Behind these obstacles, a fixed chain of defense posts such as Con Thien and Khe Sahn—"Little Alamos," somebody called them—was to stop anybody who made it through the barrier belt.

NITZE CAN'T UNDERSTAND

With inarticulate stubbornness the generals bucked the project from the first. Patiently citing the Chinese Wall and the Maginot Line, they tried to explain that no fixed barrier in the history of war had ever stopped an invader.

When one senior staff officer in the Pentagon repeated this to Nitze, that sharp-tongued intellectual, more used to explaining than being explained to, burst out, "I just don't understand you military people. What harm can it do?"

Nitze's question probably reflects just about the extent of critical examination the project ever received.

In the Pentagon a $1,500 proposal from people in uniform gets ten thousand dollars worth of systems analysis, qualification, social-scientific evaluation, and four years' program definition before approval.

If the McNamara line concept—which so far has cost at least $2 billion—ever fell under Alain Enthoven's basilisk eye, nobody will admit it.

Apparently when hunches originate within the Pentagon's civilian oligarchy, they are immune to the exasperating scrutiny of the statisticians and economists who in the sacred name of cost-effectiveness have put old-fashioned oil-fuel engines into new super-carriers, have frustrated the authentic genius of Admiral Rickover, and have built white-elephant aircraft like the F–111.

COST UNIMPORTANT

"Forget the cost, General!" was the abrupt civilian cut-off received by one senior officer who in seven years under McNamara's tight fist had learned to worry about little else.

So the dozers and harrows of the engineer battalions were put to work—under steady Communist fire, inflicting costs somewhat more difficult to forget—to clear six miles from the sea of Con Thien.

"Ranch-hand" aircraft, which have fruitlessly tried to defoliate some of the world's wettest and lushest jungle, sprayed the strip, and the troops patiently set in the electronic sniffers and sensors.

During the past year, although the sniffers have registered the pungent smells of many hundreds of stray water buffalo, the detection system has proved less sensitive to at least four North Vietnamese regiments and their vehicles.

And finally, about the time that Clark Clifford replaced obstinate Robert S. McNamara, work on the barrier stopped—very quietly.

Today, from the air, you can see the sword-grass thriving on the defoliants. Also from the air you can see acres of dumps containing unused German tape, prefabricated bunkers, and many large crates of gadgets—deteriorating expensively in the monsoon rains.

Whenever anyone asks about the McNamara Line he is greeted with tight-lipped official silence. "We can't talk about it—not at all," one general told me.

His caution is understandable. If he were to discuss the McNamara Line with a reporter, it would be worth his next star. Civilian supremacy over the military has never been more effective than in its ability to cover up a $2 billion civilian blunder.

SENATE—*Friday, January 31, 1969*

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

The Reverend Robert W. Galloway, pastor, Towson Presbyterian Church, Towson, Md., offered the following prayer:

In the name of the Father, and of the Son, and of the Holy Spirit. Amen.

Gracious God, our Father, in humility and with grateful hearts, we thank Thee for the blessings which we have known at Thy hand. Thou hast taught us life's proper attitudes and postures. We recite our lines on cue and the ritual continues. Yet within Thy grace, there is love, there is laughter, there is music, and Thy gifts and inspiration have lifted us as individuals and as a nation to moments of glory. Lead us then, O Father, that we may continue in faith—that there may be the miracle of peace and brotherhood in every heart. Let our purpose be high and in keeping with Thy holy will.

Give Thy servants Thy blessing, O Father, through Jesus Christ our Lord. Amen.

MESSAGE FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT (H. DOC NO. 91–70)

Under authority of the order of the Senate of January 29, 1969, the Secretary of the Senate, on January 30, 1969, received the following message from the President of the United States, which was referred to the Committee on Government Operations:

To the Congress of the United States:

New times call for new ideas and fresh approaches. To meet the needs of today and tomorrow, and to achieve a new level of efficiency, the Executive Branch requires flexibility in its organization.

Government organization is created to serve, not to exist; as functions change, the organization must be ready to adapt itself to those changes.

Ever since the Economy Act of 1932, the Congress has recognized the need of the President to modernize the Federal Government continually. During most of that time, the Congress has provided the President the authority to reorganize the Executive Branch.

The current reorganization statute—Chapter 9 of Title 5 of the United States Code—is derived from the Reorganization Act of 1949. That law places upon the President a permanent responsibility "from time to time to examine the organization of all agencies" and "to determine what changes therein are necessary" to accomplish the purposes of the statute. Those purposes include promoting the better execution of the laws, cutting expenditures, increasing efficiency in Government operations, abolishing unnecessary agencies and eliminating duplication of effort. The law also authorizes the President to transmit reorganization plans to the Congress to make the changes he considers necessary.

Unfortunately, the authority to transmit such plans expired on December 31, 1968. The President cannot, therefore, now fulfill his reorganization responsibilities. He is severely limited in his ability to organize and manage the Executive Branch in a manner responsive to new needs.

I, therefore, urge that the Congress promptly enact legislation to extend for at least two years the President's authority to transmit reorganization plans.

This time-tested reorganization procedure is not only a means for curtailing ineffective and uneconomical Government operations, but it also provides a climate that enables good managers to manage well.

Under the procedure, reorganization plans are sent to the Congress by the President and generally take effect after 60 days unless either House passes a resolution of disapproval during that time. In this way the President may initiate improvements, and the Congress retains the power of review.

This cooperative executive-legislative approach to reorganization has shown itself to be sensible and effective for more than three decades, regardless of party alignments. It is more efficient than the alternative of passing specific legislation to achieve each organizational change. The cooperative approach is tested; it is responsive; it works.

Reorganization authority is the tool a President needs to shape his Administration to meet the new needs of the times, and I urgently request its extension.

RICHARD NIXON.

THE WHITE HOUSE, *January 30, 1969.*

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session,

The VICE PRESIDENT 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.)

ORDER OF BUSINESS

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

The VICE PRESIDENT. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of

the Journal of the proceedings of Wednesday, January 29, 1969, be dispensed with.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

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

The VICE PRESIDENT. Is there objection?

Mr. WILLIAMS of Delaware. Mr. President, reserving the right to object—and I do not intend to object—as I understand it, this would not change the rule with respect to the morning hour whereby a resolution would be automatically handed down after the transaction of routine business with the 3-minute limitation.

Mr. MANSFIELD. That is correct. I had hoped the Senator would receive some information about that before I made my request.

Mr. WILLIAMS of Delaware. It would not change the rule?

Mr. MANSFIELD. No.

Mr. WILLIAMS of Delaware. I have no objection.

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

SENATE RESOLUTION 11 AND SENATE RESOLUTION 12 PLACED UNDER "SUBJECTS ON THE TABLE"

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Order No. 1, Senate Resolution 11, and Senate Resolution 12, which are contained under "Resolutions and Motions Over, Under the Rule," be placed under the heading "Subjects on the Table."

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. May I say, for the information of the Senate, that the placing of these matters in this position does not prevent the bringing up of these resolutions at any time if any Senator desires to do so.

EXECUTIVE SESSION

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

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

The VICE PRESIDENT. The nominations on the Executive Calendar will be stated.

DEPARTMENT OF COMMERCE

The bill clerk read the nomination of Rocco C. Siciliano, of California, to be Under Secretary of Commerce.

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

U.S. COAST GUARD

The bill clerk proceeded to read sundry nominations in the U.S. Coast Guard.

Mr. MANSFIELD. Mr. President. I ask unanimous consent that the nominations be considered en bloc.

The VICE PRESIDENT. Without objection, the nominations are considered and confirmed en bloc.

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

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

LEGISLATIVE SESSION

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

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, informed the Senate that, pursuant to the provisions of section 804(b), Public Law 90–351, the Speaker had appointed Mr. ST. ONGE of Connecticut, Mr. ROGERS of Colorado, Mr. McCULLOCH of Ohio, and Mr. POFF of Virginia as members of the National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 3(b), Public Law 88–606, as amended, the Speaker had appointed Mr. BARING of Nevada, Mr. TAYLOR of North Carolina, Mr. UDALL of Arizona, Mr. SAYLOR of Pennsylvania, Mr. BURTON of Utah, and Mr. KYL of Iowa as members of the Public Land Law Review Commission, on the part of the House.

The message further informed the Senate that, pursuant to the provisions of section 1(a), Public Law 90–70, the Speaker had appointed Mr. ROGERS of Colorado, Mr. Moss of California, Mr. BURTON of Utah, and Mr. BROTZMAN of Colorado as members of the Golden Spike Centennial Celebration Commission, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of 10 United States Code 6968(a), the Speaker had appointed Mr. FLOOD of Pennsylvania, Mr. STRATTON of New York, Mr. LIPSCOMB of California, and Mr. MORTON of Maryland as members of the Board of Visitors to the U.S. Naval Academy, on the part of the House.

The message further informed the Senate that, pursuant to the provisions of 15 United States Code 1024(a), the Speaker had appointed Mr. PATMAN of Texas, Mr. BOLLING of Missouri, Mr. BOGGS of Louisiana, Mr. REUSS of Wisconsin, Mrs. GRIFFITHS of Michigan, Mr. MOORHEAD of Pennsylvania, Mr. WIDNALL of New Jersey, Mr. RUMSFELD of Illinois, Mr. BROCK of Tennessee, and Mr. CONABLE of New York as members of the Joint Economic Committee, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 2(a), Public Law 89–801, the Speaker had appointed Mr. KASTENMEIER of Wisconsin, Mr. EDWARDS of California, and Mr. POFF of Virginia as members of the National Commission on Reform of Federal Criminal Laws, on the part of the House.

The message further informed the Senate that, pursuant to the provisions of section 301, Public Law 89–81, the Speaker had appointed Mr. EDMONDSON of Oklahoma, Mr. GIAIMO of Connecticut, Mr. CONTE of Massachusetts, and Mr. BATTIN of Montana as members of the Joint Commission on Coinage, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 1(a), Public Law 89–187, the Speaker had appointed Mr. ZABLOCKI of Wisconsin, Mr. GRAY of Illinois, Mr. BYRNES of Wisconsin, and Mr. RUPPE of Michigan as members of the Father Marquette Tercentenary Commission, on the part of the House.

The message further informed the Senate that, pursuant to the provisions of 10 United States Code 4355(a), the Speaker had appointed Mr. TEAGUE of Texas, Mr. NATCHER, of Kentucky, Mr. RHODES of Arizona, and Mr. McKNEALLY, of New York, as members of the Board of Visitors to the U.S. Military Academy, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of 46 United States Code 1126c, the Speaker had appointed Mr. CAREY, of New York, and Mr. WEICKER, of Connecticut, as members of the Board of Visitors to the U.S. Merchant Marine Academy, on the part of the House.

The message further informed the Senate that, pursuant to the provisions of 14 United States Code 194(a), the Speaker had appointed Mr. ST. ONGE, of Connecticut, and Mr. MESKILL, of Connecticut, as members of the Board of Visitors to the U.S. Coast Guard Academy, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of 10 United States Code 9355(a), the Speaker had appointed Mr. ROGERS of Colorado, Mr. FLYNT, of Georgia, Mr. MINSHALL, of Ohio, and Mr. BROTZMAN, of Colorado, as members of the Board of Visitors to the U.S. Air Force Academy, on the part of the House.

The message further informed the Senate that, pursuant to the provision of section 2(a), Public Law 85–874, as amended, the Speaker had appointed Mr. WRIGHT of Texas, Mr. THOMPSON of New Jersey as members ex officio of the Board of Trustees of the John F. Kennedy Center for the Performing Arts, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 5, Public Law 420, 83d Congress, as amended, the Speaker had appointed Mr. CAREY of New York and Mr. ZWACH of Minnesota as members of the Board of Directors of Gallaudet College, on the part of the House.

The message further informed the

Senate that, pursuant to the provisions of 20 United States Code 42, 43, the Speaker had appointed Mr. MAHON of Texas, Mr. KIRWAN of Ohio, and Mr. Bow of Ohio as members of the Board of Regents of the Smithsonian Institution, on the House.

EXECUTIVE COMMUNICATIONS, ETC.

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

REPORT ON OPERATIONS UNDER FOOD STAMP ACT OF 1964

A letter from the Secretary of Agriculture, transmitting, pursuant to law, a report on operations under the Food Stamp Act of 1964, for calendar year 1968 (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORT OF FARM CREDIT ADMINISTRATION

A letter from the Governor of the Farm Credit Administration, transmitting, pursuant to law, the 35th annual report of the Administration, for the fiscal year ended June 30, 1968 (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORT OF SECRETARY OF AGRICULTURE ON SURPLUS COMMODITIES

A letter from the Secretary of Agriculture, transmitting, pursuant to law, a report on the orderly liquidation of stocks of agricultural commodities held by the Commodity Credit Corporation and the expansion of markets for surplus agricultural commodities (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORT ON EXEMPLARY REHABILITATION CERTIFICATES

A letter from the Secretary of Labor, reporting, pursuant to law, on exemplary rehabilitation certificates for the calendar year 1968; to the Committee on Armed Services.

PROPOSED REGULATION OF DEPRECIATION ACCOUNTING OF AIR CARRIERS

A letter from the Chairman, Civil Aeronautics Board, transmitting a draft of proposed legislation to amend the Federal Aviation Act of 1958 so as to authorize the Civil Aeronautics Board to regulate the depreciation accounting of air carriers (with accompanying papers); to the Committee on Commerce.

REPORT OF ACTIVITIES UNDER THE FAIR PACKAGING AND LABELING ACT

A letter from the Acting Secretary of Commerce, transmitting pursuant to law, a report of the activities of the Department under the Fair Packaging and Labeling Act (with accompanying report and papers); to the Committee on Commerce.

REPORT OF POTOMAC ELECTRIC POWER CO.

A letter from the president, Potomac Electric Power Co., transmitting, pursuant to law, a report on the financial condition of the company as of December 31, 1968 (with an accompanying report); to the Committee on the District of Columbia.

IMPROVING THE FINANCIAL EFFECTIVENESS OF THE CONGRESS

A letter from the former Secretary of the Treasury, transmitting a copy of a paper entitled "Improving the Financial Effectiveness of the Congress" (with an accompanying paper); to the Committee on Finance.

PROPOSED CONCESSION CONTRACT, LAKE MEAD NATIONAL RECREATION AREA, ARIZONA AND NEVADA

A letter from the Acting Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a copy of a proposed concession contract for the Lake Mead National Recreation Area, Arizona and Nevada (with an accompanying paper); to the Committee on Interior and Insular Affairs.

REPORT OF BONNEVILLE POWER ADMINISTRATION

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report of the Bonneville Power Administration, for the fiscal year 1968 (with an accompanying report); to the Committee on Interior and Insular Affairs.

REPORT ON PROGRESS IN THE PREVENTION AND CONTROL OF AIR POLLUTION

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the second report of the Department on progress in the prevention and control of air pollution (with an accompanying report); to the Committee on Public Works.

