national forest, Bureau of Land Management lands, a wilderness area, a game refuge, or even a national park, is going to become increasingly intensive.

There are those who fear that administrators who are utilization oriented, who make their decisions on a crisis-to-crisis basis, will permit the destruction of forests essential not only to sustained yields of wood products, but to recreation and other uses, and even to the regeneration of the air we breath.

There is that danger, but we need more than administrators who will resist exploitation. We must have administrators with the foresight to reforest cutover lands, to plan, and to prepare to meet future needs, and to avoid the crisis which may confront us in years ahead.

Our national record of foresightedness on resources is a thoroughly bad one. We have destroyed and wasted and ignored the consequences of our exploitation as long as we dare, and far longer than we should.

When we have planned, we have generally ignored the plans. We developed a 10-year plan for national forest resources, but with only ½ or 3 years out of the decade left, I am told that we have funded and implemented only a minor fraction of that plan.

This is not Governor Hickel's fault. We are all at fault.

But I think the junior Senator from Wisconsin, Senator NELSON, underlined the situation that now faces us, as it relates to Governor Hickel: We have come to a point in our resources and our environmental history when we must have creative leadership; leadership that fully appreciates the extent of the conservation crisis, leadership that can motivate us to adopt the measures necessary to end the plunder of this planet, leadership with a combination of vision, persuasiveness, and finally the fortitude to fight whatever vested interests obstruct conservation programs with skill and effectiveness.

I am deeply disappointed that the nominee for Secretary of the Interior is not, in my judgment, the philosophically oriented man that I believe our situation absolutely requires.

Governor Hickel has conducted himself as a gentleman before the Senate Interior Committee. He has been courteous to me at all times.

It is rather obvious that he will be confirmed here today, regardless of my vote. He will have my full support in any effort he undertakes to become an effective conservation leader and an effective spokesman for American Indians and other natives.

I earnestly hope that my reservations and doubts about his grasp of the Interior Department's responsibilities will prove groundless and that he will prove to be the leader we so desperately need.

I have introduced a bill to create a White House Council of Resources and Conservation Advisers to the President and Congress—a measure we should have enacted 10 years ago.

I hope the new Secretary will see the great help that such a Council or advisory group, with broad knowledge and experience in resources and environmental fields, can have for him, for the President and Congress and persuade the new administration to support it and thereby give conservation the sort of priority it must have if the drain on our basic resource strength is to be ended and reversed.

In any event, I hope that he will surround himself with capable aides who will help him avoid a crisis-to-crisis administration and direct our resource and conservation programs to the solution of serious resource problems, which otherwise will face our children and their children.

Mr. EAGLETON. Mr. President, the Senate each year is called upon to consider for confirmation thousands of nominations sent to it by the President. In 1968, during the second session of the 90th Congress, President Johnson submitted 50,977 such nominations. The Senate then exercises its responsibility under article II, section 2 of the Constitution, which provides that officers shall be appointed by the President "by and with the advice and consent of the Senate."

Most of these appointees are officers of the armed services, postmasters, career employees of the Foreign Service, Coast Guard, Public Health Service, et cetera. These appointments are routinely passed en bloc.

A small number in areas of greater political and public accountability receive individual scrutiny: the judges, especially the Justices of the Supreme Court; members of boards, commissions, and independent agencies; Cabinet officers and their assistants.

Today we are presented with President Nixon's Cabinet nomination of Alaska Gov. Walter J. Hickel as Secretary of the Interior. This nomination has evoked some public controversy and concern. It has been studied in depth by the Committee on Interior and Insular Affairs.

The debates at the Constitutional Convention of 1787 shed little light on what criteria the Senate should apply in exercising its advice and consent authority. Through almost two centuries of experience in implementing this responsibility, different Senators under different circumstances facing different questions have exercised their prerogatives in different ways.

In studying the historical evolution of this senatorial authority, I am constrained to conclude that a standard or criterion applicable to one category of nominee may not necessarily be the proper standard for another category of nominee.

It is one thing to consider the background and qualifications of a potential Supreme Court Justice to be appointed for life. It is another thing to consider the background and qualifications of an appointee to an independent regulatory agency who will serve independently of the President and often for a fixed term of years. It is still another thing to consider the background and qualifications of an appointee to the Cabinet who operates under the direction of and at the pleasure of the President.

In one of the few books devoted to the advice and consent function, Prof. Joseph P. Harris made these observations:

> The tests applied by the Senate in considering nominations vary widely, depending in part on the character and importance of the office concerned and whether the nomination is one to which the Senate gives individual attention. Well-established custom accords the President wide latitude in the choice of members of his own Cabinet, who are regarded as his chief assistants and advisers (p. 379).
>
> It is appropriate for the Senate to consider the philosophy and general outlook of nominees to high federal offices, particularly to regulatory bodies and to the bench. These offices stand in a different position from that of the heads of executive departments for whose actions the President is responsible (p. 384).
>
> The confirmation of presidential nominations to independent regulatory commissions is always of especial importance, for members of these commissions are regarded as having a special relationship to Congress. The function of the Senate in passing upon the nominations is not limited to the technical qualifications of the nominee and his fitness for the office; it is appropriately concerned with his stand on broad policies and the effect his appointment may have upon the functioning of the commission. Often the character and attitude of the officers who head an agency have as much to do with its policies

as the legislation under which it operates. The Senate must therefore consider whether a nominee to a regulatory commission is in sympathy with the objectives of the laws which he will be called upon to administer, and whether he will support policies which are agreeable to the majority of the Senate (p. 178). Joseph P. Harris, "The Advice and Consent of the Senate" (University of California Press, 1953).

Professor Harris' observations make sense to me.

A Cabinet appointment is peculiarly personal to the President. A Cabinet officer is designated a particular area of governmental concern in which he acts for the President, he speaks for the President, and if he blunders he does so to the personal embarrassment of the President.

Any President, regardless of party, must be given the widest of possible discretion in designating his Cabinet officers.

Senator David I. Walsh, Democrat, of Massachusetts, said in connection with the nomination by President D. Roosevelt of Harry Hopkins as Secretary of Commerce:

I think we may agree that the selection of the members of his Cabinet is a peculiarly personal prerogative of the President . . . and we should not withhold confirmation . . . except for grave cause and unmistakable disqualification. CONGRESSIONAL RECORD, 76th Congress, 1st Session (Jan. 18, 1939), p. 559.

Senator Guy M. Gillette, Democrat, of Iowa, said of this same appointment:

I do not believe that there is any greater burden that can be laid upon human shoulders than the Presidency of the United States . . . He is charged with full responsibility for the executive department. If there is any right upon which he should jealously insist, if there is any right that we should zealously see that he retains, it is the right to name those with whom he is to work in that department, and particularly the official family, who are close to him, and his nearest advisors. I cannot conceive, Mr. President, how we as Senators can in justice to the Chief Executive, deprive the President of that right. There is not a Senator in the Chamber who would not insist on such a right were he President of the United States . . .

One of the last men on earth I would want in my Cabinet is Harry Hopkins. However, the President wants him. He is entitled to him. I think it is absolutely unjust for persons like myself, who harbor resentments, to deprive the President of his right. I shall vote for the confirmation of Harry Hopkins. CONGRESSIONAL RECORD, 76th Congress, 1st Session (Jan. 20, 1939), p. 554.

As I view it, a Senator in deciding whether to accept or reject a Presidential Cabinet appointee must consider the following things from the background and record, both public and private, of the nominee:

First. Is he a man of integrity and high moral character?

Second. Is his background and experience such as to permit him to function suitably in his designated post?

Third. Is he sincerely willing to administer his department and exercise his discretion within the statutory limits spelled out by the various Federal laws affecting his department?

Fourth. Does he retain any financial interest, direct or indirect, which would possibly conflict with the discharge of his duties or compromise his conduct in office?

Fifth. Has he by word or deed done anything so obviously repugnant to the fundamental purpose of his prospective department as to disqualify himself?

Governor Hickel has on occasions made statements regarding conservation which might be labeled by some as impulsive, by others as brash, by others as indiscreet, by others as terribly unwise. He has been in conflict with Alaskan Eskimos—a conflict susceptible to varying interpretations. His original position on the Alaskan "land freeze" was disquieting to some people including myself. The private oil holdings of his appointee as Alaska Commissioner of Natural Resources was something he could well have avoided. To his credit, he has agreed to dispose of any private holdings which the Senate Committee on Interior and Insular Affairs would deem to be in conflict with his new post.

However, in my judgment, these matters, individually and collectively, do not violate the aforementioned criteria which I as a Senator deem applicable to the consideration of a Presidential Cabinet designee.

For those who are sincerely disquieted over this appointment, I recall other times and other nominations when, as it were, the shoe was on the other foot. In 1938 and 1939, as congressional opposition was building to Franklin D. Roosevelt's New Deal, some key Roosevelt Cabinet and sub-Cabinet appointments came in for severe attack—Thurman Arnold as Assistant Attorney General in charge of the Antitrust Division, Harry Hopkins as Secretary of Commerce, Frank Murphy as Attorney General. These men were all challenged, on one pretense of another, for their liberalism and their espousal of Roosevelt's policies. In confirming these appointments, the Senate reasserted the very personal right of a President to select his Cabinet confidants.

President Nixon, within the latitude of the previously mentioned criteria, has the right to place in his intimate governmental family men with whom he is at ease and in whom he has confidence.

The Senate should not deny him that right.

I will vote to confirm Walter J. Hickel as Secretary of the Interior.

Mr. WILLIAMS of New Jersey. Mr. President, for the past 8 years, under the guidance of the present Secretary, Stewart Udall, we have established an outstanding record in the field of conservation. Outstanding gains have been made in the areas of water and air pollution and preservation of our natural resources in the fields of minerals, oil, and timber.

In my own State of New Jersey a number of notable gains were made, including the preservation of the Great Swamp as a wilderness area and the Delaware Water Gap National Recreation Area. The latter constitutes a 40,000-acre national recreation area surrounding a 35,000-acre reservoir, all within an hour's drive of the northern New Jersey suburbs and an hour and a half from New York City. More than 30 million Americans live within 100 miles of this priceless recreation area.

President Nixon announced that he would nominate Gov. Walter J. Hickel as the new Secretary of the Interior. Immediately after this announcement the nominee's early statements concerning conservation were appalling indeed.

I am very thankful for the diligent, searching inquiry by both the subcommittee and full Committee on Interior. This investigation suggests that the nominee has now considerably broadened his views on conservation. I am, therefore, with some reluctance and apprehension, going to vote to confirm the nominee. I do this, however, with full confidence that the searchlight of national concern will continue to shine on Governor Hickel after he takes office, by both the Senate Interior Committee, Members of both bodies of Congress, and others interested in continuing the direction set during the past 8 years. One can only contemplate with the deepest apprehension the appointment of a Secretary of the Interior whose point of view might hark back that era when our lands and waters were looked upon as an economic resource to be exploited like any other.

Mr. ALLEN. Mr. President, I rise in opposition to the confirmation of the nomination of Governor Hickel to be Secretary of the Interior.

I take very seriously the constitutional role of the U.S. Senate in giving its advise and consent to the nomination of officers of the U.S. Government whose appointments are subject to Senate confirmation.

I am mindful of the fact that the President is entitled to fill Cabinet positions with individuals of his own choosing and who, in his opinion, are best qualified to perform the duties and responsibilities of their respective offices. I think we should give every benefit of the doubt to the President in this particular exercise of his office.

In the case of Governor Hickel however, and in the light of his public statements regarding the mission of the Interior Department, and the information which has been elicited in committee sessions with reference to Governor Hickel's background, I feel that confirmation of his appointment would be contrary to the public interest.

I have been hopeful that the President would withdraw the nomination and send to the Senate the name of another individual to be the custodian of our Nation's natural resources. Since he has not seen fit to do so, however, I am compelled to vote against the confirmation of the nomination of Governor Hickel.

Mr. MUSKIE. Mr. President, the nomination of Gov. Walter J. Hickel to be Secretary of the Interior has stirred deep controversy across our country. At this point, however, all indications are that his nomination will be confirmed.

I lean heavily toward the point of view that a President ought to have considerable latitude in selecting his Cabinet, especially at the beginning of his administration. My inclination, therefore,

in the case of Governor Hickel has been to try to resolve my doubts in favor of confirmation.

But I am sorry to say that other considerations and concerns have given me pause.

There may well be other positions within President Nixon's administration for which I could vote confirmation for Governor Hickel. He is an able man who has been elected Governor of his State after a successful business career.

But the question I must answer is this: Can I approve his selection as Secretary of the Interior?

On two points I feel compelled to indicate my strong doubts about the wisdom of appointing him to this post.

CONSERVATION

The first point relates to the general question of conservation.

The Secretary of the Interior ought to be the No. 1 conservationist of the country—or at least of the administration. There is no other place in the administration where this role can be effectively filled.

It is no answer to surround the Secretary or to shore him up with conservationists.

Whatever may have been the origins of the Department of the Interior, in recent years that Department has acquired enlarged authority, increased responsibility and the accepted leadership role in the field of conservation. That fact has profoundly influenced the growth of conservation efforts in the past few years. We cannot afford to lose the momentum created under the leadership of Secretary Udall.