PETITIONS AND MEMORIALS

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

By the VICE PRESIDENT:

A resolution of the Legislature of the Territory of Guam; to the Committee on Armed Services:

"RESOLUTION 527 (6–S)

"A resolution relative to expressing to the national administration the willingness of the people of Guam to welcome and support the relocation of military facilities from Okinawa to Guam and the other islands of the Marianas

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, it is clear that the American military bases in the Ryukyu Islands are living on borrowed time, the recent elections in Okinawa of a Chief Executive and Mayor of Naha both dedicated to the immediate removal of all American bases demonstrating unequivocably the objection of the people of Okinawa to the American presence, despite the undoubted economic benefits they obtain from these bases; and

"Whereas, 'Newsweek' magazine and other news media have reported that the Department of Defense has surveyed Guam and some of the other islands of the Marianas as a possible replacement area for the American facilities in Okinawa should they have to be removed; and

"Whereas, the island of Guam has long been a vital link in the chain of American defense bases in the Pacific, and, far from opposing this function, the people of Guam have welcomed enthusiastically the military forces and facilities located here, many thousands working on the bases and a large number of the military and other Federal forces here becoming integrated into the local community, the relationship between the civilian and military spheres being extremely warm and cordial; and

"Whereas, in addition the people of Guam are intensely patriotic, as evidenced by their single-minded devotion to the American cause during the Second World War when the island was the only populated part of America occupied by the enemy, and, more recently, by the admirable history of their young men serving in Vietnam where the territory of Guam has suffered, on a per capita basis, the highest casualties of any American community, being six times the national average, and thus, the people of Guam in reviewing the question of absorbing more military bases look first to determine whether the security of America is benefited thereby; and

"Whereas, Guam is an integral part of the United States, and there is not the slightest hint of any local desire to break the close relationship between the United States and its most distant territory, the unanimous desire being in the other direction, to build ever closer bonds and become more and more integrated with the mainland United States, and, therefore in the event the Okinawa military facilities are moved to Guam, our Defense officials need never concern themselves whether because of local reaction they would have to be moved once more; and

"Whereas, although the territory of Guam cannot speak for the other islands of the Marianas, which make up the Marianas District of the United States Trust Territory of the Pacific Islands, nevertheless these islands are inhabited by people who speak the same language and are of the same culture, religion, and ancestry as the people of Guam, and there has been an ever-increasing demand both in Guam and in remaining islands of the Marianas for reintegration of these islands of common history, economy, and culture within the governmental framework of the territory of Guam, and, therefore the people of Guam are certain that their cousins in the remaining islands in the Marianas would also welcome and support any American defense activities moved to these islands from Okinawa; now therefore be it

"Resolved, that the Ninth Guam Legislature does hereby on behalf of the people of Guam express to the National Administration, and in particular the Department of Defense, the willingness of the territory of Guam to welcome and support any movement of defense facilities from the Ryukyu Islands to Guam and the other islands of the Marianas; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States, to the President of the Senate, to the Speaker of the House of Representatives, to the Secretary of State, to the Secretary of Defense, to the Chairman, Joint Chiefs of Staff, to the Chief of Staff, United States Army, to the Commandant, United States Marine Corps, to the Chairmen, United States Senate and House Committees on Interior and Insular Affairs, to the Chairmen, United States Senate and House Committees on Armed Services, to Guam's Washington Representative, and to the Governor of Guam.

"Duly and regularly adopted on the 16th day of December, 1968.

"F. T. RAMIREZ,
"Legislative Secretary.
"J. C. ARRIOLA,
"Speaker."

A petition from the Okinawa Cities, Towns & Villages Association, praying for the immediate removal of B–52 strategic bombers from Okinawa; to the Committee on Armed Services.

A petition from the Okinawa Cities, Towns & Villages Association, praying for the early return of Okinawa to Japan; to the Committee on Foreign Relations.

Two resolutions of the Legislature of the Territory of Guam; to the Committee on Interior and Insular Affairs:

"RESOLUTION 510(6–S)

"A resolution relative to expressing to the President and the Congress of the United States the deep gratitude of the people of Guam for the enactment of the 'Guam Development Fund Act of 1968'

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, on October 17, 1968, the Honorable Lyndon B. Johnson, President of the United States, signed Public Law 90–601 of the 90th Congress of the United States, which public law is the 'Guam Development Fund Act of 1968,' a measure designed to promote the economic development of Guam by authorizing the appropriation of $5,000,000, to be used in furthering such development; and

"Whereas, the Honorable Hugh Carey, Chairman of the Subcommittee on Interior and Insular Affairs of the United States House of Representatives, reported out the proposal on September 26, 1968, and recommended passage of the Act, noting that the purpose of the bill is to promote the economic development of Guam through the establishment of a capital loan and guarantee fund to encourage the development of private enterprise and industry on Guam, the House Committee further reporting that neither the government of Guam nor the local financial institutions have been able to provide adequate investment capital, the unavailability of this capital being a major restraint in the long range economic development of the territory; and

"Whereas, the people of Guam have long been attempting to develop an economy independent of defense expenditures, a matter over which they have no control, and the Congress has both been conscious of this desire and extremely helpful in developing the overall economic plan needed for such long range development, the Guam Rehabilitation Act (Public 88–170) having provided the territory with an economic development plan, which plan noted the need for the long term investment capital as is now made available by the Guam Development Fund Act of 1968, the people of Guam thereby again witnessing not only the concern that the Congress and the President have for the territory of Guam but their willingness to take effective action to solve the territory's problems; now therefore be it

"Resolved, that the Ninth Guam Legislature does hereby on behalf of the people of Guam express to the president and the Congress of the United States the warm appreciation and deep gratitude of all the inhabitants of the territory for the enactment of the "Guam Development Fund Act of 1968," a measure that promises to make possible the long range development of a viable Guam economy independent of defense spending, a goal long sought by the people of Guam and now made possible by the generosity of the Federal government;

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States, to the President of the Senate, to the Speaker of the U.S. House of Representatives, to the Chairmen of the Committees on Interior and Insular Affairs, Senate and House, to the Chairmen of the Subcommittee on Interior and Insular Affairs Committee, Senate and House, to Guam's Washington Representative, and to the Governor of Guam.

"Duly and regularly adopted on the 12th day of December, 1968.

"F. T. RAMIREZ,
"Legislative Secretary.
"J. C. ARRIOLA,
"Speaker."

"RESOLUTION NO. 511 (6–S)

"A resolution relative to expressing the grateful appreciation of the people of Guam to the President and Congress of the United States and to those other Federal officials who assisted in the enactment of the recent amendment to the Guam Rehabilitation Act increasing the authorized expenditure thereunder by $30,000,000

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, following the devastating typhoons of 1962 and 1963 which so badly ravaged the territory of Guam, the Congress of the United States enacted the Guam Rehabilitation Act, which, among other things, authorized the appropriation of $45,000,000 to assist in rehabilitating the public facilities of the territory; and

"Whereas, as a direct result of this legislation and the grants and loans made thereunder, the territory has undergone a remarkable development, which is more in the nature of a basic improvement in the capital plant of the territory than in merely rehabilitating the territory back to pretyphoon conditions, the Guam that has arisen as a result of this Federal money being much finer and much more solid than the rather ramshackle island so badly torn up by the great storms, the temporary quonsets destroyed by the winds being replaced with permanent reinforced concrete buildings; and

"Whereas, among the many projects made possible by the Rehabilitation Act are the island-wide sewer system now underway, the new Commercial Port almost completed, the civilian air terminal, a number of brand new elementary and secondary public schools, the substantial additions to the local water system, and the funding of the urban renewal projects for the typhoon-devastated villages of Sinajana and Yona, all of which projects have been of enormous benefit to the inhabitants of Guam, both military and civilian, and have helped to create the basic capital underpinnings Guam needs to become a modern American community and the Showcase of Democracy in the Far East; and

"Whereas, the projects originally envisioned at the time of the enactment of the Act could not all be completed under the original ceiling of funds available since in many instances the expenses of construction increased to the point that the budget would no longer cover all of the projects, and, in addition, it became clear that certain other projects of a capital nature were absolutely vital to complete the necessary infrastructure of the territory's public facilities; and

"Whereas, responding to these needs, the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives, working in conjunction with executive branch officials in the Department of the Interior and Office of the Budget, drafted legislation to increase the authorized appropriation limitation under the Guam Rehabilitation Act from $45,000,000 to $75,000,000, an enormous increase and one that puts all of the needed capital projects within the means of the territorial government, which legislation received early and favorable consideration from the appropriate committees and subcommittees of the Congress, was acted favorably upon by the Senate and House, and was signed into law by President Johnson, the 90th Congress and the Johnson Administration thus demonstrating once again that insofar as the territory of Guam is concerned no other Congress and no other Administration has done so much, and thereby refuting for all time the baseless charge of American exploitation of its off-island dependencies, quite the contrary being shown to be true, the $75,000,000 being made available under the Guam Rehabilitation Act, as recently amended, being an unequaled and unprecedented example of American generosity to a tiny and distant community for which it is responsible; and

"Whereas, it is impossible to single out any one individual or official in Washington as being most responsible for this so vitally needed legislation, all those Federal officers having any jurisdiction over the question cooperating enthusiastically and efficiently to coordinate the enactment of the legislation in a remarkably short time, thereby winning the gratitude and earning the commendation of the people of Guam; now therefore be it

"Resolved, that the Ninth Guam Legislature does hereby on behalf of the people of Guam express deep gratitude and sincere commendation to the President of the United States, to the Congress of the United States and to all those Federal officials responsible for the enactment of the amendment to the Guam Rehabilitation Act increasing the funds authorized thereunder by $30,000,000; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States, to the President of the Senate, to the Speaker of the U.S. House of Representatives, to the Chairmen of the Committees on Interior and Insular Affairs, Senate and House, to the Chairmen of the Subcommittees on Interior and Insular Affairs, Senate and House, to the Secretary of the Interior, to the Director of the Office of Budget, to Guma's Washington Representative, and to the Governor of Guam.

"Duly and regularly adopted on the 12th day of December, 1968.

"F. T. RAMIREZ,
"Legislative Secretary.
"J. C. ARRIOLA,
"Speaker."

A joint resolution of the Legislature of the State of Utah; to the Committee on Interior and Insular Affairs:

"HOUSE JOINT RESOLUTION 5

"A joint resolution of the House of Representatives and the Senate of the State of Utah memorializing the President of the United States and the Congress of the United States to restore to the public domain certain lands withdrawn by Presidential proclamation for national monument purposes

"Be it resolved by the Legislature of the State of Utah:

"Whereas, the immediate past President of the United States in the final hours of his administration withdrew approximately 264,000 acres of public lands and included them in Arches and Capitol Reef National Monuments without any opportunity for proper hearing; and

"Whereas, the area withdrawn is known to contain valuable minerals and has good potential for the development of substantial reserves of oil, gas, uranium and other minerals as evidenced by the fact that more than 200,000 acres in the immediate area are under oil and gas lease and extensive exploration for other minerals is now being conducted; and

"Whereas, the lands withdrawn contain large areas valuable for grazing; and

"Whereas, state lands checkerboard the area of the lands withdrawn, and these state lands are isolated by the withdrawal; and

"Whereas, the withdrawal has deprived the state of Utah, its industries and people of access to valuable resources both in the lands withdrawn and state lands affected; and

"Whereas, the state of Utah is largely dependent for its economic growth upon the multiple use of its natural resources.

"Now, therefore, be it resolved, by the Legislature of the State of Utah that we oppose the action of the former President of the United States in withdrawing these valuable lands without providing the opportunity for parties concerned to be heard.

"Be it further resolved, that the President of the United States and the Congress of the United States take such action as necessary to restore these lands to the public domain, so they are available for multiple use until all issues involving their inclusion in national monuments have been fully considered."

A resolution adopted by the board of commissioners, Lafourche Basin Levee District, Donaldsonville, La., praying for the delay of diversion of Mississippi River water to west Texas and eastern New Mexico; to the Committee on Public Works.

A resolution of the Legislature of the Territory of Guam; ordered to lie on the table:

"RESOLUTION 526(6-S)

"A resolution relative to congratulating the Honorable Richard M. Nixon and the Honorable Spiro T. Agnew, President-Elect and Vice President-Elect, upon their recent election, and to expressing the desire and willingness of the people of Guam to work with the new administration

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, in the recent presidential campaign in the United States, the Republican candidates, Richard M. Nixon, and Spiro T. Agnew, narrowly defeated the Democratic candidates and thus returned the Republican Party to power after eight years in the wilderness; and

"Whereas, although the majority of the people of Guam are supporters of the Democratic Party as evidenced by the results of the recent local election held contemporaneously with the national election, nevertheless, there is an active local Republican Party in Guam, and no animosity whatsoever between the people of Guam and the national Republican Party, the people of Guam being aware that the many benefits and privileges extended to them by the national administrations, ranging from the grant of U.S. citizenship and limited self-government in 1950 up to and including the recent enactment of the Elected Governorship Act authorizing Guam for the first time in its recorded history to elect its own Chief Executive, would never have been so extended were it not for the support of the Republican members of Congress, many of these benefits themselves being extended by the Republican administration of President Eisenhower under whom Guam's first native born Governor was appointed; and

"Whereas, it therefore behooves the people of Guam to extend to Richard Milhous Nixon and Spiro T. Agnew their congratulations upon the Republican victory, their best wishes for a successful administration, and their sincere intention to work together with the new administration in solving their common problems; now, therefore, be it

"Resolved, that the Ninth Guam Legislature does hereby on behalf of the people of Guam warmly congratulate the Honorable Richard Milhous Nixon and the Honorable Spiro T. Agnew upon their election as President and Vice President of the United States; and be it further

"Resolved, that this resolution do also serve as a commitment on the part of the people of Guam and their elected leaders to work constructively with the new Republican administration in attempting to solve the problems that confront Guam and the Nation; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Honorable Richard Milhous Nixon, President-elect, to the Honorable Spiro T. Agnew, Vice President-Elect, and to the Governor of Guam.

"Duly and regularly adopted on the 16th day of December, 1968.

"F. T. RAMIREZ,
"Legislative Secretary.
"J. C. ARRIOLA,
"Speaker."

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

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

Richard G. Kleindienst, of Arizona, to be Deputy Attorney General;

Jerris Leonard, of Wisconsin, to be an Assistant Attorney General;

Richard W. McLaren, of Illinois, to be an Assistant Attorney General;

William H. Rehnquist, of Arizona, to be an Assistant Attorney General;

William D. Ruckelshaus, of Indiana, to be an Assistant Attorney General;

Johnnie M. Walters, of South Carolina, to be an Assistant Attorney General and

Will Wilson, of Texas, to be an Assistant Attorney General.

By Mr. SPONG, from the Committee on the District of Columbia:

Walter E. Washington, of the District of Columbia, to be Commissioner of the District of Columbia.

BILLS AND JOINT RESOLUTIONS INTRODUCED

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

By Mr. STEVENS:

S. 778. A bill to amend the 1964 Amendments to the Alaska Omnibus Act; to the Committee on Interior and Insular Affairs.

By Mr. STENNIS (for himself and Mrs. SMITH):

S. 779. A bill to authorize certain construction at military installations, and for other purposes; to the Committee on Armed Forces.

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

By Mr. HOLLAND:

S. 780. A bill for the relief of Harvey E. Ward; to the Committee on the Judiciary.

By Mr. SCOTT:

S. 781. A bill to establish a temporary Commission to consider the feasibility of meeting the military manpower requirement of the Nation through a completely voluntary system of enlistments; to the Committee on Armed Services.