As one who has been deeply involved in the development of our national air and water pollution control and abatement policies and programs, and as one who has deep concerns over the broader questions of environmental quality and its impact on our generation and those who follow, I have a strong interest in the President's choice for Secretary of the Interior.

Despite Governor Hickel's assurances in the hearings—and I am sure he made them in good faith—I am not certain that his orientation would insure conservation priorities in the discharge of his responsibilities as Secretary of the Interior.

That uncertainty leads me to question his selection as Secretary of the Interior.

NATIONAL FUELS POLICIES

The second point which raises doubts for me involves the question of our national fuels policies.

It is of vital importance to my State of Maine and to the New England region that we have objective and impartial development and administration of our national fuels policies which give due consideration to the legitimate and urgent needs of our fuel deficit area.

Since my arrival in the Senate, 10 years ago, one of the constant problems of our region has been the adverse impact of the restrictive oil import program initiated in 1957. We had labored long and hard to correct the imbalances in consumer prices and manufacturing costs caused by that program.

We had some success in alleviating part of the problem as it relates to residual fuel oil imports. But there is widespread concern that our needs have not been given consideration in recent weeks with respect to the proposed construction of an oil refinery in a foreign trade zone at Machiasport, Maine. As a consequence, there is extreme sensitivity in Maine and New England about oil import policies in the new administration and their effect on our region.

Again, despite Governor Hickel's assurances, his orientation and experience raise doubts as to whether he can be objective and impartial in making decisions on policies, programs, and projects which in the past he has regarded as injurious to the interests of his own State.

In short, my vote this afternoon is an expression of my doubts on the wisdom of Governor Hickel's appointment as Secretary of the Interior.

I would have preferred to see someone chosen to be Secretary of the Interior who had a different and more favorable orientation on these two matters.

I shall vote against confirmation of Governor Hickel with extreme regret and without partisan motivation.

I have said many times since the election that I will do all I can to cooperate with President Nixon and to give every proper consideration to the problem he faces in assuming leadership of our country. That cooperation and consideration includes the programs and proposals he submits to the Congress.

I meant that and I mean it now. But, on this appointment, I have such strong doubts that I feel I must express those doubts by voting against confirmation of Governor Hickel.

In all fairness to Governor Hickel and his statements on the two points I have raised, I ask unanimous consent that there be included in the RECORD at this point that portion of the transcript of the hearing which covers my colloquy with him.

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

THE COLLOQUY BETWEEN SENATOR MUSKIE AND SECRETARY OF THE INTERIOR-DESIGNATE HICKEL

Senator MUSKIE. Thank you very much, Senator Jackson.

Governor, I have just two lines of questioning which I hope are not too extensive.

The first has to do with a project in my own State, the proposed foreign trade zone in Maine, the Machiasport project. The second has to do with the water quality standards program.

With respect to the first, in your statement you indicated that you recognized a difference between your obligations as Governor of Alaska and your obligations as Secretary of the Interior with respect to the oil import program. I am sure you do. Yet I wonder if you really focus upon what this could mean in terms of the convictions you have developed over the years as a result of your activities in a State like Alaska, your interest in the development of its oil resources, and your responsibilities as Governor.

In the present administration we who come from fuel deficit areas were assured at the very beginning that all authority with respect to oil imports would be delegated to the Secretary of the Interior in order to insure the impartial and objective implementation of those policies. But in these last days of the administration we are finding that when the crunch comes, when the real crunch comes, that somehow the oil industry's interests prevail over those of our fuel deficit area of New England.

So I think you ought to consider the fact that there is no way for you, as I understand it, to divorce yourself of your responsibilities with respect to the oil import program as there appear to be for the White House. Since you cannot divorce yourself of these responsibilities, we are most sensitive in my area to the question whether when the crunch comes, you are going to be influenced by the points of view you have developed up to this point or by your desire to be objective.

Now, in your statement you said that you recognize that there might have to be some increase in imports with respect to some areas of the country. That statement does not reflect the sense of urgency we in New England feel about this problem.

Senator Brooke has prepared a letter to be signed, and I understand it will be signed, by all 12 New England Senators addressed to the chairman of this committee with reference to this hearing, and I ask, Mr. Chairman, that the full text of the letter be made a part of the record.

The CHAIRMAN. Without objection, the full text of the letter will be included at this point.

(The letter referred to follows:)

U.S. SENATE,
Washington, D.C., January 15, 1969.

Hon. HENRY M. JACKSON,
Chairman, Senate Interior Committee,
Washington, D.C.

DEAR SENATOR JACKSON: We are taking the liberty of writing to you in connection with the hearings on the nomination of the Honorable Walter Hickel to be Secretary of the Department of Interior. As you may know, the people and representatives of New England have grown increasingly vocal in their protests over the inequitable effects of the oil import quota program administered by that department.

The adverse impact of that program in the states of our regions is clear and grave. The prices of fuel oil, on which private heating and industrial power are heavily dependent in New England, have been abnormally high. Furthermore, oil supplies have been unnecessarily tight and thus the region has risked emergencies in the course of long and bitter winters.

These conditions are a direct result of the controlled and noncompetitive market in petroleum products, a market with its production base located elsewhere in the country and with little sensitivity to the legitimate needs of our region. During the years the Oil Import Control Program has been in operation, refining capacity on the East Coast as a whole has declined by almost 250,000 barrels per day, while New England has been left without a single refinery. Our states have been effectively cut off from dependable and economical sources of oil and made captive to a program that seriously jeopardizes the well-being of our people and the vitality of our economy. We consider this unjust and intolerable, and the members of the New England delegation are committed to using every power at their command to remedy this situation.

Because the Secretary-designate, if confirmed, will have direct responsibility for the Oil Import Control Program, we consider it proper and, indeed, essential to raise this critical problem with him during these hearings. We believe that the people of New England are entitled to definite assurances from him, first, that he recognizes the urgency of this problem and, second, that he will take action to cope with it.

This action could take a variety of forms. The most immediate and promising course would be to act favorably upon so-called "Proposal A" of the Department of Interior's proposed regulations on the allocation of oil imports for Foreign Trade Zones, if the present Secretary for some reason fails to do so. An application to create such a zone at Machiasport, Maine, is now pending before the Foreign Trade Zones Board and "Proposal A", as published in the Federal Register of December 11, 1968, would make possible a reasonable volume of processing and importation of petroleum products through this zone. Not only would this project provide invaluable relief to New England fuel consumers, but it would be a major contributor to one of the country's most depressed counties.

In addition to the Machiasport proposal, other changes in the Oil Import Control Program should be contemplated, including the possibility of a general increase in imports of foreign oil, a redistribution of quotas to promote competition, and other measures to encourage wider dispersal of refining capacity and supply sources as a means of meeting the demand for fuel in New England and other energy-poor areas. In fact we believe that the justification and operation of the entire Oil Import Control Program should be reviewed.

Because these issues are of central importance to all New England and, in our opinion, to all America, we hope that the Secretary-designate will be prepared to express his support for some action along these lines.

We will be grateful for your cooperation in presenting this statement to the nominee at a suitable point in the hearings, and will be anxious to have his comments on the problems it discusses.

Sincerely yours,

Edward W. Brooke, George Aiken, Norris Cotton, Thomas Dodd, Edward Kennedy, Thomas McIntyre, Edmund Muskie, John Pastore, Claiborne Pell, Winston Prouty, Abraham Ribicoff, Margaret Chase Smith.

Senator MUSKIE. Now, in part that letter says things like this:

"The adverse impact of that program"—that is, the oil import program—"in the States of our region is clear and grave. The prices of fuel oil on which private heating and industrial power are heavily dependent in New England have been abnormally high. Furthermore, oil supplies have been unnecessarily tight. Thus, the region has risked emergencies in the course of long and bitter winters," a point of view I am sure you understand. Unfortunately we haven't found oil in New England as you have in Alaska.

The letter continues:

"These conditions are a direct result of the controlled and non-competitive markets in petroleum products, a market with its production base located elsewhere in the country and with little sensitivity to the legitimate needs of our region."

Then, the letter says this:

"Because the Secretary-designate, if confirmed, will have direct responsibility for the oil import control program, we consider it proper and indeed essential to raise the critical problem with him during these hearings. We believe that the people of New England are entitled to definite assurances from him, first that he recognizes the urgency of this problem, and second, that he will take action to cope with it."

Now, what the letter requests, in posing those two questions, is something more than the general review and objectivity which you promised. This letter inquires, first, as to whether or not you recognize the problem as being urgent from the point of view of New England, and second, whether you recognize that it calls for action beyond the point of review. And I ask only for an honest answer to both of those questions and then I have a third one on this subject, and then I shall go on to water quality standards.

Governor HICKEL. Senator, I think you covered it well and I think that if I ever thought it was urgent, I can see now that it is more urgent and I can understand it. [Laughter.]

I think in all fairness I have got to say that there isn't any doubt, Senator, that I will take the broad national picture other than that as you indicated I might have as Governor of Alaska. And as far as it being urgent, if you have an urgent situation, then it requires urgent and prompt action.

I will promise you this, that when confirmed as Secretary of the Interior, I would think at this point one of the first things that we would have to do would be to sit down collectively with your fellow Senators and with this committee and with the executives as such and try to find a solution that is more than apparently there, and I think with that kind of an approach and with that openmindedness that I will give it, it is about as far as I could go in saying what would I do to solve the problem. But I assure you this. We will do something. At this point I couldn't say specifically what. I think it would be wrong of me to do it. It would show that I made a decision without having all of the facts and knowledge before me.

But I assure you that those facts and that knowledge will be gained as soon as possible upon my assuming the position.

Senator MUSKIE. Well, now, let's be perfectly frank. This is the time to be frank. We in New England have been pressing for action before January 20. The oil industry has been pressing for delay before January 20 because it is rather widely said that the situation after January 20 will be less favorable to us and more favorable to the oil industry.

Now, obviously this isn't something I have coined to ask you to embarrass you this morning. Clearly, the efforts of New England and of the oil industry focused on January 20 and your accession to the secretaryship of the Interior.

This is going to put in a terrible spot after January 20 and indeed, you may be in the position of having to lean over backward to favor New England against the oil industry in order to avoid any accusation of bias.

Now, what is your reaction to that? [Laughter.]

Governor HICKEL. Senator, would you allow me to just be a little humorous at the moment and say I wonder if I couldn't toss this back to the White House like they tossed it to the Interior. I know I can't and I don't want to be facetious.

I would say this, that I would try to recognize the problem of a certain region and still keep the national picture in mind. Now, I won't have to go into the background. You and I both know why the oil import program was brought about and how it became mandatory and the reason it was was for national defense and other things. I think that is still important. I think we should maintain that.

Now, whether we raise the quota, lower the quota, we don't want to lower the quota but if we raise the quota, let us try to do it in such a way that we can generally subscribe to and follow the pattern and the intent of why we had the oil import program, and we might be able to stretch our imagination far enough and come up with a collective idea, and I mean collective, and maybe the whole committee would agree that there you have a special problem. But until I had all those facts and talked to all those people, I don't see how in the world I can go beyond this because my full intention would be to try and solve the problem that some section of America had and yet be fair with the Nation as a whole.

Senator MUSKIE. Let me ask you a more specific question and then I will turn to my other subject.

If the impact of the oil import quota is to force higher fuel prices upon New England, higher than those paid by any other region, would you consider that an equitable result?

Governor HICKEL. I think that would be one of the things that we would have to take into mind and although I realize that there are two elements here, above all, the consumer is one of the most important because the reason that we are in production in anything is for the consumer, and so that would be one of the strong elements of making a decision. But beyond that, Senator, I don't think that I could be expected to say anything any stronger or more affirmatively or more negatively than what I have said.

Senator MUSKIE. I would not expect you to make decisions here this morning but let me point out something rather unusual about this committee. You will notice, if you look at this committee, that Senator Nelson of Wisconsin is the only Senator on it from any State east of the Mississippi.

Now, this isn't the fault of anybody except perhaps those of us who are Senators from east of the Mississippi who haven't aspired to be seated on this committee, but I think it is true that this committee has developed concerns beyond that of a western committee. I think the Department of Interior has. But it has been in relatively recent years. When you consult with Senators about the oil import policy, I hope you would not limit yourself to consultation only with Senators on this committee. I hope you will also give consideration to those of us from the oil consuming States of the country.

We feel deeply about this in New England. Whenever we try to develop the fuel policy that would be equitable to us, we meet roadblocks. Even when we try to develop our own hydroelectric resource we find other areas of the country unsympathetic for only one reason, to protect their coal resources or their oil resources against the competition of the resources that God gave to us.

Up to now we have tried to solve this problem by being nice fellows. We are no longer so disposed to being nice fellows and I think the new Secretary-designate ought to recognize that that is our attitude at this point and probably will continue to be after January 20.

So we are going to be receptive to the kind of objectivity we have been seeking all these years and that you have promised us this morning.

Now I would like to go on to the question of water quality standards.

You have said form time to time that you applaud the decision of the Congress not to set a uniform national standard of water quality but to try to approach the problem through the initiative of the States.

We took this step deliberately, but when we took it, we recognized that we were opening the door to the foot draggers, to those who feel they have an investment in the status quo, and to those who have less than a feeling of urgency about the need to improve the quality of our waters.

We took this step for two reasons. One, because the problem is so big that we could come to grips with it more effectively if the States would develop viable and progressive policies in this field, and secondly, because obviously water use decisions can be better made by those who are directly involved.

But if this program doesn't work, the pressure for national quality standards is going to escalate.

Now, in the development of these State standards under the leadership of the Secretary of the Interior, there has been a lot of foot dragging, and we are not over the problem yet. I think he is close to it if he hasn't achieved the approval of water quality standards for all States. But, on that score I would like to ask this question first.

Is it your conception that the standards already adopted and approved are the ultimate or do you regard them as the beginning

in an escalating and ever-tightening program of water quality improvement?

Governor HICKEL. Senator, you put it well. It is exactly as you state it. It is a start. It has to do, as I talked about, with the guidelines that we must seek to look ahead in 1980 or the year 2000. I think it is a start. I think it is possibly the best way to start, try to have the relationship with the States and the Federal Government. Obviously if there are foot draggers and if certain areas degrade the water more than it is obvious that they should, at some point down the road if this upgrading doesn't come about, you really don't have any other choice than to so-call step in and have new guidelines, and that would again be up to Congress and whatever Congress might do, in any respect, to upgrade or do what they might have to do to bring about what you say, then I would enforce it with everything within my power because that is exactly how I feel.

But it is a start. It is not the ultimate. But it is in my opinion the best wisdom that Congress could do at the moment to start along the right—in the right direction.

Senator MUSKIE. Now, I have debated with myself on whether to ask you this next question but I think that the best course is to ask it.

When you visited me in my office, and I think when you visited other Senators, you were accompanied by Mr. James Watt, who is secretary of the natural resources committee of the Chamber of Commerce of the United States. I should have thought to have asked you this question in my office but frankly, as you know, we were both pressed for time and I didn't think of it.

But the Chamber of Commerce of the United States has been in the forefront of those who have undertaken to challenge the authority of the Secretary of the Interior to require secondary treatment and to adopt what has been referred to as the nondegradation rule.

I think first that I would like for you to comment on the connection, if any, between the fact that Mr. Watt has accompanied you and your views on these two issues, and secondly, to solicit your views on these two issues. Might I say this just to make perfectly clear my own position: I have read the brief that was solicited or that was obtained by the Chamber of Commerce of the United States challenging this authority of the Secretary of the Interior. We have defeated it so far as this administration is concerned, but if the point of view of the Chamber of Commerce of the United States on these two points were to be adopted, in my judgment it would destroy the water quality standards program as it is now established in law. The amusing thing about the brief is it speaks of congressional intent to support its position, but I wrote the law. It is rather an amusing observation on briefs. Would you comment on that?

Governor HICKEL. Senator, I met Mr. Watt in a group of maybe five or six different people that I was interviewing. It was in going over just a casual résumé that I found out that he had been an administrative assistant to the Senator from Wyoming, Simpson—I think that is right. I had never met the man before. As far as his being with the chamber of commerce, it didn't even ring a bell one way or the other. And we were short of staff and the distance—it is a long way between here and home, and so he said that he would—he could help guide me around. I told him I wanted to go and meet the various Senators. And it was his just natural willingness to help and probably a simple rapport. [Laughter.]

I think he is a capable person. I think he is a most capable person. I think he is knowledgeable in that—

Senator MUSKIE. That may be the disturbing thing about it, you know. [Laughter]

Governor HICKEL. Well, I'm sorry he didn't come out of your office because I would have taken him, too, because he is quite a guy.

That is the background, my background and knowledge, the reason I had him, and if I could be influenced at levels of this nature, I don't think I would be sitting here today. And as far as any water standards being degraded, I would be the first one to fight that. And I think as you remember my thoughts and some of the things that I did as Governor, when I told you I thought I was the only Governor of any sovereign State that seized a ship in coastal waters and took it to Federal court and won. It gives you a general idea of how I think.

I am not one that wants to even think about going backward. I am too progressive by nature. I think my record will show. So have no fear.

Senator MUSKIE. Let me ask you a specific question. I know that you and the Secretary of the Interior have correspondence with respect to the nondegradation policy as it applies to Alaska. Do you at this point have any question or any doubt about the validity of the nondegradation policy in its present form?

Governor HICKEL. I have none that I know of at this point and I can see no hindrance whatsoever. The actions of Alaska were entirely different in the fact that it covers such a broad area. As I mentioned before, it covers an area nearly as big as the United States in distance, and so some areas do have a different problem than other areas.

It is a very difficult thing. So we look at this case by case. But we have never allowed any, if I might say, pollution such as that mentioned in some newspaper articles where we dumped several thousand tons or millions of gallons of ammonia in a river. I just want to assure you, Senator, that that is not true because that plant isn't even in operation, and the reason for them spending considerable thousands, literally about $200,000 more in money, is to assure the State, and they are doing this through research at the University of Washington and the University of Alaska, to assure the State that what they do meets the standards. We requested that and they have agreed to spend the money. I might say not one——

Senator ALLOTT. Will the Senator from Maine yield for one question?

Senator MUSKIE. Yes; I would be happy to.

Senator ALLOTT. Along this same general line, I think it is important that it be cleared up. In the Washington Post of January 6, Governor, an article appeared, written by Drew Pearson and Jack Anderson, in which they talked about water standards, and I quote:

"Specifically the Collier Carbon & Chemical Company was still dumping three and a half tons of ammonia into Cook inlet every day from its north Kenai plant and there were no tangible plans for stopping this."

Now, is this the plant that you have referred to that has never operated?

Governor HICKEL. That is right, Senator. The plant has never been in operation.

Senator ALLOTT. What would you say as to the veracity of this statement? [Laughter.]

Governor HICKEL. It is a sin to tell a lie. [Laughter.]

Senator ALLOTT. Thank you, Senator Muskie.

Senator MUSKIE. Just one final question to wrap up the water quality issue as far as I am concerned.

You have no plans, then, to change the nondegradation policy or the secondary treatment policy or any of the other guidelines which have been used by the Department of the Interior in the development of water quality standards.

Governor HICKEL. That is right, Senator.

Senator MUSKIE. Now, returning to the Machiasport project, I have one question. The Secretary has had under consideration since the early part of December a change in our oil import policy with respect to the licensing of imports to free trade zones.

I have no idea whether he is likely to make a decision on this between now and January 20. If he does, what are the prospects for the life of that policy after you become Secretary?

Governor HICKEL. Senator, I would have to see what decision he would make, first, and how he would approach it before I could even intelligently or from a "guesstimate" standpoint know what I would do. I would appreciate, Senator—I don't know how to answer it because I don't know what he is going to do.

Senator MUSKIE. Well, the question I guess isn't entirely fair because I had assumed that you read the regulations issued in the early part of December. They offered two alternatives, alternative A and alternative B, to govern this problem. If you haven't read it, obviously you can't react to my question.

Governor HICKEL. I haven't read it, Senator. I am sorry.

Senator MUSKIE. I will limit myself this morning to simply calling your attention to those regulations. If you have a chance, to read them, and I know you are going to be very busy between now and January 20, I would appreciate it if you would communicate your reactions to me. But I understand that you may be too busy.

Governor HICKEL. I will do that, Senator. I will try to do that.

The CHAIRMAN. Thank you, Senator Muskie.

Mr. MUSKIE. It will be noted that Governor Hickel attempted to give me assurances with respect to both points. My questions relate not to his intentions or his good faith, but to the fact that his experience over the years and his orientation will exert a strong influence on him as he attempts to fulfill his responsibilities in the number one conservation and natural resource policy post in our National Government. That fact makes it difficult for him to overcome my doubts on those two points.

I hope that in registering my doubts in this way I will impress on Governor Hickel and the administration the widespread concern on conservation policy which exists throughout the country and the deep concern on national fuels policy which exist in New England and Maine.

If those concerns do make an impression and Governor Hickel is able to overcome my doubts, then my vote will have achieved its constructive purpose.

Mr. HART. Mr. President, a large number of groups and individuals in Michigan have urged me to vote against the nomination of Walter J. Hickel as Secretary of Interior. This I am very reluctant to do, because I believe that—barring grave questions of integrity and principle—a President has a very strong claim to be permitted to select his official family.

Nevertheless, I want it to be a matter of record that many of us in Michigan have been concerned by statements of Governor Hickel. In our area, water pollution is literally a matter of life and death and we must—without any second thoughts—bring it under control. The expense, heavy though it be, is less than the punishing cost if we fail.

Likewise with respect to conservation. We are a conservation-minded State. We have a great deal of unfinished business

in terms of setting aside land for public use and enjoyment. This task is of such proportions that it will require stepped-up activity by local, State, and Federal Government. This is not a moment in which to pause; every month's delay is costly in terms of lost resources.

A third concern is that the new Secretary of the Interior move for development of the oil-rich shale land in the West—in a way to add to the National Treasury without adding to concentration in the oil industry.

These lands contain the greatest deposit of oil in the world—and 80 percent belongs to the Federal Government. For years knowledge on how to get the oil out economically was lacking, but there is evidence that that lack can soon be overcome. In addition, the lands contain other valuable mineral products—nahcolite, a sodium carbonate, and dawsonite, containing alumina.

Secretary Udall responded to a concern growing from the Senate Antitrust and Monopoly Subcommittee oil shale investigation and revised plans to let leases on this land in a manner we thought would have encouraged concentration—and discouraged development.

No bids were accepted after the revised offer of leases by the Department. Thus, Mr. Hickel would find waiting for him the major job of moving development of that oil shale off dead center. Hopefully, in doing so, he will be mindful of the opportunity to serve the consumer by encouraging new competitors—rather than allowing the resources to go to firms already controlling the oil market.

Therefore, Mr. President, I shall vote to consent to the nomination of Mr. Hickel relying on the assurances he has given the Interior Committee that he will follow the path blazed by Secretary Udall, most particularly in vigorous action in the field of water pollution control, and in continuing acquisition of shorelines and other areas awaiting action for their preservation—especially in the Midwest and other heavily populated sections of the country. I want to acknowledge that especially persuasive in reaching this conclusion have been the extensive remarks just made by the able senior Senator from Idaho (Mr. CHURCH). Senator CHURCH, as a ranking member of the Interior Committee, participated in the hearings and committee discussions on this nomination. Conservationists know Senator CHURCH as a sensitive, effective leader in resource protection. His judgment, based on his detailed knowledge of the record, is most persuasive with me.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW—UNANIMOUS-CONSENT REQUEST

Mr. MANSFIELD. Mr. President, I should like to propound a unanimous-consent request.

First, I ask unanimous consent that when the Senate completes its business this afternoon, it stand in recess until 11 o'clock tomorrow morning.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the prayer and the disposition of the Journal, the time between 11 a.m. and 1 p.m. be equally divided between the majority leader and minority leader, or any Senator whom they may designate, and that the vote on the pending nomination occur not later than 1 p.m.

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

The unanimous-consent agreement, reduced to writing, is as follows:

Ordered, That at the conclusion of the prayer and approval of the Journal, the time between 11 a.m. and 1 p.m. on Thursday, January 23, 1969, be equally divided and controlled by the majority and minority leaders, or whoever they may designate, and that the vote on the confirmation of Walter J. Hickel to be Secretary of the Interior occur no later than 1 p.m.

Mr. MANSFIELD. Mr. President, I express the hope that Senators who feel that they may not have enough time under the time limitation tomorrow will continue with this most interesting and worthwhile debate this afternoon.

I also wish to inform the Senate that immediately following the disposition of the Hickel nomination, the Senate will proceed to the consideration of the nomination of Mr. Packard to be Under Secretary of Defense.

Mr. PELL. Mr. President, I do not question the integrity, intelligence, or executive ability of Governor Hickel.

What has troubled me and has concerned many of the residents, Republican and Democratic, of my State, is Governor Hickel's approach to vital questions of natural resource development, conservation, and recreation. This concern has not been completely dissolved by Governor Hickel's reassuring statements in the course of the hearings conducted by the Committee on Interior and Insular Affairs.

Governor Hickel's experience as an Alaskan, I am afraid, has not afforded him a realization of the entirely different problems that confront the highly developed and densely populated regions of this country, such as my own State of Rhode Island.

I think it has been clearly demonstrated during the past few weeks that the Interior Department is no longer an agency of interest and concern only to the western regions of our country.

The Department is now charged with the administration of conservation, recreation, and pollution abatement programs that are of great importance to the urban Northeast. I would much prefer to see at the head of this agency a man whose enthusiasm for these programs is unquestioned.

In addition, the New England States have endured a chronic problem as a fuel-consuming region, and the Interior Department is the administrative agency for the oil import control program. The administrative decisions of the Department are of central importance in determining whether New England and my own State of Rhode Island will continue to be penalized and handicapped by high fuel costs and recurrent threats of fuel shortages. Governor Hickel's views on the oil program are not clear, indeed he has specifically reserved decision, assuring us only that he will decide such questions as an oil import quota for the proposed Machiasport free trade zone in Maine on the basis of the "national interest."

I, for one, do not find that particularly reassuring, for the term "national interest" has been the fuzzy rationale offered for the very existence of the oil import control program initiated in the Eisenhower administration. Too often, in this context, the "national interest" has meant the "oil interests," and New England consumers have paid the bill while the oil interests reaped the benefit.

Mr. CHURCH. Mr. President, after a week of extensive hearings on the qualifications of Gov. Walter J. Hickel to be Secretary of the Interior, I have found no basis in the record on which I can justify a vote against his confirmation.