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

By Mr. ERVIN (for himself, Mr. BAYH, Mr. FONG, Mr. HRUSKA, Mr. THURMOND, Mr. DODD, Mr. BURDICK, Mr. TYDINGS, Mr. DIRKSEN, Mr. SCOTT, Mr. COOK, Mr. MATHIAS, Mr. BIBLE, Mr. BROOKE, Mr. BYRD of Virginia, Mr. CHURCH, Mr. COOPER, Mr. DOLE, Mr. DOMINICK, Mr. EAGLETON, Mr. FANNIN, Mr. GOLDWATER, Mr. GRAVEL, Mr. HANSEN, Mr. HATFIELD, Mr. INOUYE, Mr. JORDAN of North Carolina, Mr. JORDAN of Idaho, Mr. MAGNUSON, Mr. MCCARTHY, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. METCALF, Mr. MILLER, Mr. MONTOYA, Mr. MUNDT, Mr. MUSKIE, Mr. NELSON, Mr. PEARSON, Mr. PERCY, Mr. PROUTY, Mr. PROXMIRE, Mr. RANDOLPH, Mr. SAXBE, Mr. SCHWEIKER, Mr. SPARKMAN, Mr. SPONG, Mr. STEVENS, Mr. TALMADGE, Mr. TOWER, Mr. WILLIAMS of New Jersey, Mr. YARBOROUGH, and Mr. GURNEY):

S. 782. A bill to protect the civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy; to the Committee on the Judiciary.

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

By Mr. MANSFIELD:

S. 783. A bill for the relief of Mrs. Wanda Martens; and

S. 784. A bill for the relief of Hamilton Gibson; to the Committee on the Judiciary.

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

S. 785. A bill to authorize the Secretary of Agriculture to indemnify farmers whose hay is contaminated with residues of economic poisons; to the Committee on Agriculture and Forestry.

S. 786. A bill to grant all minerals, including coal, oil and gas, on certain lands on the Fort Belknap Indian Reservation, Mont., to certain Indians, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. METCALF:

S. 787. A bill for the relief of Siu Pong Chau; and

S. 788. A bill for the relief of Cristina Carmen Perez y Arellano; to the Committee on the Judiciary.

S. 789. A bill to provide that the appropriation requests of certain regulatory agencies be transmitted directly to Congress; to the Committee on Government Operations.

By Mr. JAVITS:

S. 790. A bill for the relief of Miss Angiolina Filippone;

S. 791. A bill for the relief of Sezan Osoktay;

S. 792. A bill for the relief of Dr. Adnan Abu Ghazaleh, his wife, Samira Abu Ghazaleh, and his son, Samir Abu Ghazaleh;

S. 793. A bill for the relief of Peter Chung Ren Huang;

S. 794. A bill for the relief of Nguyen Thi Thu Cuc;

S. 795. A bill for the relief of Juan Manuel Gomez Quiroz;

S. 796. A bill for the relief of Norma Serabia;

S. 797. A bill to fix date of citizenship of Alfred Lorman for purposes of War Claims Act of 1948;

S. 798. A bill for the relief of Lucio Martella;

S. 799. A bill for the relief of Aristidis Chrestatos;

S. 800. A bill for the relief of Giovanni and Elena Ciatto;

S. 801. A bill for the relief of Bertrand Cramer; and

S. 802. A bill for the relief of De and Mrs. Jose L. Cabezon; to the Committee on the Judiciary.

By Mr. HATFIELD (for himself and Mr. PACKWOOD):

S. 803. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Monmouth-Dallas division, Willamette River project, Oregon, and for other purposes;

S. 804. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Merlin division, Rogue River Basin project, Oregon, and for other purposes;

S. 805. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Illinois Valley division, Rogue River Basin project, Oregon, and for other purposes; and

S. 806. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Olalla division of the Umpqua project, Oregon, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 807. A bill to provide for holding terms of the U.S. District Court for the District of Oregon at Coquille; to the Committee on the Judiciary.

S. 808. A bill to provide for the designation of that portion of U.S. Highway numbered 30 between Portland and Astoria, Oreg., as part of the National System of Interstate and Defense Highways; to the Committee on Public Works.

By Mr. RIBICOFF (for himself and Mr. BAYH, Mr. CASE, Mr. DODD, Mr. INOUYE, Mr. JAVITS, Mr. MAGNUSON, Mr. MCINTYRE, Mr. MONDALE, Mr. MUSKIE, Mr. PELL, and Mr. TYDINGS):

S. 809. A bill to provide Federal leadership and grants to the States for developing and implementing State programs for youth camp safety standards; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. RIBICOFF when he

introduced the above bill, which appear under a separate heading.)

By Mr. MONDALE:

S. 810. A bill for the relief of Alfred Harrison, his wife Ingrid Gertrude, daughter Kirsten Viola, and son Martin Lenz; to the Committee on the Judiciary.

By Mr. MONDALE (for himself and Mr. BURDICK, Mr. COOK, Mr. COOPER, Mr. EAGLETON, Mr. HARTKE, Mr. INOUYE, Mr. MANSFIELD, Mr. MCGEE, Mr. MCGOVERN, Mr. METCALF, Mr. MILLER, Mr. MONTOYA, Mr. MUSKIE, Mr. NELSON, Mr. PACKWOOD, Mr. PROXMIRE, Mr. SCOTT, Mr. YARBOROUGH, Mr. YOUNG of North Dakota, and Mr. YOUNG of Ohio):

S. 811. A bill to require the Secretary of Agriculture and the Director of the Bureau of the Budget to make a separate accounting of funds requested for the Department of Agriculture for programs and activities that primarily stabilize farm income and those that primarily benefit consumers, businessmen, and the general public, and for other purposes; to the Committee on Agriculture and Forestry.

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

By Mr. MONDALE (for himself and Mr. BURDICK, Mr. HARRIS, Mr. HART, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MCCARTHY, Mr. MCGEE, Mr. MCGOVERN, Mr. METCALF, Mr. MONTOYA, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. PROXMIRE, Mr. YARBOROUGH, and Mr. YOUNG of North Dakota):

S. 812. A bill to provide for the orderly marketing of agricultural commodities by the producers thereof, and for other purposes; to the Committee on Agriculture and Forestry.

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

By Mr. SPARKMAN:

S. 813. A bill to provide for continuation of authority for regulation of exports; 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. ELLENDER (by request):

S. 814. A bill to amend the Consolidated Farmers Home Administration Act of 1961, as amended, to provide a supplemental source of credit to cooperatives serving rural people, and for other purposes;

S. 815. A bill to amend the Consolidated Farmers Home Administration Act of 1961, as amended, to provide for insured operating loans, including loans to low-income farmers and ranchers, and for other purposes; and

S. 816. A bill to amend the Agricultural Adjustment Act of 1933, as amended, and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, to provide for payment by handler assessments of the administrative costs of the Department of Agriculture; to the Committee on Agriculture and Forestry.

By Mr. FANNIN (for himself and Mr. BENNETT, Mr. COTTON, Mr. CURTIS, Mr. ERVIN, Mr. GOLDWATER, Mr. HANSEN, Mr. MUNDT, Mr. THURMOND, and Mr. WILLIAMS of Delaware):

S. 817. A bill to provide for strike ballots in certain cases; to the Committee on Labor and Public Welfare.

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

By Mr. MATHIAS (for himself and Mr. SCOTT and Mr. FONG):

S. 818. A bill to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices; to the Committee on the Judiciary.

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

By Mr. CANNON:

S. 819. A bill to exempt citizens who are 65 years of age or over from paying entrance, admission, or user fees; to the Committee on Interior and Insular Affairs.

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

By Mr. HARRIS:

S. 820. A bill to increase the maximum rate of per diem allowance for employees of the Government traveling on official business, and for other purposes; to the Committee on Government Operations.

S. 821. A bill to permit negotiation of a modification to a contract for sale of certain real property by the United States to the city of Lawton, Oklahoma; to the Committee on Interior and Insular Affairs.

S. 822. A bill for the relief of A. G. Bartlett Company; to the Committee on the Judiciary.

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

By Mr. PROXMIRE (for himself and Mr. WILLIAMS of New Jersey, Mr. MONDALE, Mr. NELSON, Mr. MAGNUSON, Mr. MCGEE, Mr. MOSS, Mr. YARBOROUGH, Mr. YOUNG of Ohio, and Mr. JAVITS):

S. 823. A bill to enable consumers to protect themselves against arbitrary, erroneous, and malicious credit information to the Committee on Banking and Currency.

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

By Mr. NELSON:

S. 824. A bill for the relief of Apostole Bourexis; and

S. 825. A bill for the relief of Nikolaos G. Kalaras; to the Committee on the Judiciary.

By Mr. NELSON (for himself and Mr. PROXMIRE, Mr. HART, and Mr. GRIFFIN):

S. 826. A bill to designate certain lands in the Seney, Huron Island, and Michigan Islands National Wildlife Refuges in Michigan, the Gravel Island and Green Bay National Wildlife Refuges in Wisconsin, and the Moosehorn National Wildlife Refuge in Maine, as wilderness; to the Committee on Interior and Insular Affairs.

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

By Mr. FONG:

S. 827. A bill for the relief of Honorato D. Dela Cruz;

S. 828. A bill for the relief of Anita Pagala Ramos;

S. 829. A bill for the relief of Dai Pao Wang; and

S. 830. A bill for the relief of Corazon F. Mesina; to the Committee on the Judiciary.

By Mr. MCGOVERN:

S. 831. A bill for the relief of Kamal Hadji-Reza-Polvi and for his family, Razieh and Afshin Polvi;

S. 832. A bill for the relief of Katherine L. Domaguing; and

S. 833. A bill for the relief of Miguel Apaza; to the Committee on the Judiciary.

By Mr. HARTKE:

S. 834. A bill for the relief of Tommy Kin Ip Leung; to the Committee on the Judiciary.

By Mr. HART:

S. 835. A bill to amend the act of September 5, 1962 (76 Stat. 435), providing for the establishment of the Frederick Douglass home as a part of the park system in the National Capital; to the Committee on Interior and Insular Affairs.

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

By Mr. SPARKMAN:

S. 836. A bill for the relief of Wha Wang; to the Committee on the Judiciary.

By Mr. MANSFIELD:

S.J. Res. 36. A joint resolution proposing an amendment to the Constitution of the United States relating to limitation of debate in the Senate; to the Committee on the Judiciary.

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

By Mr. SPARKMAN:

S.J. Res. 37. A joint resolution to extend the time for the making of a final report by the Commission To Study Mortgage Interest Rates; to the Committee on Banking and Currency.

By Mr. BAKER:

S.J. Res. 38. A joint resolution proposing an amendment to the Constitution of the United States extending the right to vote in Federal elections to citizens 18 years of age or older; to the Committee on the Judiciary.

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

S. 779—INTRODUCTION OF BILL TO AUTHORIZE CERTAIN CONSTRUCTION AT MILITARY INSTALLATIONS

Mr. STENNIS. Mr. President, for myself and the senior Senator from Maine (Mrs. SMITH), I introduce, by request, a bill to authorize certain construction at military installations, and for other purposes.

I ask unanimous consent that the letter of transmittal requesting introduction of this bill and explaining its purpose be printed in the RECORD immediately following the listing of the bill.

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

The bill (S. 779) to authorize certain construction at military installations, and for other purposes, introduced by Mr. STENNIS (for himself and Mrs. SMITH), was received, read twice by its title, and referred to the Committee on Armed Services.

The letter presented by Mr. STENNIS is as follows:

THE SECRETARY OF DEFENSE,
Washington, January 17, 1969.

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

DEAR MR. PRESIDENT: There is forwarded herewith a draft of legislation "To authorize certain construction at military installations and for other purposes."

This proposal is a part of the Department of Defense legislative program for Fiscal Year 1970. The Bureau of the Budget on January 6, 1969, advised that its enactment would be in accordance with the program of the President.

This legislation would authorize military construction needed by the Department of Defense at this time, and would provide additional authority to cover deficiencies in essential construction previously authorized. Appropriations in support of this legislation are provided for in the Budget of the United States Government for FY 1970.

Titles I, II, III, and IV of this proposal would authorize $1,737,746,000 in new construction for requirements of the Active Forces, of which $959,343,000 are for the Department of the Army; $353,774,000 for the Department of the Navy; $352,129,000 for the

Department of the Air Force; and $72,500,000 for the Defense agencies.

Title V contains legislative recommendations considered necessary to implement the Department of Defense family housing program and authorizes $694,418,000 for all costs of that program for FY 1970.

Title VI requests authorization for appropriation of $1,850,000 for homeowners assistance in base closure areas.

Title VII contains general provisions generally applicable to the Military Construction Program.

Title VIII, totaling $40,000,000, would authorize construction for the Reserve Components, of which $10,000,000 is for the Army National Guard; $6,000,000 for the Army Reserve; $8,500,000 for the Navy and Marine Corps Reserves; $11,500,000 for the Air National Guard; and $4,000,000 for the Air Force Reserve. These authorizations are in lump sum amounts in accordance with the amendments to Chapter 133, Title 10, United States Code, which were enacted in Public Law 87-554.

Sincerely,

CLARK M. CLIFFORD.

REREFERRAL OF SENATE BILL 734

Mr. CANNON. Mr. President, I ask unanimous consent that Senate bill 734—to revise the Federal election laws—which was introduced in the Senate on Tuesday, January 28, 1969, and was referred to the Committee on Finance be rereferred to the Committee on Rules and Administration.

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

S. 781—INTRODUCTION OF BILL RELATING TO COMMISSION ON A VOLUNTARY MILITARY SERVICE

Mr. SCOTT. Mr. President, I introduce, for appropriate reference, a bill to establish a Presidential Commission on a Voluntary Military Service. This legislation, which has as its ultimate goal the abolishment of the draft, is intended to carry out a proposal which I first advanced last year. I am pleased that a similar interest has been confirmed by the President with his directive of yesterday to Defense Secretary Laird.

Of course, I am well aware of the fine work which has been done by the Burke Marshall, Gen. Mark Clark, and other advisory commissions in recommending revisions badly needed in the current Selective Service System. I, for example, participated directly in the efforts in the last session of Congress which led successfully to the change in policy which now grants equally to students pursuing academic degrees through junior and community colleges the same deferment treatment afforded to students at regular 4-year universities. My interest in a correction of these distasteful injustices will continue. I could not do otherwise at a time when the manpower demands of the Vietnam war especially, and the increasingly uneasy world situation generally, focus critical attention on the inequities implied in the question, "Who serves when not all serve?"

But, Mr. President, I feel we are now in a position to go further in this direction than we have before. While other Commission studies of the draft have been aimed primarily at the inequities of Selective Service, they have tended to look on the question of a voluntary military service—if indeed they have looked on it at all—only as one of a number of alternatives to the present system. By contrast, the Presidential Commission I have in mind would deal with a voluntary military service exclusively. The President's directive of yesterday, too, appears to have this intent in mind. But, while members of the Defense Department would also serve on the Commission I propose, my bill is designed to obtain a further balance on this question by specifically bringing to the Commission as well persons from civilian life whose knowledge of business management, labor relations, education, and other related fields could be expected to result in a meaningful contribution to a study of this kind. The Commission's mandate would be to conduct a detailed study of the full ramifications of a voluntary military service so that Congress might know how best, and when, to proceed in making a voluntary military service a reality. It would be the statutory responsibility of this Commission to recommend, consistent with its findings, enabling legislation for the implementation of this goal. Ultimately, I believe Congress, as well as the Defense Department, must deal with this issue.