Tradition allows a new President the Cabinet of his choice, and by practice he is to be given the benefit of the doubt. That custom should be breached only where there is proven cause. Finding none of the magnitude required in the instant case, I shall cast my vote in favor of Governor Hickel's confirmation.

Having said this, however, I feel an obligation to express my concern over this appointment, and to explain why I view it with anxiety and misgiving.

For 8 years now, the country has benefited from the services of a forthright and farsighted Secretary of the Interior. This is not the time to recount the remarkable record of Stewart Udall, but when his stewardship is fully studied and carefully assessed, he may well be remembered as the best Secretary in the history of the office. He set an enviable standard against which future Secretaries will be judged. Mr. Udall leaves big shoes to fill. Though it remains to be seen, I seriously doubt that Governor Hickel will fill them.

Nevertheless, it must be acknowledged that, throughout his appearance before the Interior and Insular Affairs Committee, Governor Hickel proved an able and willing witness. One cannot fault him for lack of frankness or for any failure to be responsive. He conducted himself, during his lengthy interrogation, with unfailing civility and good temper. He sought to cooperate with the committee, made detailed disclosures of his personal holdings, and agreed to abide by the committee's decision, as regards the divestiture of stocks, business enterprises, or other property which, in the opinion of the committee, might constitute a possible conflict of interest.

Moreover, Governor Hickel pledged himself to uphold the conservation objectives of such landmark legislation as the Wilderness Act, the land and water conservation fund and the national wild and scenic rivers bill. He promised to implement and enforce requirements, which meet the criteria of laws recently enacted by Congress, for cleaner air and purer water. If these hearings serve any purpose, then we must accept the witness at his word.

Still, one vainly searches the record for reassurance that Governor Hickel really perceives the breadth of his responsibility to function not only as the country's principal real-estate manager, director of outdoor recreation, protector of wildlife, custodian of mineral wealth,

irrigator of arid lands, and generator of public power, but also the importance of his duty to act as public trustee of the whole environment in which we dwell. Nothing in his testimony reveals any sensitivity toward the urgent imperative of leading a vigorous counterattack against the thickening smog that smothers our cities; against the spreading pollution of our rivers and lakes; against the slow but insidious poisoning of life itself from the invisible invasion of insecticides, pesticides, and herbicides which pervade and persist.

Where in the record can one find evidence that Governor Hickel really cares about beautification? If he is disturbed by the lackluster character of our urban life, by the rampant proliferation of hideous billboards along our highways, or by the endless, artless suburban sprawl, he has yet to reveal it in a convincing way. Rather than calling for aggressive action in these vital areas, which bear so directly upon the quality of our environment, the Nixon nominee looks backward to past programs, and asks for nothing more than a "consolidation of gains" and a "reassessment of our long-range objectives."

This stand-still prescription is not enough. The country needs more than a treadmill Secretary of the Interior. The people resent the depressing uglification of their surroundings; they despise the sludge, gunk and crud filling the air; they grow weary of traffic snarls that constipate the streets, of streams that stink, of playgrounds too congested to endure. For a spokesman, the American people need a Secretary who will be their champion, not a custodian.

I would like to believe that Walter J. Hickel might grow in office to become such a champion. This is my hope, but I am obliged to confess that it is not my expectation.

So, I shall vote for Governor Hickel's confirmation with reluctance and grave doubt. In fairness to the nominee, I cannot vote against him on the strength of nothing more than my own foreboding, simply because I apprehend that he will perform poorly. He deserves the chance to prove otherwise. As our former colleague on the committee, Ernest Gruening, himself a great citizen of Alaska, observed while testifying on behalf of the Governor, the nominee has not been favored with a long apprenticeship either on the House Interior Committee, as was Stewart Udall, or within the Department itself, as was Oscar Chapman. Unlike such well-prepared predecessors, this man will have much to learn.

But, on the record of the hearings, I cannot conclude that Walter J. Hickel is unqualified for confirmation as Secretary of the Interior. To preclude him would be to prejudge him. Under such circumstances, President Nixon is entitled to have the man of his choice. For his sake—and that of the American people—I hope we will not live to regret it.

Mr. STEVENS. Mr. President, will the Senator from Idaho yield?

Mr. CHURCH. I am happy to yield to the Senator from Alaska.

Mr. STEVENS. I want to thank the Senator for his support and wish to tell him that I believe the contribution he made in the hearings was unique, and that the Governor himself has appreciated some of the exchanges he had with the committee.

I think, as time proceeds through the next 4 years, the Senator from Idaho will have a great ally in the new Secretary of the Interior in the fight to preserve the wilderness areas of this country under a system regulated by Congress. That is what we have all fought for over many years with great vigor.

Mr. CHURCH. Mr. President, let me say to the Senator from Alaska that if my apprehension concerning Governor Hickel's actual performance in office is not borne out by subsequent events, I will be the first to say so.

I devoutly hope that he will measure up as Secretary of Interior to the high standards which have been set by Stewart Udall.

Mr. McINTYRE. Mr. President, I oppose the confirmation of the nomination of Gov. Walter J. Hickel as Secretary of the Interior. If the Senate of the United States takes seriously its obligation to advise and consent to Presidential appointments, it must scrutinize such appointments and render a considered judgment based not on press reports or rumors or the emotional atmosphere surrounding this appointment, but on the record Mr. Hickel has made before this body.

Specifically, Mr. Hickel's statements regarding the proposed oil refinery at Machiasport, Maine, have been an unsatisfactory response to the needs and interests of the people of New England. He has made it clear that he firmly supports the present oil import program which, in my judgment, is nothing more than a handout to the oil industry. Mr. Hickel has given only vague assurances that as Secretary of the Interior he would do what he could to see that the fuel needs of the people of New England are met. At the same time, he has opposed the one constructive proposal that would meet those needs.

Mr. Hickel's concept of the public interest seems distorted. The Anchorage Natural Gas Co., of which Mr. Hickel was a part owner, received a 64-percent return on equity, an enormous profit from what is essentially a public utility function, yet Mr. Hickel did not think this unusual or out of keeping with the public interest.

Mr. Hickel was not aware of the fact that his Commissioner of Natural Resources, Thomas Kelly, with jurisdiction over oil leases, held an interest in British American Petroleum Corp. He did not even inquire into the possibility of conflict of interest in such a sensitive post. In the course of the Machiasport proceedings with the Federal Government, this Senator has become very sensitive to the possibilities of conflict of interest. We cannot afford to have a man as Secretary of the Interior who might overlook such possibilities to the detriment of the public interest.

After 5 days of hearings and meetings, the Committee on Interior and Insular Affairs voted that Governor Hickel is qualified for the job of Secretary of the Interior. While I do not question the committee's considered judgment, I still entertain doubts about Governor Hickel's suitability for the post. These doubts center around the potential conflicts of interest that would plague Governor Hickel while in office.

As Governor of the Nation's last frontier, Mr. Hickel took positions on the question of oil imports, conservation of open spaces, and pollution control which suited the needs and aspirations of Alaska. Some of these positions are hostile to the needs of other areas of the country.

I am not satisfied the Governor will be able to overlook his past loyalties and maintain the national outlook that his Cabinet post demands.

Governor Hickel's relations with the oil industry have not been clarified to my satisfaction. As a private land developer and as the Governor of a State anxious for industrial growth, Mr. Hickel took stands on conservation and pollution control that conflict with the needs of an industrial society where open space, clean air, and pure water have become precious commodities.

I must oppose Governor Hickel's nomination because he has not demonstrated to my satisfaction that he, as Secretary of the Interior, will be free from the interests which influenced him in the past.

I imagine that there may well be enough votes in the Senate at this time to approve Governor Hickel's nomination. Nevertheless, I feel it is very important that the Secretary of the Interior-designate realize that his views of national policy, as formed from the viewpoint of the Governor of a single State, will have to undergo substantial modification if he is to represent the national interest.

During the hearings before the Senate Committee on Interior and Insular Affairs, for example, Governor Hickel's introductory statement contained the following comment regarding the oil import program:

> I am aware of no suggestion from responsible sources that the program is not needed to maintain our national security.

Perhaps that quotation simply reflects upon the Governor's general lack of awareness of the issues which he will face in his new job. But I think that the record should be clear that a number of Senators of the United States, whom I believe to be eminently responsible, have suggested that the program is not needed to maintain our national security. At least two members of the Committee on Armed Services have so suggested.

I would think that any Governor of the State of Alaska, aware of the tremendous extent of the oil reserves which have been found in his own State, would suggest that an oil import program is not needed to maintain our national security.

In fact, it seems to me that the principal justification for continuing the oil import program can only be that the American oil industry is so financially shaky that it must be subsidized by the homeowners and industries of the east coast. And yet the annual financial re-

ports of the major oil companies do not support such a conclusion.

That is a primary reason why I shall vote against the confirmation of the nomination of Mr. Hickel tomorrow. I do not believe that the people of the State of New Hampshire should be given a choice between freezing in the winter or subsidizing the oil industry. I believe that the people of my State have a right to expect a Secretary of the Interior to push affirmatively for fuel policies which will give them another alternative in addition to freezing or subsidizing.

As a Senator of the United States, I must be aware of my responsibilities under article II, section 2 of the Constitution, to carefully consider my consent to the nominations of officers of the United States. I have given my careful consideration to this nomination, tempered by my views on the right of a President to have his own choices in the Cabinet. I see my duty as clear; when the time for voting comes, I must vote "no."

Mr. President, there has been widespread fear in northern New England regarding Mr. Hickel's candidacy for the position of Secretary of the Interior; and I ask unanimous consent that the following editorials and comments from newspapers in circulation in New Hampshire be printed in the RECORD:

First, an editorial entitled "Hickel Should Be Rejected," published in the Concord Monitor of January 14, 1969.

Next, a news article entitled "Hickel Choice Unpopular," by Bill Bibber, published in the Boston Herald of January 15, 1969.

An editorial entitled "Hickel: Poor Choice," published in the Boston Globe of recent date.

An editorial entitled "Hickel Seems Far Too Concerned Over Welfare of the Oil Companies," published in the Portsmouth Herald of January 7, 1969.

An editorial entitled "Hickel Has Happy Faculty of Getting All Kinds of People Angry With Him," published in the Portsmouth Herald of January 13, 1969.

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

[From the Concord (N.H.) Monitor, Jan. 14, 1969]

HICKEL SHOULD BE REJECTED

The U.S. Senate opens hearings today on President-elect Nixon's designations for posts in his cabinet.

Most of the men he has proposed should have clear sailing. There has been little criticism of Mr. Nixon's selections, with one exception—former Alaska Gov. Walter J. Hickel as Secretary of the Interior.

Hickel is a genial, ebullient and aggressive 49-year-old self-made millionaire whose views on conservation and his links with oil and gas interests already have raised hackles nationwide.

With the nation's natural resources being depleted at an alarming rate, it is questionable at best whether a man of Hickel's inclinations would serve the public interest.

He is anxious to develop oil and mineral finds in Alaska. He already has suggested opposition to the establishment of a foreign trade zone in Maine so that an oil refinery could be built at Machiasport, which would reduce New England fuel costs.

The nation's muscular oil interests are opposed to establishing the foreign trade zone because it would pave the way for importation of foreign crude oil and bite into lucrative domestic markets. New England consumers pay the highest fuel oil prices in the nation.

Hickel's views on air and water pollution also are suspect from a New England standpoint.

He wants to develop industry first and worry about pollution later. At this stage of Alaska's development, some modified version of this attitude may be all right for the nation's largest state, but it doesn't fit elsewhere.

We are opposed to Hickel's confirmation, even though it seems likely that the prevailing attitude in the Senate is that a new President should have the men he chooses, and take the responsibility for their actions.

But Hickel, nice a fellow as he appears to be, is a throwback to Albert B. Fall, Secretary of the Interior under Warren G. Harding, and central figure in the famed Teapot Dome scandal of the 1920s.

It is exasperating that men of Hickel's giveaway inclinations keep cropping up in American public life. He is oriented to special interests, which means concern for the public good is secondary.

Water and air pollution, and the unbridled dissipation of the nation's resources surely are the most pressing problems of our age, surpassing even the chaos of the cities and the plight of the American Negro in importance in our long-range chances of survival.

This is not a matter of partisan politics, but a question of whether public interests should or will prevail over the interests of a few.

We shudder to think what would happen to the nation's vast oil shale deposits in Colorado, Wyoming and Idaho under Hickel who would have jurisdiction over them. His public expressions of comparative unconcern for conservation suggest he would be inclined to shell out these priceless resources to his pals in the oil and gas industries.

Hearings on Hickel's appointment begin tomorrow. A wire, telephone call or even a letter to Sen. Cotton or Sen. McIntyre—or any New England senator—would be in keeping with New England interests.

[From the Boston Herald, Jan. 15, 1969]

HICKEL CHOICE UNPOPULAR

(By Bill Bibber)

The heavy guns of outspoken conservationists will be pointed directly at Gov. Walter J. Hickel of Alaska today when the U.S. Senate starts meeting to discuss confirming his appointment as Secretary of the Interior.

Hickel has become something of a strange quantity because of inappropriate statements about preservation of wild lands.

On Dec. 18, he said he opposed putting Federal lands "under lock and key" to preserve them and said no more land should be allocated for parks and recreation in the East. The latter statement hasn't endeared him to conservationists hereabouts where land is in short supply and the population is growing at a phenomenal rate.