I do not feel that it is too early now to initiate such a study. At last, we have in Paris the beginnings of what we all hope will be the negotiations that lead finally to the long-sought honorable conclusion of the Vietnam conflict. I think we can hope, too, that the skills which the new administration will bring to the area of foreign policy, and its relationships with Congress, will preclude the chance that this country will again become involved in another war of such a tragic nature and scope as that which has evolved in Vietnam.

Nor, can I agree with those who would characterize the concept of a voluntary military service as "impossible." Nothing should be more in keeping with our American tradition of encouraging individual freedom of choice to the maximum extent possible.

I recognize, however, that such a proposal will be workable only if it is preceded by careful thought and planning. Realistic arrangements for transition pay scales, promotions, training and other professional incentives are but a few of the related issues which must first be thoroughly examined. Solutions to these problems will not be found overnight.

We can, however, begin now. This is the task of the Presidential Commission which I am today proposing be established. I urge the speedy enactment of my bill so that this Commission can get on with its important work.

Mr. President, I ask that the text of my bill to establish a Commission on Voluntary Military Service, and an essay entitled "The Case for a Volunteer Army," from the January 10, 1969, issue of Time magazine, be printed at this point in the RECORD.

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

The bill (S. 781) to establish a temporary Commission to consider the feasibility of meeting the military manpower requirement of the Nation through a completely voluntary system of enlistments, introduced by Mr. SCOTT, 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. 781

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

ESTABLISHMENT OF COMMISSION

SECTION 1. (a) There is hereby established a commission to be known as the Commission on Voluntary Military Service (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of eleven members appointed by the President without regard to political affiliation. Members of the Commission shall be appointed from among persons especially qualified to serve on such Commission by virtue of their education, training, and experience. Not more than four of the members of the Commission may be appointed from the Department of Defense, and at least one member of the Commission shall be selected from business or business management, one from labor, and one from the field of higher education.

(c) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission. If a member of the Commission from the Department of Defense is designated to serve as Chairman, a member from private life shall be designated to serve as Vice Chairman; and if a member of the Commission from the Department of Defense is designated to serve as Vice Chairman, a member from private life shall be designated to serve as Chairman.

(d) Any vacancy in the Commission shall not affect its powers.

(e) Six members of the Commission shall constitute a quorum.

DUTIES OF THE COMMISSION

SEC. 2. (a) The Commission shall conduct a comprehensive study and investigation of the feasibility of providing for the military manpower requirements of the Nation through a completely voluntary program of enlistments. In carrying out such study and investigation the Commission shall consider such matters as it deems appropriate to determine whether such a voluntary program is workable and practicable, including—

(1) means of making a military career more attractive to young men;

(2) the estimated costs of achieving a complete voluntary system; and

(3) measures which might be instituted to provide for an effective and efficient transition during any changeover from the present system to a completely voluntary system.

(b) The Commission shall transmit to the President and to the Congress a final report not later than eighteen months after the date of enactment of this Act. Such report shall contain a detailed statement of the findings and conclusions of the Commission together with such recommendations for legislation as it deems appropriate. The Commission shall cease to exist thirty days after the submission of its final report to the President and to the Congress.

POWERS OF THE COMMISSION

SEC. 3. (a) The Commission or any committee thereof may, in carrying out its duties

under this Act, hold such hearings, take such testimony, and sit and act at such times and places as the Commission or such committee may deem advisable. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission or any committee thereof.

(b) Subject to the requirements of national security, the Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this Act; and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman or Vice Chairman.

(c) The Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 57 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(d) The Commission may procure temporary or intermittent services of experts and consultants to the same extent as is authorized for the departments by section 3109 of title 5, United States Code, but at rates not to exceed $75 a day for individuals.

COMPENSATION OF COMMISSION MEMBERS

SEC. 4. (a) Members of the Commission who are officers or employees of the Federal Government shall serve as members of the Commission without compensation in addition to that received in their regular public employment. Members of the Commission from private life shall each receive compensation at the rate of $100 per day for each day they are engaged in the performance of their duties as members of the Commission.

(b) All members of the Commission shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

EXPENSES OF THE COMMISSION

SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The article presented by Mr. SCOTT is as follows:

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 poficiency 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 were 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 G.I.'s of World War II, and the Pentagon's estimate of its current needs run to similar magnitudes: 3,454,160 of 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 the ex-servicemen who feel that something is their due for having been drafted. Savings 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 of 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 rise 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 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 determining 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 volutneer 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. Incentive, 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.

S. 782—INTRODUCTION OF BILL FOR PROTECTION OF CONSTITUTIONAL RIGHTS OF GOVERNMENT EMPLOYEES AND TO PREVENT UNWARRANTED INVASIONS OF THEIR PRIVACY

Mr. ERVIN. Mr. President, I introduce for appropriate reference a bill to protect the civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy.

I take this action on behalf of myself and the following 53 Members who have jointed in cosponsorship of this measure: Senators BAYH, FONG, HRUSKA, THURMOND, DODD, BURDICK, TYDINGS, DIRKSEN, SCOTT, COOK, MATHIAS, BIBLE, BROOKE, BYRD of Virginia, CHURCH, COOPER, DOLE, DOMINICK, EAGLETON, FANNIN, GOLDWATER, GRAVEL, HANSEN, HATFIELD, INOUYE, JORDAN of North Carolina, JORDAN of Idaho, MAGNUSON, MCCARTHY, MCGEE, MCGOVERN, MCINTYRE, METCALF, MILLER, MONTOYA, MUNDT, MUSKIE, NELSON, PEARSON, PERCY, PROUTY, PROXMIRE, RANDOLPH, SAXBE, SCHWEIKER, SPARKMAN, SPONG, STEVENS, TALMADGE, TOWER, WILLIAMS of New Jersey, YARBOROUGH, and GURNEY.

This measure has already been approved once by this body. The bill I introduce today is identical with a former bill, S. 1035, which was sponsored by 55 Senators and which the Senate passed on September 13, 1967, by a vote of 79 to 4. By the time absentees recorded their stand on S. 1035, a total of 90 Senators had registered their approval.

Despite the widespread support this proposal has had from citizens throughout the country, from individual Government employees and from every major Government employee organization and union, the bill died in the House Subcommittee on Manpower and Civil Service.

Several weeks ago, Americans circled the moon, and we can only wonder at the anomaly of a free society whose wondrous meshing of governmental machinery could produce such a feat but whose Congress could not enact a bill to protect the rights and liberties of its Federal employees.

On reflection, however, it may be that the concerted opposition to the bill mounted by the Federal agencies and departments is only one more example of the effective and smooth cooperation which Government agencies can demonstrate when the occasion demands. As they viewed it, I suppose impending enactment of S. 1035 was such an occasion, for it did threaten their power of arbitrary and unlimited invasion of the privacy of citizens who work for Government or who apply to work for it. It did prohibit Government officials at all levels from violating certain basic rights which employees possess as citizens under a democratic form of government. And it did spell out for all to see in the statute books what rights and what remedies those 3 million citizens had with respect to the policies, methods and techniques specifically proscribed by the bill.

The purpose and background of the measure I am again introducing is spelled out in Senate Report No. 534 of the 90th Congress. It is to prohibit indiscriminate requirements that employees and applicants for Government employment disclose their race, religion or national origin; attend Government-sponsored meetings and lectures or participate in outside activities unrelated to their employment; report on their outside activities or undertakings unrelated to their work; submit to questioning about their religion, personal relationships or sexual attitudes, through interviews, psychological tests, or polygraphs; support political candidates, or attend political meetings.

It makes it illegal to coerce an employe to buy bonds or make charitable contributions; or to require him to disclose his own personal assets, liabilities, or expenditures, or those of any member of his family, unless, in the case of certain specified employees, such items would tend to show a conflict of interest.

It provides a right to have a counsel or other person present, if the employee wishes, at an interview which may lead to disciplinary proceedings.

It accords the right to a civil action in a Federal court for violation or threatened violation of the act.

Finally, it establishes a Board on Employees' Rights to receive and conduct hearings on complaints of violation of the act, and to determine and administer remedies and penalties.

Some people will say, "Let us wait. There has been a change of administration." I submit, Mr. President, that although they have a new umpire, it is still the same old ball game for Federal employees. And it will continue to be until Congress takes action to protect the citizen who may be subjected to official pressures, coercions, and commands inconsistent with citizenship in a free society.

Some administrative changes have been made by the able former Chairman of the Civil Service Commission, Mr. Macy. Under Mr. Macy, the Commission last year produced new personnel forms after deleting some privacy-invading questions previously asked of applicants; they codified and strengthened their own guidelines for investigations of personnel; and they encouraged management action and concern with problems uncovered by the subcommittee study.

I ask unanimous consent to have printed in the RECORD an exchange of correspondence between Mr. Macy and me concerning our mutual interests in behalf of the privacy and other rights of Government employees as citizens.

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

JANUARY 27, 1969.

Hon. JOHN W. MACY, Jr.,
McLean, Va.

DEAR MR. MACY: This is to thank you for your reply to my inquiry January 7 concerning letters of reprimand.

I also want to tell you of my appreciation for your cooperation with the Subcommittee during our study of the constitutional rights of employees. I have come to admire your strength of purpose and your dedication to good government. I believe you and your colleagues have made a sincere effort to remedy some of the human problems which have been evolving for federal workers with the growth of the Federal Government. You carried burdens for the Chief Executive, for government, and for your party beyond the strengths of any average man.

As you return to private life, I know you do so with the knowledge that you have rendered unique and outstanding service to your country.

With best personal wishes, I am.

Sincerely yours,

SAM J. ERVIN, Jr.,
Chairman.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., January 16, 1969.

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

DEAR SENATOR: In looking over the unfinished business which remains in the final days of my service and the Civil Service Commission, I have given particular attention to your thoughtful letter of January 7 concerning letters of reprimand. I regret that the time remaining is not sufficient to permit an appropriate reply from me prior to January 20. The Commission staff advises me that an analysis of the questions you have raised will necessitate inquiries to the agencies prior to the preparation of a response which will provide you with the significant information you seek.

Since this will be my final communication with you in my role as Commission Chairman I want to take the opportunity to express my sincere appreciation to you for your vigorous interest in the rights of Federal employees. While we have not always been in agreement—or even near it—on how to assure the best protection of employee rights, I believe that our values and our objectives are basically identical. Your advocacy on this issue has prompted action within the Commission and elsewhere in the Federal Government which would not have occurred without it. You have directed the spotlight of Congressional concern on human issues which required executive attention. I only hope that our conscientious response has contributed to the improvement we both seek.

I am certain that additional recognition and protection of the rights of Federal employees will evolve in the months ahead. I am equally certain that as in the past you and your Subcommittee will play an affirmative and significant role in that evolution.

With every best wish for future health and happiness,

Sincerely yours,

JOHN W. MACY, Jr.,
Chairman.

Mr. ERVIN. Mr. President, these changes, however, have not altered the basic legal and administrative structures which can produce the injustices at which this measure is directed. Nor, under the existing system, can orders or suggestions of the Commission reach the acts and policies of agencies which are beyond the scope of civil service supervision. The Senate report describes examples of such practices which continue in effect.

It is clear that moral exhortations, whether pronounced by Congress or by the Civil Service Commission, or even by the President himself, are not sufficient to remedy this particular type of infringement on liberties. These complaints involve freedom of thought, of speech, of private action or inaction: freedoms of free men. These must be matters of law, not subjects for the discretion of whatever government official sits at a desk at any given moment.

The bill is based on complaints which, in some cases, have been coming to Congress for many years, regardless of the party in power.

The bipartisan nature of the support for the bill is illustrated in its sponsorship by 28 Democrats and 26 Republicans, representing 38 States.

The candidates of both major parties, in policy statements during the Presidential campaign, strongly supported new protections for the constitutional rights of Federal employees and guarantees against unwarranted invasions of their personal privacy.

Last October, for instance, former Vice President Humphrey wisely recognized the need for such protections and promised legislation based on the findings of the Constitutional Rights Subcommittee and other congressional committees.

Platforms of both major parties acknowledged the problem. In the platform adopted by their convention in Miami Beach last August, the Republican Party stated:

> The increasing government intrusion into the privacy of its employees and of citizens in general is intolerable. All such snooping, meddling and pressure by the federal government on its employees and other citizens will be stopped and such employees, whether or not union members, will be provided a prompt and fair method of settling their grievances.

This bill will help Members of Congress and the new administration to exchange their votes for their promises.

I am particularly encouraged by the recent endorsement and sponsorship of the bill by the new chairman of the Senate Post Office and Civil Service Committee, the senior Senator from Wyoming.

Enactment of this measure will signify that the spiritual and intellectual freedom of the individual, whatever his employment, is the value our society cherishes above the goals of any momentary Government program. Its passage will also put Congress on record that it means to take the lead in meeting the threat to individual privacy caused by the computer age. It will show that Congress means that the individual should take precedence over the machine: that neither the computer nor the manila file should be fed subjective, irrelevant judgments based on information the citizen was coerced to reveal about his personal life, his religious beliefs, his sexual attitudes, his participation or nonparticipation in community life, or his personal finances. It reflects a principle as old as our country, that a man should be judged by his ability and his performance; not by the extent to which government can control his private thoughts and beliefs.

I have received letters from people in every State asking why the scope of this bill is not extended to cover everyone, and not just Federal employees and applicants. Their questions are justified. The simple principles of fair play and due process on which it is based should guide the actions of all governments in their dealings with citizens.

Employers in State and local government and in private industry have already demonstrated considerable interest in adopting provisions of the bill into their own practices. State legislative committees have looked to it for guidance, and there is no doubt that congressional action to protect against unwarranted privacy invasion, with specific remedies, will encourage extensive local reforms to protect all citizens.

If this measure is enacted, it will at least mark a beginning. The Constitution of the United States calls for more; it demands no less.

Mr. President, when this bill was introduced before, I had a conference with the distinguished former chairman of the Committee on Post Office and Civil Service, Senator Monroney. Pursuant to our conversation, he agreed with me that the bill could be appropriately referred to his committee or the Committee on the Judiciary, and the bill was referred by unanimous consent to the Committee on the Judiciary which conducted hearings on the bill. I have consulted with the present distinguished chairman of the Committee on Post Office and Civil Service, the able Senator from Wyoming (Mr. MCGEE). He has agreed with me that a

similar course should be followed at this time.

Therefore, I ask unanimous consent, pursuant to the agreement between Mr. McGEE and me, that the bill be referred to the Committee on the Judiciary; and that the bill be printed in the RECORD.

The VICE PRESIDENT. Without objection the bill will be received, by unanimous consent referred to the Committee on the Judiciary; and, without objection, the bill will be printed in the RECORD.

The bill (S. 782) to protect the civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy, introduced by Mr. ERVIN (for himself and 53 other Senators), was received, read twice by its title, referred to the Committee on the Judiciary, by unanimous consent, and ordered to be printed in the RECORD, as follows:

S. 782

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

SECTION 1. It shall be unlawful for any officer of any executive department or any executive agency of the United States Government, or for any person acting or purporting to act under his authority, to do any of the following things:

(a) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency, or any person seeking employment in the executive branch of the United States Government, to disclose his race, religion, or national origin, or the race, religion, or national origin of any of his forebears: *Provided, however,* That nothing contained in this subsection shall be construed to prohibit inquiry concerning the citizenship of any such employee or person if his citizenship is a statutory condition of his obtaining or retaining his employment: *Provided further,* That nothing contained in this subsection shall be construed to prohibit inquiry concerning the national origin of any such employee when such inquiry is deemed necessary or advisable to determine suitability for assignment to activities or undertakings related to the national security within the United States or to activities or undertakings of any nature outside the United States.

(b) To state or intimate, or to attempt to state or intimate, to any civilian employee of the United States serving in the department or agency that any notice will be taken of his attendance or lack of attendance at any assemblage, discussion, or lecture held or called by any officer of the executive branch of the United States Government, or by any person acting or purporting to act under his authority, or by any outside parties or organizations to advise, instruct, or indoctrinate any civilian employee of the United States serving in the department or agency in respect to any matter or subject other than the performance of official duties to which he is or may be assigned in the department or agency, or the development of skills, knowledge, or abilities which qualify him for the performance of such duties: *Provided, however,* That nothing contained in this subsection shall be construed to prohibit taking notice of the participation of a civilian employee in the activities of any professional group or association.

(c) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency to participate in any way in any activities or undertakings unless such activities or undertakings are related to the performance of official duties to which he is or may be assigned in the department or agency, or to the development of skills, knowledge, or abilities which qualify him for the performance of such duties.

(d) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency to make any report concerning any of his activities or undertakings unless such activities or undertakings are related to the performance of official duties to which he is or may be assigned in the department or agency, or to the development of skills, knowledge, or abilities which qualify him for the performance of such duties, or unless there is reason to believe that the civilian employee is engaged in outside activities or employment in conflict with his official duties.

(e) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency, or any person applying for employment as a civilian employee in the executive branch of the United States Government, to submit to any interrogation or examination or to take any psychological test which is designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters: *Provided, however,* That nothing contained in this subsection shall be construed to prevent a physician from eliciting such information or authorizing such tests in the diagnosis or treatment of any civilian employee or applicant where such physician deems such information necessary to enable him to determine whether or not such individual is suffering from mental illness: *Provided further, however,* That this determination shall be made in individual cases and not pursuant to general practice or regulation governing the examination of employees or applicants according to grade, agency, or duties: *Provided further, however,* That nothing contained in this subsection shall be construed to prohibit an officer of the department or agency from advising any civilian employee or applicant of a specific charge of sexual misconduct made against that person, and affording him an opportunity to refute the charge.

(f) To require or request, or attempt to require or request, any civilian employee of the United States serving in the department or agency, or any person applying for employment as a civilian employee in the executive branch of the United States Government, to take any polygraph test designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters.

(g) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency to support by personal endeavor or contribution of money or any other thing of value the nomination or the election of any person or group of persons to public office in the Government of the United States or of any State, district, Commonwealth, territory, or possession of the United States, or to attend any meeting held to promote or support the activities or undertakings of any political party of the United States or of any State, district, Commonwealth, territory, or possession of the United States.

(h) To coerce or attempt to coerce any civilian employee of the United States serving in the department or agency to invest his earnings in bonds or other obligations or securities issued by the United States or any of its departments or agencies, or to make donations to any institution or cause of any kind: *Provided, however,* That nothing contained in this subsection shall be construed to prohibit any officer of any executive department or any person acting or purporting to act under his authority, from calling meetings and taking any action appropriate to afford any civilian employee of the United States the opportunity voluntarily to invest his earnings in bonds or other obligations or securities issued by the United States or any of its departments or agencies, or voluntarily to make donations to any institution or cause.

(i) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the Department or agency to disclose any items of his property, income, or other assets, source of income, or liabilities, or his personal or domestic expenditures or those of any member of his family or household: *Provided, however,* That this subsection shall not apply to any civilian employee who has authority to make any final determination with respect to the tax or other liability of any person, corporation, or other legal entity to the United States, or claims which require expenditure of moneys of the United States: *Provided further, however,* That nothing contained in this subsection shall prohibit the Department of the Treasury or any other executive department or agency of the United States Government from requiring any civilian employee of the United States to make such reports as may be necessary or appropriate for the determination of his liability for taxes, tariffs, custom duties, or other obligations imposed by law.

(j) To require or request, or to attempt to require or request, any civilian employee of the United States embraced within the terms of the proviso in subsection (i) to disclose any items of his property, income, or other assets, source of income, or liabilities, or his personal or domestic expenditures or those of any member of his family or household other than specific items tending to indicate a conflict of interest in respect to the performance of any of the official duties to which he is or may be assigned.

(k) To require or request, or to attempt to require or request, any civilian employee of the United States serving in the department or agency, who is under investigation for misconduct, to submit to interrogation which could lead to disciplinary action without the presence of counsel or other person of his choice, if he so requests.

(l) To discharge, discipline, demote, deny promotion to, relocate, reassign, or otherwise discriminate in regard to any term or condition of employment of, any civilian employee of the United States serving in the department or agency, or to threaten to commit any of such acts, by reason of the refusal or failure of such employee to submit to or comply with any requirement, request, or action made unlawful by this Act, or by reason of the exercise by such civilian employee of any right granted or secured by this Act.

SEC. 2. It shall be unlawful for any officer of the United States Civil Service Commission, or for any person acting or purporting to act under his authority, to do any of the following things:

(a) To require or request, or to attempt to require or request, any executive department or any executive agency of the United States Government, or any officer or employee serving in such department or agency, to violate any of the provisions of section 1 of this Act.

(b) To require or request, or to attempt to require or request, any person seeking to

establish civil service status or eligibility for employment in the executive branch of the United States Government, or any person applying for employment in the executive branch of the United States Government, or any civilian employee of the United States serving in any department or agency of the United States Government, to submit to any interrogation or examination or to take any psychological test which is designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters: *Provided, however,* That nothing contained in this subsection shall be construed to prevent a physician from eliciting such information or authorizing such tests in the diagnosis or treatment of any civilian employee or applicant where such physician deems such information necessary to enable him to determine whether or not such individual is suffering from mental illness: *Provided further, however,* That this determination shall be made in individual cases and not pursuant to general practice or regulation governing the examination of employees or applicants according to grade, agency, or duties: *Provided further, however,* That nothing contained in this subsection shall be construed to prohibit an officer of the Civil Service Commission from advising any civilian employee or applicant of a specific charge of sexual misconduct made against that person, and affording him an opportunity to refute the charge.

(c) To require or request, or to attempt to require or request, any person seeking to establish civil service status or eligibility for employment in the executive branch of the United States Government, or any person applying for employment in the executive branch of the United States Government, or any civilian employee of the United States serving in any department or agency of the United States Government, to take any polygraph test designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters.

SEC. 3. It shall be unlawul for any commissioned officer, as defined in section 101 of title 10, United States Code, or any member of the Armed Forces acting or purporting to act under his authority, to require or request, or to attempt to require or request, any civilian employee of the executive branch of the United States Government under his authority or subject to his supervision to perform any of the acts or submit to any of the requirements made unlawful by section 1 of this Act.

SEC. 4. Whenever any officer of any executive department or any executive agency of the United States Government, or any person acting or purporting to act under his authority, or any commissioned officer as defined in section 101 of title 10, United States Code, or any member of the Armed Forces acting or purporting to act under his authority, violates or threatens to violate any of the provisions of section 1, 2, or 3 of this Act, any civilian employee of the United States serving in any department or agency of the United States Government, or any person applying for employment in the executive branch of the United States Government, or any person seeking to establish civil service status or eligibility for employment in the executive branch of the United States Government, affected or aggrieved by the violation or threatened violation, may bring a civil action in his own behalf or in behalf of himself and others similarly situated, against the offending officer or person in the United States district court for the district in which the violation occurs or is threatened, or the district in which the offending officer or person is found, or in the United States District Court for the District of Columbia, to prevent the threatened violation or to obtain redress against the consequences of the violation. The Attorney General shall defend all officers or persons sued under this section who acted pursuant to an order, regulation, or directive, or who, in his opinion, did not willfully violate the provisions of this Act. Such United States district court shall have jurisdiction to try and determine such civil action irrespective of the actuality or amount of pecuniary injury done or threatened, and without regard to whether the aggrieved party shall have exhausted any administrative remedies that may be provided by law, and to issue such restraining order, interlocutory injunction, permanent injunction, or mandatory injunction, or enter such other judgment or decree as may be necessary or appropriate to prevent the threatened violation, or to afford the plaintiff and others similarly situated complete relief against the consequences of the violation. With the written consent of any person affected or aggrieved by a violation or threatened violation of section 1, 2, or 3 of this Act, any employee organization may bring such action on behalf of such person, or may intervene in such action. For the purposes of this section, employee organizations shall be construed to include any brotherhood, council, federation, organization, union, or professional association made up in whole or in part of civilian employees of the United States and which has as one of its purposes dealing with departments, agencies, commissions, and independent agencies of the United States concerning the conditions and terms of employment of such employees.

SEC. 5. (a) There is hereby established a Board on Employees' Rights (hereinafter referred to as the "Board"). The Board shall be composed of three members, appointed by the President, by and with the advice and consent of the Senate. The President shall designate one member as chairman. No more than two members of the Board may be of the same political party. No member of the Board shall be an officer or employee of the United States Government.

(b) The term of office of each member of the Board shall be five years, except that (1) of those members first appointed, one shall serve for five years, one for three years, and one for one year, respectively, from the date of enactment of this Act, and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(c) Members of the Board shall be compensated at the rate of $75 a day for each day spent in the work of the Board, and shall be paid actual travel expenses and per diem in lieu of subsistence expenses when away from their usual places of residence, as authorized by section 5703 of title 5, United States Code.

(d) Two members shall constitute a quorum for the transaction of business.

(e) The Board may appoint and fix the compensation of such officers, attorneys, and employees, and make such expenditures, as may be necessary to carry out its functions.

(f) The Board shall make such rules and regulations as shall be necessary and proper to carry out its functions.

(g) The Board shall have the authority and duty to receive and investigate written complaints from or on behalf of any person claiming to be affected or aggrieved by any violation or threatened violation of this Act and to conduct a hearing on each such complaint. Within ten days after the receipt of any such complaint, the Board shall furnish notice of the time, place, and nature of the hearing thereon to all interested parties. The Board shall render its final decision with respect to any complaint within thirty days after the conclusion of its hearing thereon.

(h) Officers or representatives of any Federal employee organization in any degree concerned with employment of the category in which any alleged violation of this Act occurred or is threatened shall be given an opportunity to participate in each hearing conducted under this section, through submission of written data, views, or arguments, and in the discretion of the Board, with opportunity for oral presentation. Government employees called upon by any party or by any Federal employee organization to participate in any phase of any administrative or judicial proceeding under this section shall be free to do so without incurring travel cost or suffering loss in leave or pay; and all such employees shall be free from restraint, coercion, interference, intimidation, or reprisal in or because of their participation. Any periods of time spent by Government employees during such participation shall be held and considered to be Federal employment for all purposes.

(i) Insofar as consistent with the purposes of this section, the provisions of subchapter II of chapter 5 of title 5, United States Code, relating to the furnishing of notice and manner of conducting agency hearings, shall be applicable to hearings conducted by the Board under this section.

(j) If the Board shall determine after hearing that a violation of this Act has not occurred or is not threatened, the Board shall state its determination and notify all interested parties of such determination. Each such determination shall constitute a final decision of the Board for purposes of judicial review.

(k) If the Board shall determine that any violation of this Act has been committed or threatened by any civilian officer or employee of the United States, the Board shall immediately (1) issue and cause to be served on such officer or employee an order requiring such officer or employee to cease and desist from the unlawful act or practice which constitutes a violation, (2) endeavor to eliminate any such unlawful act or practice by informal methods of conference, conciliation, and persuasion; and (3) may—

(A) (i) in the case of the first offense by any civilian officer or employee of the United States, other than any officer appointed by the President, by and with the advice and consent of the Senate, issue an official reprimand against such officer or employee or order the suspension without pay of such officer or employee from the position or office held by him for a period of not to exceed fifteen days, and (ii) in the case of a second or subsequent offense by any such officer or employee, order the suspension without pay of such officer or employee from the position or office held by him for a period of not to exceed thirty days or order the removal of such officer or employee from such position or office; and

(B) in the case of any offense by any officer appointed by the President by and with the advice and consent of the Senate, transmit a report concerning such violation to the President and the Congress.

(l) If the Board shall determine that any violation of this Act has been committed or threatened by any officer of any of the Armed Forces of the United States, or any person purporting to act under authority conferred by such officer, the Board shall (1) submit a report thereon to the President, the Congress, and the Secretary of the military de-

partment concerned, (2) endeavor to eliminate any unlawful act or practice which constitutes such a violation by informal methods of conference, conciliation, and persuasion, and (3) refer its determination and the record in the case to any person authorized to convene general courts martial under section 822 (article 22) of title 10, United States Code. Thereupon such person shall take immediate steps to dispose of the matter under chapter 47 of title 10, United States Code (Uniform Code of Military Justice).

(m) Any party aggrieved by any final determination or order of the Board may institute, in the district court of the United States for the judicial district wherein the violation or threatened violation of this Act, occurred, or in the United States District Court for the District of Columbia, a civil action for the review of such determination or order. In any such action, the court shall have jurisdiction to (1) affirm, modify, or set aside any determination or order made by the Board which is under review, or (2) require the Board to make any determination or order which it is authorized to make under subsection (k), but which it has refused to make. The reviewing court shall set aside any finding, conclusion, determination, or order of the Board as to which complaint is made which is unsupported by substantial evidence on the record considered as a whole.

(n) The Board shall submit, not later than March 31 of each year, to the Senate and House of Representatives, respectively, a report on its activities under this section during the immediately preceding calendar year, including a statement concerning the nature of all complaints filed with it, its determinations and orders resulting from hearings thereon, and the names of all officers or employees of the United States with respect to whom any penalties have been imposed under this section.

(o) There are authorized to be appropriated sums necessary, not in excess of $100,000, to carry out the provisions of this section.

SEC. 6. Nothing contained in this Act shall be construed to prohibit an officer of the Central Intelligence Agency or of the National Security Agency or of the Federal Bureau of Investigation from requesting any civilian employee or applicant to take a polygraph test, or to take a psychological test, designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters, or to provide a personal financial statement, if the Director of the Central Intelligence Agency or his designee or the Director of the National Security Agency or his designee or the Director of the Federal Bureau of Investigation or his designee makes a personal finding with regard to each individual to be so tested or examined that such test or information is required to protect the national security.

SEC. 7. Nothing contained in sections 4 and 5 shall be construed to prevent establishment of department and agency grievance procedures to enforce this Act, but the existence of such procedures shall not preclude any applicant or employee from pursuing the remedies established by this Act or any other remedies provided by law: *Provided, however,* That if under the procedures established, the employee or applicant has obtained complete protection against threatened violations or complete redress for violations, such action may be pleaded in bar in the United States District Court or in proceedings before the Board on Employee Rights: *Provided further, however,* That if an employee elects to seek a remedy under either section 4 or section 5, he waives his right to proceed by an independent action under the remaining section.

SEC. 8. If any provision of this Act or the application of any provision to any person or circumstance shall be held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected.

S. 809—INTRODUCTION OF BILL TO ESTABLISH A FEDERAL LEADERSHIP PROGRAM TO PROMOTE YOUTH CAMP SAFETY

Mr. RIBICOFF. Mr. President, I introduce, for appropriate reference, a bill to establish a Federal leadership program to promote youth camp safety.