Some Massachusetts conservation organizations especially opposed to Hickel's appointment aren't coming out and saying so for the record but it's understandable. A couple of years ago, the Sierra Club's fight in opposing dams in the Grand Canyon was climaxed when the Internal Revenue Service wiped its name off the list of tax-free organizations.

Chances are Hickel eventually will be confirmed by the Senate but he should be given the message that conservation of resources is one of the most pressing issues in the nation today.

Actually, Hickel could be a good Interior Secretary if he can orient himself to the nation rather than to Alaska alone. His native state consists largely of undeveloped federal lands and the population is about 300,000. The density is .39 persons per square mile which indicates man has yet to affect the environment to any great degree.

President-elect Nixon could do the nation a service by withdrawing Hickel's name and continuing Stewart Udall in the sensitive job. Conservation of natural resources is too important to turn their administration over to a man who has said if water standards are set too high they may slow down the development of industry.

[From the Boston (Mass.) Globe]

HICKEL: POOR CHOICE

President-elect Nixon's choice of Gov. Walter J. Hickel of Alaska as Secretary of the Interior easily ranks as his worst cabinet selection. It could cause him considerable embarrassment if the appointment is confirmed by the Senate.

Friendly to the large oil and gas companies and indifferent to the problems of the Eskimos and Indians in his state, Gov. Hickel is no ardent conservationist.

Sen. George McGovern (D-So. Dakota), a member of the Senate Interior Committee which will consider Hickel's nomination, has stated he may have trouble winning Senate confirmation. Hearings are expected to begin sometime before Mr. Nixon's inauguration, and a vote of the full Senate is anticipated in late January or early February.

Senator McGovern objects to Hickel's views on conservation, while Sen. William Proxmire (D-Wis.) is more specifically disturbed by reports that the Alaska governor opposes "a policy of conservation for conservation's sake."

Hickel is likely to be intensely questioned not only about his views on conservation, but also on oil import quotas, development of publicly owned oil shale lands, and his connections with petroleum and gas interests.

For example, Gov. Hickel is known to oppose the Machiasport, Me., oil refinery project, an undertaking that would result in lower prices for New England fuel users. It is difficult to know how he was able to form an opinion on the merits of the proposal without being privy to all the facts.

His testimony last July before a subcommittee of the House Committee on Interior and Insular Affairs suggests that he is less than sympathetic to the need for wildlife preserves when they conflict with commercial concerns. Testifying on behalf of legislation to withdraw land from a wildlife preserve used as moose grazing land, he said that if the lower levels were taken for private use, the moose could go live on the slopes of the area!

Then there are reports that the governor plans to appoint as his assistant for land management Thomas E. Kelley, presently the Alaskan Commissioner of Natural Resources. Mr. Kelley is the son-in-law of Michael T. Halbouty, head of the Halbouty Alaska Oil Co.

As chief of the Interior Department's Bureau of Land Management, Mr. Kelley would have authority over the leasing of Federally owned lands.

The case against Gov. Hickel is further strengthened by reports that he torpedoed an Eskimo fishing cooperative which would have enabled the members to sell their salmon catch to a Japanese combine at much higher prices than they were receiving from Seattle, Wash., buyers.

The governor reportedly put strong pressure on the Japanese companies not to do business with the Eskimos. The result: the Eskimos are being forced to return to Federal and state relief rolls to survive.

Gov. Hickel's concern about the vast amount of mineral-rich land in Alaska still owned by the Federal government—97 percent of the state's 375-million acres—is certain to interest the Senate Interior Committee.

Stewart Udall, the present interior secretary, has ordered a freeze on the disposition of the land until the century-old dispute over the rights of the native Eskimos, Indians and Aleuts is resolved by Congress.

Gov. Hickel has said of the freeze: "What Udall can do by executive order, I can undo."

One estimate of the Alaskan governor's probable performance as Interior Secretary was proffered recently by a former legislator in that state: "Wally Hickel will never be an Albert Fall"—an appraisal which can hardly be viewed as ecstatic. Mr. Fall, Secretary of the Interior during the Harding administration, was imprisoned for his role in the Teapot Dome oil reserve scandal.

The Senate should vote against Mr. Hickel's confirmation.

[From the Portsmouth (N.H.) Herald, Jan. 7, 1969]

HICKEL SEEMS FAR TOO CONCERNED OVER WELFARE OF THE OIL COMPANIES

For a man who was really an unknown to the people of all states but Alaska, Walter Hickel, President-elect Nixon's choice for secretary of Interior, has attracted a lot of flak.

Not even banker David Kennedy's foot-in-mouth remark about the price of gold has lingered so long in the public mind as Hickel's apparent desire to exploit our national resources rather than conserve.

Hickel didn't get off to a good start with New Englanders anyway when his adamant opposition to the development of Machiasport as foreign trade zone became known.

New England has long realized that the oil it burns in these bitter winter months costs far too much money. When someone comes along with a proposal that might save a little on the heating bills, we're all for it.

That one of world's largest oil fields has been discovered under the tundra of Alaska no doubt has a lot of bearing on Hickel's concern that the big American oil companies keep their markets.

If he were still governor of Alaska, this would be only natural, but he hasn't yet comprehended that the secretary of Interior is supposed to guard the welfare of all 50 states.

It is hoped that Maine's Sen. Edmund S. Muskie will question Hickel closely when he comes before a Senate committee for hearing.

Muskie's national prestige, since the presidential campaigns, is such that his concern over Hickel's philosophy may alert the public.

The kindest thing that can be said about Hickel is that he has demonstrated, so far, a remarkable provincialism.

[From the Portsmouth (N.H.) Herald, Jan. 13, 1969]

HICKEL HAS HAPPY FACULTY OF GETTING ALL KINDS OF PEOPLE ANGRY WITH HIM

Few, if any, Cabinet nominees since "Engine Charlie" Wilson have fomented a blacker thunderstorm of controversy than ex-Gov. Walter Hickel of Alaska, President-elect Nixon's choice for secretary of Interior.

Hickel's first bolt of indiscretion struck at New England's hope that Foreign Trade Zone might be created at the little Maine seaport town of Machiasport. Approval of the petition means that an aggressive young oil company will build a refinery there, ultimately resulting in lower heating costs for sub-Arctic New England.

Maine's plea ran into heavy opposition from American oil companies well entrenched behind the barrier of oil import quotas. And Hickel quickly let it be known that Machiasport would get no more sympathy when he was in Interior than it has under the present administration.

New England's anger would easily have passed unnoticed because of the region's relatively small size, but Hickel unleashed devastating bolt of chain lightning at conservation in general with the remark:

"I think we have had a policy of conservation for conservation's sake. . . ."

He also observed about water pollution: "If you set water standards so high, you might hinder industrial development. . . ."

Coupled with other remarks in a similar vein, Hickel has created strong doubt in the public's mind that he is the man who should be entrusted with care of the nation's great natural resources.

So strong is this feeling in opposition to his confirmation that mail has been pouring into Senate offices by the bagful.

Publicly the President-elect hasn't reacted to the mounting criticism of his nominee, but Hickel's efforts to stave off a grilling by the Senate committee indicate the Nixon people are disturbed.

How successful Hickel has been in buttonholing senators and telling them that he really isn't such a bad fellow will be seen when the vote is taken.

The chances are that he will be confirmed because the Senate usually goes along with a President on his choices for his official family.

However, if Hickel does win confirmation, he can be sure of one thing, a lot of people are going to be watching him.

Mr. STEVENS. Mr. President, I had hoped that the first time I would be able to speak on the floor of this body would be to revere the memory of my good friend, the late Senator E. L. "Bob" Bartlett, whose place I have taken here. That is not the opportunity that is afforded to me today. Therefore, I am going to be short, as I know new Members should be, in my comments concerning some of the items raised by Members of this body regarding the qualifications of our Governor to serve as Secretary of the Interior.

One of the items that has been discussed at length by those who oppose Governor Hickel's confirmation is the subject of the Kuskokwim incident in Alaska. Governor Hickel, acting at the request of the Democratic State senator from that district, refused to assent to an agreement whereby a Japanese freezer ship would purchase fish from a cooperative located in the Kuskokwim area. This followed the traditional pattern of Alaskan feeling concerning purchase of our fish by the Japanese interests when they had not been processed on shore. This is called primary manufacturing.

I have here a letter dated April 26, 1960, from former Governor William A. Egan to the then Special Assistant to the Under Secretary for Fisheries and Wildlife of the Department of State. In this letter the Governor stated:

Senator Bartlett has informed me of his stand opposing the proposal of a Mr. Herb Borgens to make arrangements with the Taito Corporation of Japan whereby a Japanese reefer would be sent to Bristol Bay, there to operate in conjunction with Japanese collection boats to pick up red salmon which would, presumably, be purchased from American citizens. The ships would be operated by Japanese citizens.

I join Senator Bartlett in most vigorously opposing this proposal which would have the immediate effect of denying American citizens employment in shore-based canneries, upon which most of the residents of that area are dependent for a livelihood.

I do not wish to read the whole text of this letter. I ask unanimous consent that the letter, and the reply, from which I will quote in just a moment, be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER (Mr. SYMINGTON in the chair). Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. Mr. President, the State Department replied on May 2 and stated:

For the purposes of the North Pacific Fisheries Convention, the term "fishing vessel" is defined as "any vessel engaged in catching fish or processing or transporting fish loaded on the high seas, or any vessel outfitted for such activities". Thus, to use such Japanese vessels, manned by Japanese nationals, for loading, processing, possessing, or transporting salmon in the Bristol Bay area would involve a violation by Japan of its treaty obligations.

I may add that the Department has not received any communication whatsoever from the Japanese Government regarding this letter sent by the Foreign Affairs Officer, Office of the Special Assistant for Fisheries and Wildlife to the Under Secretary in the Department of State.

I understand that the position of the Department of State has subsequently changed and it now feels that a Japanese vessel coming into the waters of the State of Alaska to purchase salmon in the round would not violate its treaty obligations on the part of Japan.

However, this is the position that Alaskans have adhered to, and this is the position that the Governor of Alaska, Walter J. Hickel, adhered to in supporting the people of the area known as the Bristol Bay, to prevent the Japanese again, in 1968, from sending in a Japanese refrigerator ship to purchase fish from the cooperative, unless that fish had been subject to primary processing on shore in Alaska.

I do believe that there is area for difference of opinion here, but it is not a difference of principle as far as Alaskans are concerned. Our principle is and will remain, I hope, that we favor always onshore activities in connection with our fishing operations, so that our people, our native people who are not fishermen, but are employed in the canneries, will continue to receive the employment they have had over the years.

Several other matters have come up, Mr. President. One of them is an allegation that Walter J. Hickel, by virtue of the fact that there was an oil and gas lease that was listed in the Bureau of Land Management records as "Walter J. Hickel in care of Colorado Oil & Gas Corp., Denver Club Building, Denver, Colo.," had some close connection with Colorado Oil & Gas.

As a practical matter, the lease that has been mentioned in this connection was 640 acres that was excluded from a unit area in Alaska, and that means just this: When that unit was formed, these lands were not considered important enough to include in the unit, and the lands were excluded and generally nonunitized lands; and therefore they were

segregated out of that portion of the lease which was in fact subject to the unit.

I have before me the record, which is called the serial sheet, of the Bureau of Land Management, for the case known as Anchorage 0585930. The reference in the newspaper, in a column in the Washington Post, is erroneous, because this is the proper number. It shows that on February 1, 1963, there was segregated out of the unitized lease which was known as Anchorage 025122, effected on June 12, 1962, these 640 acres.

At the time that land was segregated out of the other lease, it was the subject of prior assignment to Colorado Oil & Gas, and this is an action of the Bureau of Land Management—not an action of Walter J. Hickel—to segregate out these lands, and it even notes that the effective date of the basic lease was April 1, 1956.

But I have been extremely disturbed, Mr. President, at the reference and the association that has been drawn by some people between our Governor and the oil and gas industry out of the fact that he has in fact made application for and received two leases. In the whole history of the oil industry in Alaska, he has had two leases. All that shows is that he was not very successful in obtaining oil and gas leases really, because many people have more leases than that without having any connection whatsoever with the oil and gas industry.

I believe that anyone who asserts that these leases which expired 3 years before he even became an active candidate for Governor, disqualify him to hold the position of Secretary of the Interior, is really stretching the facts.

I now have some comments, Mr. President, about the conservation record of Alaska's Governor, Walter J. Hickel.

In the 2 years he has been Governor, he has had a very broad and sound program for conservation development. We have only 275,000 residents in our State, though it represents almost one-fifth of the land mass of the whole United States. Governor Hickel's progressive record in economic development has been balanced with the sound, long-range objective of maintaining the ecology and wildlife as well as the cultural heritage of the native inhabitants of our State.

In our 49th State, he has had the cooperation of civic groups, the Alaska Department of Fish and Game, and Federal agencies including the Bureau of Sport Fisheries and Wildlife, the Bureau of Land Management, and the Forest Service.

Let me state an example. When Governor Hickel took office, Alaska's hair seals were being slaughtered and threatened with extermination. A $3 bounty had been placed on hair seals many years ago. It was used as a supplement to the income of natives who killed the seals for food. It also served as an incentive to decrease the number of seals, which competed with fishermen and damaged fishing nets.