Each year more than 7 million children go off to residential, day or travel camps. These campers are mainly schoolchildren, and the vast majority attend camps during the summer vacation months. But while a parent finds little difficulty in ascertaining the relative safety of a child at school, millions of parents are forced to send their offspring to camps with little or no knowledge of whether the place meets basic minimum safety standards. And too often they do not.

Camping is a rapidly growing industry. The best estimates place the number of camps in the United States at between 10,000 and 12,000. Resident camps alone have tripled in the last 10 years. There are camps established in every State in the Union.

In many cases camps virtually take the place of parents for several weeks in the year. Yet in 19 States there are no regulations governing camping at all, and, in many of the remaining States only isolated aspects of camping are covered by law or regulation.

For instance, 40 States have no training requirements for counselors who supervise aquatic activities. Forty-six States have no regulations regarding the condition of vehicles used for transportation or the qualifications of drivers. The same number of States have no regulations restricting the age of counselors. Twenty-nine States fail to require annual camp inspections.

In the absence of State regulations there are a number of excellent camping organizations which have established standards for camping. The American Camping Association, with 3,400 member camps, the scouting organizations, the Association of Private Camps, and church oriented groups have all made a substantial contribution to better camping. But a great many camps in America do not belong to these organizations, and it is well understood that the standards set by private organizations lack any real enforcement provisions behind them. One out of every eight camps visited by representatives of the American Camping Association in 1967 failed to meet ACA standards. And it is generally recognized these are some of the best camps in the Nation.

The failure to establish adequate standards for many of our camps has had tragic consequences. In my own review of this situation, I have heard enough vertifiable horror stories to persuade me to seek better protection for our youngsters.

The only real camp safety survey took place 40 years ago when a group of distinguished youth leaders and camping enthusiasts met in New York City to discuss camping in general. It was the consensus of this group that the time had come to establish minimum standards for camp health and safety. The group commissioned a nationwide camp safety study which remains today the only full study of the situation. The report concluded that 65 percent of all accidents at camp could have been prevented by better supervision or higher standards of camp maintenance and administration. Only a quarter of the accidents were attributable to the camper's negligence, and half of these could have been prevented with more adequate supervision. A high percentage of the injuries covered by this report were due to faulty structures, dangerous pathways, and the very location of the camp itself. Despite this report, however, the call for action issued in 1929 has never been answered.

In 1966, a report issued by the Division of Accident Prevention of the Public Health Service pointed to the injury and death hazards involved in recreational camping.

Mr. President, the purpose of this youth camp safety bill is to provide Federal leadership in the area of camping safety. It seems to me to be only reasonable that our society provide parents with a simple way of judging whether a camp meets basic safety standards.

This bill would instruct the Secretary of Health, Education, and Welfare, in consultation with camping and safety experts, to establish camp safety standards. After the publication of these standards, each State would be encouraged to establish a program to insure compliance. The bill provides for incentive grants to the States to pay up to half the cost of administering the inspection and compliance program. Camps which met the Federal standards would be urged to display this fact to assist parents in their choice.

The bill would establish an Advisory Council on Youth Camp Safety to consult with the Secretary on the promulgation of safety standards. Members of the Council would come from all areas of the camping industry.

Before establishing safety standards, the bill provides that the Secretary shall survey existing safety standards published by State and private organizations and the effectiveness of these standards.

Mr. President, I first became aware of the problems of camp safety through the efforts of Mr. Mitch Kurman. Mr. Kurman, from Westport, Conn., lost a son several years ago in a tragic canoeing accident in Maine. Since that time Mr. Kurman has become a crusader, in the best sense of that word, for greater camp safety. This bill is to a great extent the result of his unceasing efforts.

There are many excellent and safe camps which operate every year. Camping at its best can provide unmatched

opportunities for recreation and close contact with our natural environment. It is a memorable escape for many of the underprivileged children trapped in the city.

This bill would not affect the finest camps. The bill is aimed at fly-by-night operations and those camps which are unaffiliated and unaccredited by responsible camping organizations.

I have no desire to take the adventure out of camping, but I see no reason why the benefits of camping cannot be rendered in a safe and healthy atmosphere. Many camps already measure up to the highest safety standards. Others will be given the incentive to improve. Those that fail to provide a safe environment do not belong in business.

During the years that I have sponsored this legislation, it has gained widespread public support. Additionally, I have had the assistance and backing of most of the major camping organizations. It is significant that those people closest to the camping industry believe this bill to be necessary.

This legislation provides an opportunity to enhance the constructive growth of the camping business while protecting the welfare of millions of children.

I am very pleased to say that Senators BAYH, CASE, DODD, INOUYE, JAVITS, MAGNUSON, MCINTYRE, MONDALE, MUSKIE, PELL, and TYDINGS have joined me in sponsoring this legislation, and I ask unanimous consent that the bill be printed at this point in the RECORD.

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

The bill (S. 809) to provide Federal leadership and grants to the States for developing and implementing State programs for youth camp safety standards, introduced by Mr. RIBICOFF (for himself and other Senators), was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 809

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 "Youth Camp Safety Act".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to protect and safeguard the health and well-being of the youth of the Nation attending day camps, resident camps, and travel camps, by providing for establishment of Federal standards for safe operation of youth camps, and to provide Federal assistance and leadership to the States in developing programs for implementing safety standards for youth camps, thereby providing assurance to parents and interested citizens that youth camps meet minimum safety standards.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "youth camp" means:

(1) any parcel or parcels of land having the general characteristics and features of a camp as the term is generally understood, used wholly or in part for recreational or educational purposes and accommodating for profit or under philanthropic or charitable auspices five or more children under eighteen years of age, living apart from their relatives, parents, or legal guardians for a period of, or portions of, five days or more, and includes a site that is operated as a day camp or as a resident camp; and

(2) any travel camp which for profit or under philanthropic or charitable auspices, sponsors or conducts group tours within the United States, or foreign group tours originating or terminating within the United States, for educational or recreational purposes, accommodating within the group five or more children under eighteen years of age living apart from their relatives, parents, or legal guardians for a period of five days or more.

(b) The term "person" means any individual, partnership, corporation, association, or other form of business enterprises.

(c) The term "safety standards" means criteria directed toward safe operation of youth camps, in such areas as—but not limited to—personnel qualifications for director and staff; ratio of staff to campers; sanitation and public health; personal health, first aid, and medical services; food handling, mass feeding, and cleanliness; water supply and waste disposal; water safety including use of lakes and rivers, swimming and boating equipment and practices; vehicle condition and operation; building and site design; equipment; and condition and density of use.

(d) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(e) The term "State" includes each of the several States and the District of Columbia.

GRANTS TO STATES FOR YOUTH CAMP SAFETY STANDARDS

SEC. 4. From sums appropriated pursuant to section 11 of this Act, but not to exceed $2,500,000 of such appropriation for any fiscal year, the Secretary is authorized to make grants to States which have State plans approved by him under section 6 to pay up to 50 per centum of the cost of developing and administering State programs for youth camp safety standards.

SEC. 5. In developing Federal standards for youth camps, the Secretary shall—

(a) undertake a study of existing State and local regulations and standards, and standards developed by private organizations, applicable to youth camp safety, including the enforcement of such State, local, and private regulations and standards;

(b) establish and publish youth camp safety standards within one year after enactment of the Act, after consultation with State officials and with representatives of appropriate private and public organizations after opportunity for hearings and notification published in the Federal Register; and

(c) authorize and encourage camps certified by the States as complying with the published Federal youth camp standards to advertise their compliance with minimum safety standards.

STATE PLANS

SEC. 6. (a) Any State desiring to participate in the grant program under this Act shall designate or create an appropriate State agency for the purpose of this section, and submit, through such State agency a State plan which shall—

(1) set forth a program for State supervised annual inspection of, and certification of compliance with, minimum safety standards developed under the provisions of sections 5 and 9(a) of this Act, at youth camps located in such State;

(2) provide assurances that the State will accept and apply such minimum youth camp safety standards as the Secretary shall by regulations prescribe;

(3) provide for the administration of such plan by such State agency;

(4) provide for an advisory committee, to advise the State agency on the general policy involved in inspection and certification procedures under the State plan, which committee shall include among its members representatives of other State agencies concerned with camping or programs related thereto and persons representative of professional or civic or other public or nonprofit private agencies, organizations, or groups concerned with organized camping;

(5) provide that such State agency will make such reports in such form and containing such information as the Secretary may reasonably require;

(6) provide assurance that the State will pay from non-Federal sources the remaining cost of such program; and

(7) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting of funds received under this Act.

(b) Any State desiring to enable youth camps in the State to advertise compliance with Federal youth camp standards, but which does not wish to participate in the grant programs under this Act, shall designate or create an appropriate State agency for the purpose of this section, and submit, through such State agency a State plan which shall accomplish the steps specified in (a) (1) through (3) of this section, and which provides for availability of information so that the Secretary may be assured of compliance with the standards.

(c) the Secretary shall not finally disapprove any State plan submitted under this Act or any modification thereof, without first affording such State agency reasonable notice and opportunity for a hearing.

DETERMINATION OF FEDERAL SHARE; PAYMENTS

SEC. 7. (a) The Secretary shall determine the amount of the Federal share of the cost of programs approved by him under section 6 based upon the funds appropriated therefor pursuant to section 10 for that fiscal year and upon the number of participating States; except that no State may receive a grant under this Act for any fiscal year in excess of $50,000.

(b) Payments to a State under this Act may be made in installments and in advance or by way of reimbursement with necessary adjustments on account of overpayments or underpayments.

OPERATION OF STATE PLANS; HEARINGS AND JUDICIAL REVIEW

SEC. 8. (a) Whenever the Secretary after reasonable notice and opportunity for hearing to the State agency administering a State plan approved under this Act, finds that—

(1) the State plan has been so changed that it no longer complies with the provisions of section 6, or

(2) in the administration of the plan there is a failure to comply substantially with any such provision,

the Secretary shall notify such State agency that no further payments will be made to the State under this Act (or in his discretion, that further payments to the State will be limited to programs or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments may be made to such State under this Act (or payment shall be limited to programs or portions of the State plan not affected by such failure).

(b) A State agency dissatisfied with a final action of the Secretary under section 6 or subsection (a) of this section may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or

any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

ADVISORY COUNCIL ON YOUTH CAMP SAFETY

SEC. 9. (a) The Secretary shall establish in the Department of Health, Education, and Welfare an Advisory Council on Youth Camp Safety to advise and consult on policy matters relating to youth camp safety, particularly the promulgation of youth camp safety standards. The Council shall consist of the Secretary, who shall be Chairman, and eighteen members appointed by him, without regard to the civil service laws, from persons who are specially qualified by experience and competence to render such service. Prior to making such appointments, the Secretary shall consult with appropriate associations representing organized camping.

(b) The Secretary may appoint such special advisory and technical experts and consultants as may be necessary in carrying out the functions of the Council.

(c) Members of the Advisory Council, while serving on business of the Advisory Council, shall receive compensation at a rate to be fixed by the Secretary, but not exceeding $100 per day, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5, United States Code for persons in the Government service employed intermittently.

ADMINISTRATION

SEC. 10. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress at least once in each fiscal year a comprehensive and detailed report on the administration of this Act.

(b) The Secretary is authorized to request directly from any department or agency of the Federal Government information, suggestions, estimates, and statistics needed to carry out his functions under this Act; and such department or agency is authorized to furnish such information, suggestions, estimates, and statistics directly to the Secretary.

(c) Nothing in this Act or regulations issued hereunder shall authorize the Secretary, a State agency, or any official acting under this law to restrict, determine, or influence the curriculum, program, or ministry of any youth camp.

AUTHORIZATION

SEC. 11. There are authorized to be appropriated to carry out the provisions of this Act the sum of $3,000,000 for the fiscal year ending June 30, 1970, and for each of the five succeeding fiscal years.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the position papers of the American Camping Association and the Association of Private Camps, as well as editorials from the Washington Post and the New York Times, and a table describing State camping regulations prepared by Dr. John Kirk of the ACA be printed at this point in the RECORD.

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

[From the Washington Post, Oct. 7, 1967]

SAFETY IN YOUTH CAMPS

Every parent of the 6,000,000 children who attend resident or day camps or participate in organized tours each year doubtless has some concern for their safety. Yet it is estimated that less than half of the camps of this type functioning in the United States meet minimum safety standards. Accidents are frequent, and it is difficult for parents to determine whether the camps to which their children may go are properly managed from the viewpoint of safety.

Senator Ribicoff is attempting to do something about the problem by sponsoring a bill to set up Federal standards for youth camp safety. His measure would encourage the states to accept those standards and to provide camp inspection machinery, with the aid of Federal grants. The problem is primarily one for the states to deal with, but only a few states have adequate regulations of their own and 19 states provide no regulation whatever of youth camps.

The bill has the support of the American Camping Association and of several similar groups. Certainly its objective is a worthy one, and it seems to fall in an area where Federal-state cooperation could be useful.

[From the New York Times, Aug. 14, 1968]

MAKING SUMMER CAMPS SAFE

More than six million youngsters have attended thousands of camps scattered in woodland areas across the United States this summer. The experience of life close to nature will undoubtedly have strengthened and enriched them in many ways. As another camping season begins to draw to an end, however, Federal legislation to make all camps meet minimum safety standards hasn't gone anywhere. It languishes in committee.

No hearings have been held on a bill introduced by Senator Ribicoff of Connecticut this session, just as no hearings were held on a similar bill he introduced last session. Only subcommittee hearings have been held on a companion bill in the House.

State regulation of camps is virtually nonexistent. Private garbage collectors must prove themselves morally fit to operate in New York, but camp directors and their personnel need pass no such screening. Most states have no safety requirements for camps, aside from requiring them to offer pure food and clean water. Moreover, because camping is nationwide there is a need for national safety standards.

Some groups have begun distributing literature aimed, they say, "at keeping government out of camping." It is incredible that anyone interested in camping would oppose establishing minimum safety standards.

With more camps opening every year and more children being sent to them, including increasing numbers of disadvantaged inner-city youngsters, the nation must not continue to ignore camping tragedies. It must insist on some basic safeguards against needless loss of young lives.

[From the American Camping Association, Inc., Bradford Woods, Martinsville, Ind.]

POSITION PAPER: YOUTH CAMP SAFETY ACT, 1966 SENATE BILL 3773

INTRODUCTION

On August 26, 1966, Senator Abraham Ribicoff of Connecticut introduced the Youth Camp Safety Act of 1966 (S. 3773) into the United States Senate. The American Camping Association had been aware of this pending legislation, and at the request of Senator Ribicoff's Administrative Assistant, the ACA Executive Director had, on several occasions been in contact with Senator Ribicoff's office.

The purpose of this Act is to protect and safeguard the health and well-being of the youth of the nation attending camps by providing minimum safety regulations to be implemented by states electing to participate in this program. The Federal Government will provide financial assistance and leadership for the states in order to accomplish this goal.

At the present time there are 17 states which require camps to be licensed and inspected annually, 26 states have regulatory programs intended to supervise the operation of various aspects of children's camps.

After much discussion and serious study, the ACA National Board of Directors at their October meeting, voted to submit a position paper that would support the intent of the Youth Camp Safety Act, since it is educational in scope. In the same motion, the National Board called for a Consultation to be held in order to provide the various elements of organized camping in the United States an opportunity to react to the provisions of Senate Bill 3773. This consultation, chaired by Dr. John J. Kirk, chairman of the ACA National Standards Committee, was held November 19, 1966, in New York City. A list of the participants is included as Appendix B. As a result of the consultation, a working paper was developed by Dr. Kirk and reviewed by Howard Gibbs, National President of ACA, Mrs. Hattie Smith, National Legislative Chairman, and Ernest F. Schmidt, Executive Director of ACA. The working paper was then sent to the forty Sections of the American Camping Association requesting that a special meeting be set up at which time the reaction and opinion of the general membership could be solicited.

The working paper reflected, in essence, the opinion of the representatives in attendance at the consultation, and that consensus was that Senate Bill 3773, and the principles embodied therein, should be supported. Thirty of the forty Sections of the American Camping Association have reacted to the working paper and the majority also support the principles and purpose of Senate Bill 3773. Some concerns and suggestions have been made by the various Sections of the American Camping Association, and these suggestions and concerns will be reflected in the Section-by-Section discussion of the bill which follows. In order that the minority opinion may also be heard, certain selected comments from Section representatives will be included in Appendix A.

The following Section-by-Section analysis of the bill represent the official opinion and position taken by the majority of the Sections reacting to the bill and the working paper which was developed as a result of the special consultation on November 19th:

AMERICAN CAMPING ASSOCIATION OFFICIAL POSITION ON SENATE BILL 3773

Section 2. *Statement of Purpose.* The majority of the membership of the American Camping Association is in agreement with the purpose of the Act as stated. This bill would serve, primarily, as an educational tool, whereby the participating states would have trained camp evaluators visit the camps in the state and determine whether or not the camps were meeting the established

minimum criteria. Those camps that were satisfactorily complying with the minimum federal safety regulations would receive a statement of compliance. *ACA does not recommend using the term "Seal of Approval," "Accreditation" or "Certification" for camps meeting the minimum criteria.* Camps that failed to meet the minimum federal regulations would be deprived of the privileges of indicating compliance, but would not be closed or placed on any provisional status as a result of the provisions of this bill.

Section 3. *Definitions.* In the definition of a Youth Camp, the membership expressed concern over the use of the term "instructional" rather than "educational," and it is recommended that Line 8, Page 2, be amended to read *"for educational and recreational purposes,"* rather than "recreational or instructional," as it now appears. It was also suggested that consideration be given to including the evaluation of travel camps, in addition to resident and day camps. Since the majority of travel camps move across state lines they are frequently excluded from any state regulatory programs which are now in existence. In order to provide the general public with an awareness concerning minimum standards for travel camps, and in order to more adequately protect children attending these camps, it is recommended that the bill include a provision to evaluate such camps.

It was also recognized that some national organizations conduct rather extensive programs through travel camps and such organizations should be given consideration as a certifying agency and that under the provision of the state programs being developed would be permitted to certify their own travel camps. This provision would only apply when the standards of the organization in question were at least equal to, or above, the minimum stafety regulations that would be developed by the Advisory Council and approved by the Secretary of Health, Education and Welfare. This suggestion is made, since it might prove administratively impossible for state evaluators to visit and evaluate the many travel camps operated by some national organizations.

In order to standardize the language as applied to organized camping, it is further recommended that a glossary of camp terminology be developed in order that there be uniform understanding and interpretation of the various terms now applied to a summer camp operation. Such a glossary of terms would be of considerable assistance to those organizations which operate camps in several states.

Section 4. *Grants to States for Youth Camp Safety Standards.* The general reaction to this section of the bill is that the financial provisions appear adequate for the implementation of the program in the fifty states. With the federal government providing fifty percent of the cost to implement the program, this should be sufficient to encourage states to initiate a program intended to safeguard the health and welfare of children while participating in a summer camp experience.

Section 6. *State Plans.* The provision that a state agency be designated or created to supervise the program caused some concern. It seems that within the existing framework of the state health department, the state welfare department, or the state department of education, this program could be initiated, and it would be unnecessary to establish or create a new state agency. A provision should be added to this section that would require the participating states to hire a person to serve as supervisor for the new program. It is strongly recommended that the National Office of the American Camping Association be designated as the cooperating agency with which the states work in developing the job specifications for such an individual. This recommendation is made since ACA is the only national organization which includes in its membership representatives from all segments of the organized camping profession, such as agency, private, church, government, and family. The strength and success of the programs could depend to a great extent on the qualifications of the supervisor of the program, such an individual should be trained in outdoor education, camping, and outdoor recreation.

Although implied, it is not specifically stated that the participating states would be required to *annually* visit and evaluate the camps in order for a said camp to qualify. Such wording should be included in the provisions of the bill.

This section of the bill also suggests that the participating states encourage the camps to advertise compliance with the federal minimum safety regulations. In any such advertising, the camps should be required to use the term "compliance with minimum regulations" rather than "certified" or accredited" in order to avoid any confusion with the American Camping Association accreditation programs, which stresses optimum camp operation rather than compliance with minimum safety regulations. The American Camping Association must educate the general public regarding the difference between compliance with minimum federal regulations and meeting the American Camping Association's standards, which are pointing towards the optimum of camp operation. A camp which satisfactorily complies with the federal minimum safety regulations means only that a child is less likely to be killed or injured in said camp. The federal minimum safety regulations in no way could be used as a measurement of the *quality* of the camping experience provided. This should be clearly stated in any literature or pronouncements made by the state or federal government.

Under Section 6, describing State Plans, there should also be a provision that camp directors be granted the right to an "Executive Hearing," in those cases where they feel the state has been unfair in the appraisal of their camps. In the bill, there is the implied provision that camp operators be entitled to a judicial hearing, and this provision would remain even with the addition of an Executive Hearing. The advantage of an Executive Hearing is that it would not be necessary for the camp director to hire counsel and such a hearing could be scheduled more quickly than a judicial review, which would have to follow the various steps which are common in any such court action.

Section 7. *Determination Federal Share.* The provisions under this Section of the bill seem adequate and would not adversely affect the administration or implementation of the bill in any way. The $50,000 maximum appears to be quite generous, and it appears doubtful that any state would require this amount on a fifty percent matching basis.

Section 8. *Operation of State Plans.* The provisions under this Section provide for the states to appeal the decision of the federal government to disapprove or terminate participation in the program. It appears that this Section adequately protects the right of the state to accept or reject the provisions of the bill, and it also provides adequately for appeal, if and when said state is dissatisfied with the ruling of the Secretary of the Department of Health, Education and Welfare.

Section 9. *Advisory Council on Youth Camp Safety.* Considerable concern has been expressed by the general membership regarding the make-up and number of the National Advisory Council. The feeling has been expressed that this Council should be composed of camping professionals. It was further recommended that the make-up of the Council be predetermined by designating the organization that should be represented. Since the American Camping Association stands as the only professional organization in the United States representing all segments of the organized camping movement, it is felt that one-third of the membership of the Advisory Council consists of American Camping Association representatives. The following groups and individuals are suggested for membership on the National Advisory Council: The Executive Director, American Camping Association; Chairman, American Camping Association, National Standards Committee; Chairman, American Camping Association National Legislation Committee; Vice-President for Private Camps, American Camping Associations; Director of Camping Services and Conservation, or designated representative, Boy Scouts of America; Director of Camping, or designated representative. Girl Scouts of the United States; Director of Camping, or designated representative, Camp Fire Girls, Inc.; designated representative from the National Council of Churches; designated representative from the National 4–H Programs; designated representative from the National Society for Crippled Children and Adults; designated representative from the Boys' Clubs of America; designated representative from the National Catholic Camping Association; designated representative from the Young Men's Christian Association; designated representative from the Young Women's Christian Association; Camping Consultant from the National Jewish Welfare Board; designated representative from the Christian Camps and Conferences Association, Inc. By selecting the twelve or more representatives from organizations of this type, it would insure that the voice of organized camping was represented to the fullest and that any safety standards developed by this group would truly represent the current and best thinking of organizations concerned with organized camping. This Advisory Council should also be empowered to call upon the services of such organizations as the National Safety Council, the American Medical Association, the American Academy of Pediatrics, and other specialized professional organizations which might have information and suggestions for the development of adequate safety regulations.

It was further suggested that the provisions of the bill specifically state that each participating state be required to establish a State Advisory Council made up of similar membership as that represented on the National Council. This would insure a local voice in the implementation of the federal minimum safety regulations and also provide an opportunity for closer supervision on the implementation and enforcement of the state program.

Section 11. *Authorization.* The financial provisions under Authorization in the bill seem appropriate in order to pursue and carry out the intent and purpose of the Act.

GENERAL STATEMENT

The provisions of the Youth Camp Safety Act appear to strengthen organized camping and, if enacted, would actually contribute significantly to a safer milieu in all participating camps.

At the present time, there are over a million children attending camps that do not affiliate with any national organization and do not necessarily adhere to any established set of operating standards. Under the provisions of the Youth Camp Safety Act, a minimum set of safety regulations would be developed and through an appropriate state agency, camps in participating states would be able to have the educational benefit of being alerted to the need for following these minimum regulations in order to adequately safeguard the health and welfare of the children they serve. This would also provide a means whereby parents could, at least, be

aware of the minimum safety provisions necessary in order to adequately safeguard the child during the camping experience. *It must be stressed that the provisions of this bill and application of this bill by state programs in no way guarantees a quality camping experience, nor does it guarantee that all camps in a participating state would be operating at a level of competence which would adequately safeguard the health, welfare, and safety of children.* It does, however, require that states that participate will annually evaluate camps within their boundaries and measure the operation of these camps against an established criteria which would be the federal minimum safety regulations. The program would also provide an educational tool for those camp operators who do not, at the present time, have the benefit of guidance and supervision from a professional camping organization.

It must also be pointed out that some states already have very adequate regulatory programs, and this bill should in no way adversely affect the continuation and expansion of such existing programs. If a state with a regulatory program already has in effect regulations which are above the federal minimum safety regulations, then the state in question should not be required to lower or modify its regulations in any way in order to qualify for participation in the federal program, nor should such a state be denied the benefit of federal financial aid to assist in financing their existing programs. The advantage of having one uniform set of minimum safety regulations rather than 50 or more possibly conflicting operating codes is self-evident.

In summary, the majority of the membership of the American Camping Association conclude that the enactment of a Youth Camp Safety Act by the federal government would contribute significantly to providing a safer milieu among all camps operating in the fifty states and, on that basis, the majority of the general membership in the American Camping Association and the National Board of Directors support and endorse the efforts of Senator Ribicoff to bring such a bill into reality in this session of the Congress.

Approved by ACA Executive Committee, January 20, 1967.

Appendix A—Concerns fears expressed by some members of the American Camping Association

The following comments were gleaned from the Section Reports, and although they do not reflect the majority opinion of the general membership of the American Camping Association, are being included in order that a more complete view of the opinions of the total membership might be reflected in this Position Paper:

1. "The National Advisory Council should be expanded in order to provide for broader representation. Fifteen or eighteen members would provide a more representative voice for all segments of the camping profession."

2. "The bill, as written, lacks 'teeth,' and unless a provision is added which would force camps to adhere to the minimum safety regulations, the bill has no real value. Unless a camp which fails to meet the regulations can be forced to comply, the bill fails to accomplish its purpose."

3. "Federal funds are not necessary, and the states should be encouraged to voluntarily develop minimum safety regulations to serve as a guide for organized camps. Federal funds only lead to federal control which is not needed or desired."

4. "The American Camping Association Standards Visitation Program should be used in lieu of state inspections. Camp directors are already subjected to more inspections and evaluations than really required."

5. "There is a danger that government bureaucracy will smother all real camping experiences. Program areas should not be regulated in any way. This bill might open a 'Pandora's Box' of government regulations with applications going far beyond those now foreseen."

6. "There is no guarantee that state evaluators will have any professional training in measuring the effectiveness of a camp operation. This could be a 'pork barrel,' whereby states could award jobs based on political patronage rather than professional competence."

7. "Several states now have adequate programs and a federal program is not needed."

8. "The passage of such a bill will adversely affect the Standards Program of the American Camping Association."

9. "The federal government has no business in organized camping, and the implementation of regulations should be left to private agencies."

10. "There was a strong feeling that ACA might well be legislating itself out of business."

11. "A federal program will adversely affect present ACA relationships with state agencies."

12. "Before any federal legislation on camping is introduced, a thorough nationwide survey should be made to determine whether a real need for such legislation exists."

13. "The Federal Advisory Council could draft a model set of regulations to satisfy the intent of the bill—but without federal subsidy."

[From the Association of Private Camps, Inc., New York, N.Y.]

REPORT OF A STUDY GROUP OF THE ASSOCIATION OF PRIVATE CAMPS CONCERNING THE YOUTH CAMP SAFETY ACT OF 1966, SENATE BILL S. 3773

On September 12, 1966, at the direction of the Board of Governors of the Association of Private Camps, a Study Group was organized consisting of the Officers of the Association of Private Camps and all Past Presidents of said organization for the purpose of considering the "Youth Camp Safety Act of 1966."

On the basis of the reports of said committee, representatives were appointed to meet with Senator Ribicoff's staff in order to discuss the provisions of the bill and to present the recommendations of the Study Group, as unanimously approved by the Board of Governors.

On February 21st, Mr. Abner Rabbino, Chairman of the Committee on "Youth Camp Safety Act"; Mr. Edwin Shapiro, President of the Association of Private Camps; Dr. S. L. Winnick, Past President and Mr. Lloyd A. Albin, Member; met with Mr. Wayne Granquist, Administrative Assistant and Mr. James Dorsch, Legislative Assistant to Senator Abraham Ribicoff in Washington, D.C.

Senator Ribicoff's office was advised that the Association of Private Camps, an organization representing professional camping for over 28 years, was wholeheartedly in approval of Senate Bill S. 3773.

It was indicated to the Senator's staff that our membership covers many of the states of our country and presently has more than 250 of the recognized leaders in the camping field. Nine years ago, realizing the necessity of maintaining high level standards, the Association passed a law making it mandatory for all of its member camps to be Standards examined, in order to maintain accredited membership. Each of the member camps has been visited and its Standards have been evaluated by highly qualified professional people trained and experienced in the fields of camping, education, recreation and evaluation. The carefully selected staff of evaluators has no affiliation with any APC or other camp. This evaluating staff is comprised of faculty members from leading colleges and universities across the Country. Total membership compliance with up-dated APC Standards is insured by a continuing program of accreditation that schedules each member camp for a re-visit and a re-evaluation periodically, on a rotation basis.

We have contributed by way of Conventions and Symposiums in all phases of camping. A vast amount of material is in the libraries of many Universities and also the Library of Congress. A number of our member directors have lectured at Universities and are on the Board of Trustees of many institutional camps. They have also served as advisors, without fee in this regard. Many colleges now give Point Credit to students who serve as counselors in our private camps, because these institutions of learning are aware of the vast opportunities that the student has under the aegis of our knowledgable camp directors.

Most of our states have regulatory rules to which we subscribe. We enthusiastically support the passing of any meaningful laws that will constructively contribute to raising the level of performance, leadership training, supervision, health and safety of camping. It is always true, however, that the implementation of any rules or laws becomes the dramatic and important objective.

We believe that we have outstanding and recognized professionals heading our camps. For the great contribution in thought and action that these people are capable of giving to a Council of from 12–18 members, we respectfully recommend that a minimum of five members of such a panel should come from the Association of Private Camps.