In the early 1960's hair seal coats became popular in Europe. The price of pelts began to rise. Consequently, professional hunters moved in, and in 1959 and 1960, a total of 14,600 hair seals were killed; this jumped to 26,000 in 1964 and 1965, and then to 62,599 in 1965 and 1966.

Concerned about the possible extinction of the hair seal, one of our finest fur-bearing animals, one of his first acts as Governor was to propose legislation to remove the State bounty. His proposal became law in April 1967, and eliminated the bounty on these animals south of Bristol Bay. That lies just north of the Alaskan Peninsula, Mr. President, and is an area hunted by professionals.

At the same time, his policies permitted the bounty to continue to be paid in the far north, where there were native people who maintained themselves on a small source of income, and the seals were also considered predators in that area.

Similarly, the Governor supported legislation to allow the State Board of Fish and Game to designate game management units, whereby bounties could be paid only to persons living within the unit. The bill was enacted and became law in 1968, and eliminated another bounty on an animal population that was rapidly being depleted, the wolverine. The fur from this vanishing animal is sought for parkas, because it has the unique ability to prevent the condensation of moisture around the parka's face piece.

Other accomplishments, I know, will be mentioned by my colleague from Wyoming, but let me just list a few I do not think he has in his listing:

Governor Hickel proposed and secured the enactment of a water pollution law. It fines polluters of our waters up to $25,000. He has, in addition to that, taken the only action taken by any chief executive in this country when he seized the *Rebbeca* and put it under State law, and at the same time filed an action against the owners of the *Rebbeca* in Federal court. This is an action to secure a fine rather than the penalty involved in State law that I mentioned—a fine for the actual pollution of our Cook Inlet.

King salmon runs in my area of Alaska, the Anchorage vicinity, have been restored as a result of closer cooperation between the Fish and Game Department and the U.S. Army at Fort Richardson. These new measures have replenished rivers and streams with fish in Alaska, and I might mention, even the State of Michigan has been benefited by this new program, which was stimulated by our Governor.

Last year alone, we exported 70,000 silver salmon eggs to Michigan to help stock the State's streams with fresh water fish, and help restore the salmon runs in the State of Michigan. The Michigan Legislature, incidentally, unanimously passed a resolution of tribute to our Governor and the State of Alaska, for this gesture on our part to help them restore their fisheries.

Sea otters, which were nearly extinct in 1911, have recently grown in numbers in Alaska under careful State protection, and are now being reestablished throughout the State, and soon we will have a flourishing sea otter industry similar to what we had at the turn of the century.

Governor Hickel also took action against those who were using lethal poisons to help control predators.

Mr. HART. Mr. President, will the Senator yield to me briefly?

Mr. STEVENS. I yield.

Mr. HART. My comment may be inserted, if there is no objection, immediately following the Senator's remarks.

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

Mr. HART. Our able friend from Alaska is correct in the statement he has just made about the thoughtful gesture of the Governor of his State to the State of Michigan. I wish to assure him that I shall vote favorably on the nomination of Governor Hickel, expressing some reservations nonetheless.

Clearly, his eloquence and the evidence that he cites cannot fail to have some influence on those of us familiar with that evidence, and I am very grateful that he has put it in the RECORD.

Mr. STEVENS. I thank the Senator from Michigan.

Mr. President, Governor Hickel has worked for a law to prevent lethal poisons, which are used to help control predators, from being used frequently to kill wild animals which the State seeks to protect, without the prior consent of the Alaska Board of Fish and Game.

In addition, Governor Hickel received national notoriety because he vetoed a bill which would have permitted the controlled hunting of surplus musk oxen, an animal which was nearly extinct but which has had a comeback under State protection. Instead, the Governor instigated transplants to various appropriate habitats so that additional herds could be developed throughout the State. We have great hope that these herds will become one of the new industries of the State of Alaska.

Areas have been bought and developed under Governor Hickel to provide wildlife park areas and recreational facilities, notwithstanding the extensive program being conducted in our State by the Federal Government.

A comprehensive inventory and preservation plan was developed under Governor Hickel to protect the State's unique anthropological artifacts—totem poles in southeastern Alaska.

I have listened with great interest to the remarks of some Senators who expressed concern about our Governor serving in the position to which he has been nominated. As was pointed out to me very carefully by one Senator, I was appointed to this position by Governor Hickel. As a matter of fact, I have at times quipped that it required only one vote for me to be elected to the Senate.

I do believe, however, that his appointment of me to this body is something that demonstrates, so far as I am concerned, Governor Hickel's qualifications to serve as Secretary of the Interior. [Laughter.]

In fact, I had been in the Department of the Interior for years, and the Governor appointed me after he knew that he was to be the Secretary of the Interior. I believe, seriously, that one of the reasons he did so was that he wanted to have a Senator take the position of our

late Senator Bob Bartlett, who had been involved in some of the statehood battles and who knew some of the background of these matters in Washington.

I am indebted to our Governor, but I am not obligated to our Governor. I defend him not as his appointee, but as an Alaskan who knows Walter J. Hickel, who knows his ability, his integrity, and his dedication to public service. I commend him to all Senators as a man who will become a great Secretary of the Interior and who will guard his Nation's resources well.

EXHIBIT 1

APRIL 26, 1960.

Mr. WILLIAM C. HERRINGTON,
Special Assistant to the Under Secretary for Fisheries and Wildlife, Department of State, Washington, D.C.

DEAR MR. HERRINGTON: Senator Bartlett has informed me of his stand opposing the proposal of a Mr. Herb Borgens to make arrangements with the Taito Corporation of Japan whereby a Japanese reefer would be sent to Bristol Bay, there to operate in conjunction with Japanese collection boats to pick up red salmon which would, presumably, be purchased from American citizens. The ships would be operated by Japanese citizens.

I join Senator Bartlett in most vigorously opposing this proposal which would have the immediate effect of denying American citizens employment in shore-based canneries, upon which most of the residents of that area are dependent for a livelihood. Alaskans have at all times adopted the policy of opposing the use of refrigerator ships in this business, regardless of the flag under which they might be documented.

A second and more serious result of this proposal, if put into effect, would be to jeopardize the American stand on the policy of abstention with relation to the North Pacific Fisheries Convention. To approve of the operation of foreign freezer ships to purchase fish caught by our citizens could very well result in a Japanese assertion that the fisheries of Bristol Bay were not being utilized to the fullest by our nation. Thereby giving the Japanese grounds for further extension of their operations in that area. As we well know, the economy of the Bristol Bay region has for several years past been most adversely affected by overfishing by the high seas fishery operations of foreign nations.

I sincerely hope that the Department of State's attitude will be one of opposition to the Japanese proposal.

Sincerely,

WILLIAM A. EGAN,
Governor.

MAY 2, 1960.

HON. WILLIAM A. EGAN,
Governor of Alaska,
Juneau.

DEAR GOVERNOR EGAN: In Mr. Herrington's temporary absence, I wish to thank you for your letter of April 26, 1960 regarding a proposal to send a Japanese refrigerator ship and other Japanese vessels to the Bristol Bay area to collect red salmon from American fishermen.

Aside from the considerations which you mentioned in your letter, implementation of such a project would apparently be in direct contravention of the terms of the International Convention for the High Seas Fisheries of the North Pacific Ocean, 1952. Article IX (1) (a) of the Convention states:

"With regard to a stock of fish from the exploitation of which any Contracting Party has agreed to abstain, the nationals and fishing vessels of such Contracting Party are prohibited from engaging in the exploitation of such stock or fish in waters specified in the Annex, and from landing, processing, possessing, or transporting such fish in such waters."

As you know, Bristol Bay is within the area, described in the Annex to the Convention, in which Japan agreed to abstain from fishing salmon.

For the purposes of the North Pacific Fisheries Convention, the term "fishing vessel" is defined as "any vessel engaged in catching fish or processing or transporting fish loaded on the high seas, or any vessel outfitted for such activities". Thus, to use such Japanese vessels, manned by Japanese nationals, for loading, processing, possessing, or transporting salmon in the Bristol Bay area would involve a violation by Japan of its treaty obligations. I might add that the Department has not received any communication whatever from the Japanese Government regarding this project.

Sincerely yours,

STUART BLOW,
Foreign Affairs Officer, Office of the Special Assistant for Fisheries and Wildlife to the Under Secretary.

Mr. HANSEN. Mr. President, I am happy to join the distinguished senior Senator from the great State of Alaska and to give further endorsement to the nomination of Gov. Walter J. Hickel to be Secretary of the Interior.

It was said earlier today by the distinguished Senator from Maine (Mr. MUSKIE) that the Secretary of the Interior should be a conservationist. I have no argument with that statement; as a matter of fact, I agree with it. I submit that Walter J. Hickel has the endorsement of some very distinguished conservationists in this country. I should like to read into the RECORD a telegram I have received from James B. White, Wyoming Game and Fish Commissioner and president of the Western Association of State Game and Fish Commissioners. Mr. White says:

CHEYENNE, WYO.,
January 13, 1969.

HON. CLIFFORD P. HANSEN,
U.S. Senator,
Washington, D.C.:

As representative of the Wyoming Game and Fish Commission and president of the Western Association of Game and Fish Commissioners of the 13 Western States I support the confirmation and appointment of Gov. Walter J. Hickel, Alaska, to the Cabinet Post of the Secretary of the Interior. I have very diligently checked Governor Hickel's conservation record and I find it to be sound and in the best interest of conservation. A letter will follow setting forth his recorded activities which dictate my support on his confirmation. (Original to Hon. GALE MCGEE and CLIFFORD HANSEN.)

JAMES B. WHITE,
Wyoming Game and Fish Commissioner and President, Western Association.

Also, I have received the following letter dated January 14, 1969, from James B. White, the letter to which he referred in his telegram:

STATE OF WYOMING GAME
AND FISH COMMISSION,
Cheyenne, January 14, 1969.

HON. CLIFFORD P. HANSEN,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CLIFF: As per my telegram of January 13th, the following are conservation measures Governor Hickel has initiated or supported:

1. In the face of heavy opposition from hunting interests, Governor Hickel vetoed a bill which would have legalized the hunting of musk oxen. His stand won approval from conservationists across the nation and in England and Scandinavia.

2. Governor Hickel launched a study effort aimed at preserving totem poles in their historic locations throughout southeast Alaska, telling Alaska's Art Council, "It is time for Alaskans to buckle down and preserve what remains in their own state of the magnificent culture of our Southeastern Coastal Indians."

3. Governor Hickel directed the state to file a $200,000 damage suit against the owners of the 735 foot oil tanker Rebecca following the arrest of the vessel on a charge of illegally discharging oil laden ballast into the waters of Cook Inlet.

4. On April 21, 1967, Governor Hickel approved the state's first bill prohibiting pollution of the state's waters. (Ch. 109, SLA 1968). He had pushed hard for passage of such a bill following the arrest of the Rebecca.

5. Governor Hickel signed into law a bill outlawing use of poison in the control of predators unless specific prior consent has been given by the Alaska Board of Fish and Game.

6. Governor Hickel initiated a move for and approved the appropriation of $56,250 from the general fund for purchase of 3,000 acres near Fairbanks for conservation purposes. The property, known as Creamer's Dairy, has been since time immemorial the nesting grounds of a great variety of wildfowl.

7. Governor Hickel backed the transfer of 70,000 silver salmon eggs to the Michigan Department of Conservation resulting in the enormously successful stocking of Lake Michigan with that fighting game fish species.

8. Governor Hickel approved for federal funding the Sandy Beach recreation project on Douglas Island involving grading, drainage, installation of backstop fences, and dugouts, paving of tennis and basketball courts, and picnic and sanitation facilities and acquisition of land.

9. Governor Hickel approved a joint plan involving the Departments of Natural Resources and Health and Welfare for use of inmate crews from the Youth and Adult Authority in restoration and maintenance of state campgrounds, wayside parks and recreational areas.

10. Governor Hickel increased the budget of the Division of Game from $1,060,000 in 1966–67 to $1,797,000 in 1968–69. He increased the budget of the Division of Protection from $990,000 in 1966–67 to $1,329,000 in 1968–69. And he raised the budget of the Sport Fish Division from $578,000 in 1966–67 to $807,000 in 1968–69.

11. At the request of Governor Hickel, General Charles A. Lindberg addressed the fifth state legislature in a special joint session on the subject of conservation. It was the first public speech Lindbergh had made in 10 years.

12. The Alaska Fish and Game Board had been traditionally a 10-man group composed of commercial fishing interests. Governor Hickel changed the composition of the board to five commercial related members and five conservationists-sports related members.

13. Governor Hickel approved plans submitted by the Alaska Department of Fish and Game for replanting sea otter throughout their former range in southeast Alaska. That program was successfully completed this summer.

14. Under Governor Hickel's influence, the Alaska Department of Fish and Game has maintained exemplary relations with federal wildlife management agencies in regards to National Wildlife Refuges and National Wildlife Ranges in Alaska. In addition the Department of Fish and Game has recorded excellent cooperation between State and Federal governments regarding Alaska's programs with the U.S. Fish and Wildlife in the area of the Fisheries Restoration Act.

15. Under Governor Hickel's leadership, the Alaska Department of Fish and Game undertook a joint study with the Bureau of Sport Fisheries and Wildlife on future management and conservation of our game animals

on the Kenai National Moose Range. At Governor Hickel's direction, the Department of Fish and Game assisted the Bureau of Land Management in the classification of certain lands in the public domain for multiple use in an effort to establish programs and procedures for wise planning and use of public lands.

16. At Governor Hickel's direction, the Department of Fish and Game and the Department of Natural Resources agreed that all land disposal actions of the State must contain a wildlife stipulation designed to provide for multiple use of state controlled lands.

17. At Governor Hickel's direction, the Department of Fish and Game extended full cooperation to the Bureau of Sport Fisheries and Wildlife to facilitate the rapid completion of the Fire Lake Hatchery expansion project.

18. The Division of Game of the Department of Fish and Game was directed by Governor Hickel to offer the Bureau of Land Management, the Forest Service, the U.S. Bureau of Sports Fisheries and Wildlife, and the State Department of Natural Resources and Health and Welfare full cooperation in modifying existing agreements for land classification.

19. Governor Hickel directed the Department of Fish and Game to work jointly with the Bureau of Commercial Fisheries in the evaluation of salmon stocks in Cook Inlet.

20. During Governor Hickel's term, the state has hired an assistant recreation planner to gather additional field data and to work with outdoor recreation consultants on various elements of recreation planning. The Parks and Recreation section of the Division of Lands has been directed to completely update its inventory of all outdoor facilities, areas and programs including existing and potential historic sites and landmarks.

21. At Governor Hickel's direction, the Division of Waters and Harbors of the Department of Natural Resources has initiated a recreation capital improvement program aimed at meeting the demand for small boat facilities. The Division has been directed to cooperate fully with the federal agency administering the Federal Land and Water Conservation Fund. Under this program, 14 projects were completed or placed under construction in 1967–68.

22. In the past year, at Governor Hickel's direction, the Department of Highways has contracted for six roadside rest areas and programmed preliminary engineering for 13 others.

23. The Division of Game of the Department of Fish and Game, under Governor Hickel's guidance, has conducted distribution and abundance studies of key game species in the Iliamna Unit. It has begun an effort to catalog all existing trails off the present highway system. It has advised the Alaska State Housing Authority in developing land use plans for the Kenai Borough and the Matanuska-Susitna Borough. It has begun preliminary work toward justifying classification of the Alaska Peninsula by the Bureau of Land Management. And it has met with Forest Service Rangers from throughout Alaska to discuss land use planning and recreation in the 49th State.

24. The Alaska Division of Lands, Park and Recreation Service was directed by Governor Hickel to work with the consulting firm of Cresap, McCormick and Paget to complete a comprehensive outdoor recreation survey by July 1969.

25. Governor Hickel has approved the authority of the Parks and Recreation Division of the Department of Natural Resources to designate and preserve sites with historical significance.

26. Under Governor Hickel's direction, the Parks and Recreation Division is involved in 15 acquisition and development projects funded by grants-in-aid programs.

27. Governor Hickel supported legislation and signed the bill for setting aside the McNeil River as a brown bear sanctuary in perpetuity.

28. Governor Hickel directed the Board of Fish and Game to explore various potential locations for development of a wildlife sanctuary so those visiting Alaska could view wildlife in its natural habitat.

29. At Governor Hickel's direction and under his leadership the first attempts were made to limit the amount of commercial fishing gear that could be used in Alaskan waters.

30. The Natural Resources section of the Republican Platform Committee was headed by Governor Hickel. That section contributed the following pledge to the platform adopted at Miami Beach:

"An expanding population and increasing material wealth require new public concern for the quality of our environment. Our nation must pursue its activities in harmony with the environment. As we develop our natural resources we must be mindful of our priceless heritage of natural beauty".

Elsewhere in the Natural Resources section, the platform document says:

"Additionally, we will work in cooperation with cities and states in acquiring and developing green space—convenient outdoor recreation and conservation areas. We support the creation of additional national parks, wilderness areas, monuments, and outdoor recreation areas at appropriate sites, as well as their continuing improvement, to make them of maximum utility and enjoyment to the public".

31. The Alaska Fish and Game Board, appointed by Governor Hickel, recently eliminated bounty on wolverines and coyotes throughout Alaska and on wolves in many areas of Alaska.

32. Through legislative action under Governor Hickel's direction, the 14,000 acre Chena River Recreation Area was established near Fairbanks.

33. The Department of Natural Resources Capital Improvement budget increased from $933,000 for 1966–67 to $1,235,000 in 1968–69. This included the first appropriation for Historic Preservation activities.

34. The Alaska Outdoor Recreation Council was reorganized to provide for more participation from the private sector and the public.

Respectfully yours,

JAMES B. WHITE,
State Game and Fish Commissioner.

That concludes the letter of Commissioner James B. White.

Mr. President, I yield the floor.

Mr. ALLOTT. Mr. President, I should like to ask the Senator a question.

The Senator from Alaska has enumerated a long list of items relating to the Governor's conservation practices—actually, legislation and actions he has taken with respect to conservation in Alaska. In going through these, I find that they involved the saving of the musk oxen; the saving of the culture of the southeastern coastal Indians; the institution of a damage suit against a shipping line that had polluted the waters of Cook Inlet; the approval of the State's first bill on water pollution—which, incidentally, has now been approved by the Federal Government; the law outlawing the use of poison in the control of predators to save the game of Alaska; an appropriation for 3,000 acres near Fairbanks for conservation purposes, which has been a wildlife refuge for a long time; the transfer of salmon eggs to the State of Michigan; a joint plan involving the departments of natural resources and health and welfare for use of inmate crews from the youth and adult authority in restoration and maintenance of State campgrounds, wayside parks, and recreation areas; the securing of Federal funding for the Sandy Beach recreation project on Douglas Island; increasing the budgets of the division of game and the division of protection and the division of sport fish.

I find, also, that his reputation and his actions up there were of such nature that Col. Charles A. Lindbergh addressed the fifth State legislature and paid him a good deal of credit at that time. In fact, it was the first public speech Lindbergh had made in 10 years, and he did this because he, himself, is a very strong conservationist.

Then I go down the list and I see many other things: The splitting of the fish and game board into two groups, so that not only the commercial fishers were represented, as they had been before, but now the conservation sports group also were represented; the replanting of the sea otters; the fact that all land disposals must contain a wildlife stipulation; the completion of the Fire Lake Hatchery expansion project; the evaluation of salmon stocks in Cook Inlet; the establishment of recreation for small boat facilities, roadside rest areas, outdoor recreation programs.

He approved the authority of the parks and recreation division to preserve sites with historical significance. He also supported legislation and signed the bill to set aside McNeil River as a brown bear sanctuary.

I could go on to other items. One of them was the first attempt, under his leadership, to limit the amount of commercial fishing gear that could be used in Alaskan waters. Others are the wolverine matter to which the Senator has referred, and the historic preservation activities.

I have not read all the items to which the Senator referred, but I believe it would be pretty hard and it would press any Governor of any State to show such an outstanding record in 2 years of conservation of natural resources, preservation of historic sites, preservation of native culture, preservation of game and fish, preservation of waters from a pollution standpoint—and I could go on into several others items.

Does the Senator know of any record which in 2 years could surpass the great record that this Governor of Alaska has made?

Mr. STEVENS. I can respond to the Senator only by telling him that I know of no one who has amassed that record in 2 years, in dealing with a new State with such developing problems, with an area one-fifth the size of the United States, who has maintained the State on its course of development, and in the same time has helped us to preserve our heritage and the wildlife habitat for the entire Nation.

I invite the Senator's attention to the fact that we Alaskans, as taxpayers and as individuals, are shouldering a great deal more of the burden of preserving wildlife habitat than anywhere else in

the country. Many of these flyways originate in Alaska, and we are aware of this and want to preserve it.

I believe Governor Hickel has done an outstanding job in his endeavor to protect the natural heritage and the natural resources of Alaska.

I would say to the Senator, in all candor, that those who oppose the confirmation of Walter J. Hickel are not conservationists and are not people who are really interested in preserving our heritage for the use of all Alaskans and for all the other citizens of the United States, but they are people who want to set aside vast areas in some conquest of paper battles.

I believe this is one of the things that led the former President, in the waning hours of his administration, to refuse to sign an order setting aside two places in Alaska as national monuments before Congress had an opportunity to look into the matter and before those of us who represent that State had an opportunity to find out the impact of the proposed orders on the people, the native people, who live in those remote areas.

I have applauded former President Johnson's actions. I objected to the withdrawal before Secretary Udall when he briefed us. I believe that that action of the former President in and of itself demonstrates the battle we have had here.

The people who oppose this nomination are preservationists, not conservationists, and there is a great distinction in my mind; and I know the Senator has a great many thoughts on that.

We in Alaska have long memories, and we remember our friends from statehood days, and the battles on the floor of this body; and we also remember those who are assisting us in this fight. I thank the Senator for his help.

Mr. ALLOTT. I thank the Senator.

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

Mr. STEVENS. I yield the floor, Mr. President.

Mr. HANSEN. Mr. President, I have sat through the hearings before the Committee on Interior and Insular Affairs in connection with the nomination of Governor Hickel. I have listened closely to the questions asked of him by various members of the committee, including the distinguished Senator from Maine. I have inferred—I think not unfairly—that there is some feeling, some implication, that Governor Hickel might not be able to act objectively in the matter of the suspension of the import oil quota program insofar as an extra allotment for the Machiasport refinery proposal is concerned.

I believe it can be fairly said that throughout this debate the position has been taken by New England generally that they have been at quite a disadvantage compared with the remainder of the country, with the intimation being that their prices have been high or higher than the rest of the country. Because of that general trend, let me provide for the RECORD, if I may, what the facts are.

Mr. President, for November 1968, gasoline prices—and these are retail prices exclusive of tax—for Portland, Maine, Boston, Mass., and Providence, R.I., the average price was 23.4 cents per gallon. For New York, Newark, and Philadelphia, the average price was 24.1 cents per gallon. For Baltimore, Washington, and Atlanta the average price was 23.5 cents per gallon. For Indianapolis, Chicago, and Detroit, the average price was 24.4 cents per gallon. Those are the average prices of gasoline for the month of November 1968.

The Bureau of Labor Standards and Statistics advises that for fuel oil there have been no price increases since September 1968.

The prices reflecting the situation as of September 1968 are as follows: For Boston, the average price of fuel oil was 17.76 cents per gallon. For Baltimore, Buffalo, New York, Philadelphia, and Washington, D.C., the average price was 17.71 cents per gallon. The national average at the same time was 17.56 cents per gallon.

I am certain that Members of the Senate will be interested in seeing what the facts are, and that they certainly will take cognizance of these prices as compared with others throughout significant areas in the country as they make their evaluations of the debate we have had here today. In addition, these facts should be kept in mind as we judge Mr. Hickel's ability, fairness, and impartiality in interpreting his new duties in the administration of the import oil program.

Mr. BROOKE. Mr. President, we are all aware that the nomination before us has presented the most controversial questions of any Cabinet appointment proposed by the President. The Members of this body and the people they represent have become acutely concerned about issues of environmental quality and conservation of natural resources, the issues which constitute the central responsibilities of the Department of Interior. The initial reports of Gov. Walter J. Hickel's views and record on these vital matters served only to arouse the great alarm which has been expressed so vigorously in the weeks since President Nixon announced his choices for the Cabinet. From my own State alone these reports have triggered a flood of several thousand communications in opposition to his confirmation as Secretary of Interior. I must add that this outpouring of opposition was clearly not the kind of organized campaign we often see here in Congress; the letters and wires and calls I have received come from some of our most thoughtful and conscientious citizens, and I believe they represent genuine expressions of individual concern.

Many of the questions regarding Governor Hickel's background and philosophy have been reviewed at length in the extensive hearings before the Committee on Interior and Insular Affairs. In his statements to the committee he has undertaken a decisive commitment to the principles of conservation which have come increasingly to guide our action in this century. Governor Hickel has clarified some of the unfortunate implications of certain of his earlier remarks on the subject. And he has pledged himself to work closely with Congress in devising and administering sensible policies in this field.

The Governor has indicated that he understands the need for continued efforts to expand the national park system and to manage it with a clear view of the needs of present and future generations of Americans. He has said that we must look to the year 2000 and beyond. With that point of view we can all agree. On one point of particular concern to many people, he has stated he will maintain the so-called freeze of Alaskan lands to which native groups have made claim. The committee chairman in turn has declared that he will press for prompt action to deal with these claims in this Congress.

Governor Hickel has also testified that he supports and will pursue the objectives of the central programs which Congress and his predecessors have erected to protect and improve the quality of our natural environment. For example, his testimony endorses the water pollution control efforts which have now begun to gain momentum. By placing his views in the larger context of the antipollution program throughout the country, he has substantially qualified the earlier suggestions that he was reluctant to establish effective water pollution standards for fear that they would hinder industrial development in some areas. He has explicitly accepted the "nondegradation" criterion which is designed to prevent further deterioration in the quality of our waterways.

One question of overriding importance to the people of New England concerns the Secretary-designate's likely action on the oil import control program. As all members of the New England delegation have repeatedly emphasized, this program has created a highly inequitable situation in our region. The other members of the delegation joined me in a letter to the chairman of the Interior Committee, a letter which became the basis for interrogation of Governor Hickel by our esteemed colleague from Maine, Senator MUSKIE. That letter solicited the nominee's comments on the various approaches to relieving New England's fuel problems.

While we did not seek and did not obtain a promise of specific action by the nominee, he did recognize the urgency of the problem and declared that he would take action to deal with it. On this question, as on others, Governor Hickel consistently indicated that the interests of the consumer must come first and that the interests of the producers must be subordinated to this higher value. On this basis we in New England have a right to expect—and do expect—from the new Secretary that, if confirmed, he will act promptly and fairly to correct the damage done by the oil import program to consumers in our region.

On some issues within the Interior Department's jurisdiction, Governor Hickel had previously expressed views at vari-

ance with established national policies. His statements to the committee, however, attributed these differences to his special duties as Governor of the unique State of Alaska. He has now dedicated himself to meeting the distinctive responsibilities of the office to which he has been nominated by adopting a truly national perspective, even if this means that he must reverse his earlier positions. And the committee record shows that the charges and complaints against the Governor's past performance on matters of conservation and resources policy were generally exaggerated or misplaced. While he made a number of controversial decisions in these fields, there appear to have been valid grounds for the action he took in many cases. In this connection it is worth noting the strong support which his nomination has among his Alaskan constituents, as reflected in former Senator Ernest Gruening's testimony in his behalf:

> I know him to be a man of integrity and dedication, and I think he will make an excellent Secretary of the Interior.

That judgment, by one who has followed Governor Hickel's career for many years, is entitled to due consideration.

Having studied the hearings thoroughly, I remain deeply troubled about some aspects of this nomination. It is perhaps unfair to expect a Cabinet appointee to have a current and complete knowledge of the programs and policies of the Department he is about to head. That is especially true of such complex matters as those which have now become the focus of the Interior Department's activities. Yet I am disturbed by the nominee's failure to demonstrate a more detailed grasp of his prospective responsibilities.

I wish frankly to state my reservations in this respect. The Governor's integrity and character are not in question. The question concerns his sensitivity to the grave and complicated issues which will be in his province as Secretary of the Interior, and his capacity for grappling with them effectively and comprehensively. On the record as I read it, one can do no more than suspend judgment on these facets of the nominee's qualifications. All the doubts which have been raised have not been resolved and probably cannot be resolved except by the manner in which the Secretary-designate, once in office, actually does his job.

Thus, given the fact that the evidence to Governor Hickel's qualifications for this role is neither conclusive nor fully satisfactory, we should candidly recognize that a fair and final judgment cannot now be made. Under such circumstances the task of the Senate in determining whether to advise and consent to this appointment is extremely difficult. We ought not to be unfair to the man in whom the President has vested such great trust. But neither can we disregard our responsibilities to appraise the man's qualifications to fulfill his public duties. The decision which hangs in the balance here is closer than any of us would like, but it will have to be made as wisely as we can.

After the most careful consideration, I have decided that there is not sufficient basis to reject the President's nominee for this cabinet office. I phrase it precisely as I see it. A vote for confirmation in this case is not an expression of full confidence in the nominee's qualifications. It is a vote to permit the Secretary-designate an opportunity to vindicate the Chief Executive's personal appraisal of his capacity for this high position.

There are several reasons why, on balance, I consider a vote to confirm appropriate in this instance. The first concerns the nature of the Senate's role in regard to Presidential appointees. Especially in regard to a new President with a fresh mandate to direct the executive branch, I believe the Senate should, barring clear evidence of a nominee's unsuitability on grounds of character or integrity, respect the Chief Executive's right to choose associates in whom he has confidence. There is a good reason for this established precedent, and I do not believe there are adequate grounds for violating it in the present situation.

The second major reason for confirming Mr. Hickel stems from the fact that he will be a part of a team which will include men whose experience equips them to help the Secretary-designate overcome potential weaknesses in his direction of the Department. I am thinking particularly of the distinguished conservationist who has been chosen as Under Secretary. As I believe the able minority leader indicated yesterday, and as I had also confirmed in conversations with the White House, Mr. Russell Train will become the second in command of the Department of the Interior. Coupled with Governor Hickel's reputed strengths as an administrator, Mr. Train's excellent understanding of the vast range of problems facing the Department should prove invaluable. I believe he will be immensely helpful in assisting the Secretary-designate to focus on the key questions for decision and action.

A third important factor in support of confirmation lies in the fact that Congress has already established the broad policy directions for the Department of Interior. Governor Hickel has bound himself to follow these directions and to consult regularly with the responsible committees of Congress. There will be ample opportunity for Congress and the public to appraise his performance on a continuing basis, and to insure that the vital interests of which the Interior Department has custody are well served under his stewardship.

Furthermore, I am confident that, considering the serious disputes which have arisen in connection with this nomination, the President will also feel obliged to exercise the most thorough and consistent review of the Department's operations under the Secretary-designate. If any Cabinet member fails to meet the President's expectations, I am sure he will be prepared to make the necessary changes. Thus, I think it greatly misstates the matter to suggest that the country will be in peril if Governor Hickel is confirmed. There are ample safeguards to see that any Secretary meets his responsibilities, and I have no doubt that they will be at work in the coming months.

In summary, I believe that the point has been made. Governor Hickel has been subjected to the most intense scrutiny of any of the President's nominees.

He is fully aware that his every step in office will be watched, both by his critics and by those of us who feel, with absolutely no personal rancor, that he must prove himself by the way in which he executes his impending duties. To overcome the doubts which have been raised about his suitability for the position, the Secretary-designate will have to turn in an exemplary performance. It is probably unfair, but he will in fact have to do a superior job if he is to win over the skeptics. For my part, I am willing to be convinced, and I wish the Secretary-designate every success in the demanding tasks he will now undertake.

Taking all of these considerations into account, I will vote that the Senate advise and consent to the appointment of Walter J. Hickel to be Secretary of the Interior.

Mr. MILLER. Mr. President, in my colloquy with the Senator from Wisconsin (Mr. PROXMIRE) earlier, I emphasized that my understanding of percentage depletion in the case of oil companies is that it is confined to oil income and I questioned the Senator's statement that it could be used as an offset against other income. I invited him to place in the RECORD the authority for his statement.

I wish at this time to place in the RECORD the authority for my position.

Section 611 of the Internal Revenue Code provides:

> In the case of mines, oil and gas wells, other natural deposits, and timber, there shall be allowed as a deduction in computing taxable income a reasonable allowance for depletion . . .; such reasonable allowance in all cases to be made under regulations prescribed by the Secretary or his delegate.

Section 613 of the Internal Revenue Code provides:

> In the case of the mines, wells, and other natural deposits listed in subsection (b), the allowance for depletion under section 611 shall be the percentage, specified in subsection (b), of the gross income from the property . . .

The phrase "gross income from the property" is explained in section 1.613–3 of the income tax regulations issued by the Treasury Department as follows:

> In the case of oil and gas wells, "gross income from the property" . . . means the amount for which the taxpayer sells the oil or gas in the immediate vicinity of the well.

I believe that the foregoing provisions of the Federal tax laws and regulations are clear and specific and very definitely do not provide for the offset of percentage depletion deductions against any income other than oil income, precisely as I advised the Senator from Wisconsin to be the case.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

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

The PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

RECESS UNTIL 11 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order, that the Senate stand in recess, in executive session, until 11 a.m. tomorrow.

The motion was agreed to; and (at 5 o'clock and 30 minutes p.m.) the Senate took a recess, in executive session, until tomorrow, Thursday, January 23, 1969, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate January 22 (legislative day of January 10), 1969:

DEPARTMENT OF JUSTICE

Richard G. Kleindienst, of Arizona, to be Deputy Attorney General vice Warren Christopher, resigned.

Jerris Leonard, of Wisconsin, to be an Assistant Attorney General vice Stephen J. Pollak.

Richard W. McLaren, of Illinois, to be an Assistant Attorney General vice Edwin M. Zimmerman, resigned.

William H. Rehnquist, of Arizona, to be an Assistant Attorney General vice Frank M. Wozencraft.

William D. Ruckelshaus, of Indiana, to be an Assistant Attorney General vice Edwin L. Weisl, Jr.

Johnnie M. Walters, of South Carolina, to be an Assistant Attorney General vice Mitchell Rogovin.

Will Wilson, of Texas, to be an Assistant Attorney General vice Fred M. Vinson.

DEPARTMENT OF LABOR

Willie J. Usery, Jr., of Georgia, to be an Assistant Secretary of Labor.

COUNCIL OF ECONOMIC ADVISERS

Hendrik S. Houthakker, of Massachusetts, to be a member of the Council of Economic Advisers.

Herbert Stein, of Maryland, to be a member of the Council of Economic Advisers.

COMMODITY CREDIT CORPORATION

The following-named persons to be members of the Board of Directors of the Commodity Credit Corporation:

J. Phil Campbell, of Georgia.

Clarence D. Palmby, of Virginia.

CONFIRMATIONS

Executive nominations confirmed by the Senate, January 22 (legislative day of January 10), 1969:

DEPARTMENT OF AGRICULTURE

J. Phil Campbell, of Georgia, to be Under Secretary of Agriculture.

Clarence D. Palmby, of Virginia, to be an Assistant Secretary of Agriculture.

EXTENSIONS OF REMARKS

DEDICATED TO BEAUTIFICATION

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 22, 1969

Mr. DULSKI. Mr. Speaker, the Post Office Department has issued a beautiful block of four stamps dedicated to the theme of beautification, a program whose prime backer has been our former First Lady, Mrs. Lyndon B. Johnson.

On the first day of sale of the new stamps there was a very heartwarming ceremony at the White House which was attended by the Citizens' Stamp Advisory Committee and a large number of the Nation's leading philatelists.

In an aside during his remarks, Postmaster General Watson acknowledged my own interest in philately and called special attention to the cufflinks which I was wearing containing two of the four new beautification stamps. Mrs. Johnson later asked to see the unusual cufflinks into which any new stamp can be inserted for display.

Following is Mr. Watson's prepared test:

REMARKS BY POSTMASTER GENERAL W. MARVIN WATSON AT THE BEAUTIFICATION STAMPS CEREMONY, THE WHITE HOUSE

This is a very happy occasion for me.

It is a happy occasion because it involves a subject near and dear to the heart of our wonderful First Lady . . . beautification.

It is also a happy occasion because I have the opportunity to thank her for all her efforts in behalf of beautification. And this new series of commemorative stamps is just one more evidence of those efforts.

I believe America will never forget what Mrs. Johnson has done to restore to our country its heritage of beauty.

She has planted seeds in our hearts that will bloom for many years to come.

There is one element of her devotion to beauty that I would like to see reflected in the record.

And that is the enormous amount of energy and work expended by our First Lady in behalf of beautification.

As with anything else worthwhile in America, when you want something, even if you are the First Lady and your office is in the White House, you have to get out and work.

Fortunately, Mrs. Johnson has enormous stores of energy and dedication. She has certainly had to call upon them often during her campaign for beauty.

In pursuance of her goal, she has travelled well over a hundred thousand miles . . . taken care of some 400 letters a day and countless telephone calls.

By her actions she has helped the American public know of new national parks, as well as reminding them of how precious those parks are to all of us.

She is generally given credit for inspiring the landmark Highway Beautification Act of 1965, a law that has helped make driving more enjoyable and less dangerous.

Major oil companies have met with her about beautifying their service stations.

As the result of her example, beautification citizens' committees have been formed all over the country.

Local beautification groups have bloomed everywhere.

Typical was the reaction of a lady in San Jose, California. After seeing the First Lady on television, this lady picked up a trowel, and marched right out and planted a 30-foot bed of iris next to the bus stop.

Her Committee for a More Beautiful Capitol has transformed from disaster areas into urban oases those mini-deserts that we call traffic circles and triangles. They may still confuse drivers, but now at least they don't insult the eye as well.

Mrs. Johnson has always understood the close relationship between beauty of environment and beauty of spirit and action. Great thoughts do not grow well in ugly soil. Twisted are the dreams that root in the asphalt jungle.

I know that the one thing the First Lady does not wish from her efforts is personal praise. I know that her philosophy is one that emphasizes the maximum amount of personal involvement by all our people. She seeks not gratitude but action. And the best way any of us can respond to her vision of a better land is by rolling up our sleeves and doing something to move that vision a little closer to reality.

I take this risk of going against her wish to avoid any credit for herself because I would like her to know how important we all believe her work to be, and how very much we appreciate it.

Planting for the future is one of man's most unselfish acts. And future generations of Americans will thank this great lady for reminding us that we are the caretakers of God's earthly estate, and we must tend it well.

Mrs. Johnson—for all that you have been to us—we thank you.

AWARD TO EDGAR W. HEYL, OF SHARON SPRINGS, KANS.

HON. JAMES B. PEARSON

OF KANSAS

IN THE SENATE OF THE UNITED STATES

Wednesday, January 22, 1969

Mr. PEARSON. Mr. President, Edgar W. Heyl, of Sharon Springs, Kans., has just received one of the 27 Benjamin Franklin Quality Dealer Awards for 1969.

This award given by Mr. Heyl's industry is a manifestation not only of his business ability but is made on the basis of his integrity, industry, and willingness to serve his entire community. His record for civic service includes political offices, youth activities, and safety organizations. This is a significant award made to an outstanding Kansan, and I ask unanimous consent that an article of the Hutchinson News of Sunday, Jan-