ANALYSIS OF STATE CAMP SAFETY REGULATIONS

[Code—1 excellent; 2 good; 3 fair; 4 no regulations]

Category	Alabama	Alaska	Arizona	Arkansas	California	Colorado	Connecticut	Delaware	Florida	Georgia	Hawaii	Idaho	Illinois
I. Camp personnel:													
Age requirement for counselors	4	4	4	4	1	2	4	4	4	4	4	4	4
Counselor to camper ratio	4	4	4	4	1	1	4	4	4	4	4	4	3
Minimum age of director	4	4	4	4	2	3	4	4	4	4	4	4	4
Required training for aquatic staff	4	4	4	3	2	1	4	4	4	4	4	4	4
II. Program:													
Supervision of activities	4	4	4	4	4	1	4	4	4	4	4	4	4
Restriction for hazardous activities	4	4	4	4	4	2	4	4	4	4	4	4	4

ANALYSIS OF STATE CAMP SAFETY REGULATIONS—Continued

[Code—1 excellent; 2 good; 3 fair; 4 no regulations]

Category	Alabama	Alaska	Arizona	Arkansas	California	Colorado	Connecticut	Delaware	Florida	Georgia	Hawaii	Idaho	Illinois
III. Site and facilities:													
Location and drainage of site	4	2	2	2	1	1	4	1	1	4	4	4	1
Type and size of living quarters	4	2	4	2	3	3	4	2	1	4	4	4	2
Sleeping accommodations	4	1	4	1	3	1	4	1	1	4	4	4	1
IV. Administration:													
Responsibilities of the director	4	4	4	4	4	1	3	4	1	4	4	4	4
Personal histories						1	4	4	4	4	4	4	4
V. Health:													
Doctor on call	4	4	4	2	1	2	4	4	4	4	4	4	1
Physical exam required	4	4	4	1	2	2	4	2	4	4	4	4	1
Isolation quarters or camp infirmary	4	4	4	2	1	2	4	4	3	4	4	4	2
Health supervisor on staff	4	4	4	2	2	1	4	4	3	4	4	4	1
First-aid supplies	4	4	4	2	1	1	3	2	4	4	4	4	4
Medical treatment record	4	4	4	4	1	2	4	4	4	4	4	4	4
VI. Sanitation:													
Ratio of toilet facilities	3	1	1	4	1	1	1	4	1	4	4	4	4
Sewage disposal	2	2	2	1	1	1	2	1	1	4	4	4	1
Garbage and waste disposal	2	2	2	1	1	1	2	1	1	4	4	4	1
Food protection and food handling	4	2	2	1	1	1	1	1	1	4	4	4	1
Food storage and refrigeration	4	2	2	1	1	1	1	1	1	4	4	4	1
Milk supply and serving methods	4	2	4	1	1	1	4	3	3	4	4	4	1
Safe water supply	2	1	1	1	1	1	1	1	1	4	4	4	1
Sanitation of dishes and utensils	4	3	3	1	1	1	1	1	1	4	4	4	1
Insect, weed, and rodent control	4	4	3	4	1	2	4	2	2	4	4	4	2
Animal regulations	4	4	4	4	3	4	4	4	3	4	4	4	4
Camp cleanliness	3	1	3	1	1	2	3	3	1	4	4	4	-
VII. Safety:													
Aquatic facilities	4	4	4	1	2	1	3	1	4	4	4	4	1
Archery ranges	4	4	4	4	4	1	4	4	4	4	4	4	4
Rifle ranges	4	4	4	4	4	1	4	4	4	4	4	4	4
Horseback riding procedures	4	4	4	4	4	1	4	4	4	4	4	4	4
Fire regulations	4	3	3	4	1	1	3	2	3	4	4	4	1
Heating equipment	4	1	4	4	1	4	3	4	1	4	4	4	1
VIII. Transportation:													
Condition of camp vehicles	4	4	4	4	4	1	4	4	4	4	4	4	4
Age and qualifications for drivers	4	4	4	4	4	1	4	4	4	4	4	4	4

Category	Indiana	Iowa	Kansas	Kentucky	Louisiana	Maine	Maryland	Massachusetts	Michigan	Minnesota	Mississippi	Missouri	Montana
I. Camp personnel:													
Age requirement for counselors	4	4	4	4	4	4	4	4	1	4	4	4	4
Counselor to camper ratio	4	4	4	4	4	4	4	4	1	4	4	4	4
Minimum age of director	4	4	4	4	4	4	4	4	4	4	4	4	4
Required training for aquatic staff	4	4	4	4	4	4	4	4	1	4	4	4	4
II. Program:													
Supervision of activities	4	4	4	4	4	4	4	2	2	4	4	4	4
Restriction of hazardous activities	4	4	4	4	4	4	4	4	2	4	4	4	----------
III. Site and facilities:													
Location and drainage of site	4	4	2	1	4	1	4	1	3	3	4	4	1
Type and size of living quarters	4	4	4	4	4	3	4	1	3	3	4	4	4
Sleeping accommodations	4	4	4	4	4	3	4	1	2	1	4	4	4
IV. Administration:													
Responsibilities of the director	4	4	3	3	4	4	4	4	1	3	4	4	3
Personal histories of campers	4	4	4	4	4	4	4	2	1	4	4	4	4
V. Health:													
Doctor on call	4	4	4	4	4	4	4	1	2	1	4	4	4
Physical exam required	4	4	4	4	4	4	4	1	2	2	4	4	4
Isolation quarters or camp infirmary	4	4	4	4	4	2	4	1	1	1	4	4	4
Health supervisor on staff	4	4	4	4	4	4	4	1	1	4	4	4	4
First-aid supplies	4	4	4	4	4	2	4	1	1	1	4	4	4
Medical treatment record	4	4	4	4	4	4	4	4	1	1	4	4	4
VI. Sanitation:													
Ratio of toilet facilities	4	4	4	2	4	1	4	1	1	1	4	4	3
Sewage disposal	4	4	2	2	4	1	4	1	1	1	4	4	2
Garbage and waste disposal	4	4	2	3	4	1	4	1	1	1	4	4	2
Food protection and handling	4	4	4	4	4	1	4	1	1	1	4	4	3
Food storage and refrigeration	4	4	4	4	4	1	4	1	1	1	4	4	4
Milk supply and serving methods	4	4	4	4	4	2	4	1	1	1	4	4	4
Safe water supply	4	4	3	1	4	1	4	1	1	1	4	4	1
Sanitation of dishes and utensils	4	4	4	4	4	1	4	1	1	1	4	4	4
Insect, weed, and rodent control	4	4	4	4	4	3	4	2	1	4	4	4	4
Animal regulations	4	4	4	4	4	4	4	4	1	3	4	4	4
Camp cleanliness	4	4	4	4	4	4	4	2	1	2	4	1	1
VII. Safety:													
Aquatic facilities	4	4	4	4	4	3	4	1	1	3	4	4	4
Archery ranges	4	4	4	4	4	4	4	4	2	3	4	4	4
Rifle ranges	4	4	4	4	4	4	4	4	2	2	4	4	4
Horseback riding procedures	4	4	4	4	4	4	4	4	2	4	4	4	4
Fire regulations	4	4	4	4	4	4	4	2	2	4	4	4	4
Heating equipment	4	4	4	4	4	4	4	4	4	4	4	4	4
VIII. Transportation:													
Condition of camp vehicles	4	4	4	4	4	4	4	4	4	4	4	4	
Age and qualifications for drivers	4	4	4	4	4	4	4	4	3	4	4	4	4

Category	Nebraska	Nevada	New Hampshire	New Jersey	New Mexico	New York	North Carolina	North Dakota	Ohio	Oklahoma	Oregon	Pennsylvania	Rhode Island
I. Camp personnel:													
Age requirement for counselors	4	4	4	4	4	4	4	4	4	4	4	4	4
Counselor to camper ratio	4	4	4	4	4	4	4	4	4	4	4	4	4
Minimum age of director	4	4	4	4	4	4	4	4	4	4	4	4	4
Required training for aquatic staff	4	4	4	4	4	4	4	4	1	4	4	2	2
II. Program:													
Supervision of activities	4	4	4	4	4	3	4	4	4	4	4	4	4
Restriction for hazardous activities	4	4	4	4	4	4	4	4	4	4	4	4	3
III. Site and facilities:													
Location and drainage of site	2	4	1	4	4	2	1	4	2	4	4	1	4
Type and size of living quarters	3	4	1	4	4	2	3	4	2	4	4	4	4
Sleeping accommodations	1	4	1	4	4	3	2	4	1	4	4	4	3

ANALYSIS OF STATE CAMP SAFETY REGULATIONS—Continued

[Code—1 excellent; 2 good; 3 fair; 4 no regulations]

Category	Nebraska	Nevada	New Hampshire	New Jersey	New Mexico	New York	North Carolina	North Dakota	Ohio	Oklahoma	Oregon	Pennsylvania	Rhode Island
IV. Administration:													
Responsibilities of the director	4	4	4	4	4	3	4	4	2	4	4	4	3
Personal histories of campers	4	4	4	4	1	4	4	4	1	4	4	4	4
V. Health:													
Doctor on call	1	4	1	4	4	3	3	4	4	4	4	4	4
Physical exam required	4	4	1	4	4	4	2	4	1	4	4	4	4
Isolation quarters or camp infirmary	1	4	1	4	4	4	3	4	1	4	4	4	4
Health supervisor on staff	4	4	1	4	4	4	2	4	4	4	4	4	4
First aid supplies	1	4	1	4	4	4	2	4	1	4	4	4	4
Medical treatment record	1	4	4	4	4	4	4	4	4	4	4	4	4
VI. Sanitation:													
Ratio of toilet facilities	1	4	1	4	4	4	2	4	1	4	4	4	1
Sewage disposal	1	4	1	4	4	1	1	4	1	4	4	1	2
Garbage and waste disposal	2	4	1	4	4	1	1	4	1	4	4	1	2
Food protection and food handling	1	4	1	4	4	1	1	4	1	4	4	1	1
Food storage and refrigeration	1	4	1	4	4	1	1	4	1	4	4	1	1
Milk supply and serving methods	1	4	2	4	4	2	1	4	1	4	4	1	1
Safe water supply	1	4	1	4	4	1	1	4	1	4	4	1	2
Sanitation of dishes and utensils	1	4	1	4	4	1	1	4	1	4	4	1	1
Insect, weed, and rodent control	2	4	2	4	4	4	3	4	1	4	4	4	4
Animal regulations	3	4	4	4	4	4	4	4	1	4	4	4	4
Camp cleanliness	1	4	1	4	4	3	1	4	1	4	4	2	3
VII. Safety:													
Aquatic facilities	2	4	2	4	4	3	3	4	4	4	4	2	2
Archery ranges	3	4	4	4	4	4	4	4	2	4	4	4	4
Rifle ranges	1	4	4	4	4	4	4	4	2	4	4	4	4
Horseback riding procedures	4	4	4	4	4	4	4	4	4	4	4	4	4
Fire regulations	1	4	2	4	4	3	4	4	1	4	4	3	4
Heating equipment	4	4	4	4	4	4	4	4	4	4	4	4	4
VIII. Transportation:													
Condition of camp vehicles	4	4	4	4	4	4	4	4	4	4	4	4	4
Age and qualifications for drivers	4	4	4	4	4	4	4	4	4	4	4	4	4

Category	South Carolina	South Dakota	Tennessee	Texas	Utah	Vermont	Virginia	Washington	West Virginia	Wisconsin Residential	Wisconsin Day	Wyoming
I. Camp personnel:												
Age requirement for counselors	4	4	4	4	4	4	4	4	4	1	4	4
Counselor to camper ratio	4	4	4	4	4	4	4	4	4	1	2	4
Minimum age of director	4	4	4	4	4	4	4	4	4	4	1	4
Required training for aquatic staff	1	4	4	4	4	4	4	4	1	2	1	4
II. Program:												
Supervision of activities	4	4	4	4	4	4	4	4	4	4	2	4
Restriction for hazardous activities	4	4	4	4	4	4	4	4	4	4	4	4
III. Site and facilities:												
Location and drainage of site	1	4	4	4	4	3	2	1	1	4	4	1
Type and size of living quarters	2	4	4	4	4	3	3	2	1	3	4	4
Sleeping accommodations	1	4	4	4	4	3	4	1	1	1	4	4
IV. Administration:												
Responsibilities of the director	4	4	4	4	4	4	4	3	3	4	3	3
Personal histories of campers	4	4	4	4	4	4	4	4	4	4	2	4
V. Health:												
Doctor on call	1	4	4	4	4	4	4	4	2	2	1	4
Physical exam required	1	4	4	4	4	4	4	4	3	1	2	4
Isolation quarters or camp infirmary	4	4	4	4	4	4	4	1	1	1	3	4
Health supervisor on staff	3	4	4	4	4	4	4	4	2	3	2	4
First-aid supplies	4	4	4	4	4	4	4	4	1	1	1	4
Medical treatment record	4	4	4	4	4	4	4	4	4	1	2	4
VI. Sanitation:												
Ratio of toilet facilities	1	4	4	4	4	3	4	1	1	1	1	4
Sewage disposal	1	4	4	4	4	1	2	1	1	1	1	2
Garbage and waste disposal	1	4	4	4	4	1	2	1	1	2	2	2
Food protection and food handling	1	4	4	4	4	1	1	1	1	2	2	2
Food storage and refrigeration	1	4	4	4	4	1	1	1	1	2	2	2
Milk supply and serving methods	3	4	4	4	4	1	2	1	1	3	3	2
Safe water supply	1	4	4	4	4	1	2	1	1	1	1	2
Sanitation of dishes and utensils	1	4	4	4	4	1	1	1	1	1	1	2
Insect, weed, and rodent control	4	4	4	4	4	3	4	2	2	3	3	4
Animal regulations	4	4	4	4	4	4	4	3	1	2	2	4
Camp cleanliness	2	4	4	4	4	4	3	1	1	1	1	2
VII. Safety:												
Aquatic facilities	1	4	4	4	4	3	3	3	1	1	1	4
Archery ranges	2	4	4	4	4	4	4	4	2	4	4	4
Rifle ranges	2	4	4	4	4	4	4	4	2	1	4	4
Horseback riding procedures	4	4	4	4	4	4	4	4	4	4	4	4
Fire regulations	2	4	4	4	4	4	4	4	1	2	1	4
Heating equipment	4	4	4	4	4	4	4	4	1	4	4	4
VIII. Transportation:												
Condition of camp vehicles	4	4	4	4	4	4	4	4	4	4	1	4
Age and qualifications for drivers	4	4	4	4	4	4	4	4	4	4	1	—

S. 811—INTRODUCTION OF FAIR FARM BUDGET ACT

Mr. MONDALE. Mr. President, I introduce, for myself and the following Senators, the Fair Farm Budget Act of 1969. The Senators sponsoring this legislation this year are Messrs. BURDICK, COOK, COOPER, EAGLETON, HARRIS, HARTKE, INOUYE, MANSFIELD, MCGEE, MCGOVERN, METCALF, MILLER, MONTOYA, MUSKIE, NELSON, PACKWOOD, PROXMIRE, SCOTT, YARBOROUGH, YOUNG of North Dakota, and YOUNG of Ohio.

This legislation is designed and intended to make quite clear to the public that the budget of the Department of Agriculture is not a $7-billion subsidy to the American farmer. It should make clear that in reality consumers, businessmen, and the general public receive substantial benefits from the USDA budget. The fact is that every year from half to two-thirds of the USDA budget goes for programs benefiting the general public, rather than the farmer alone. The following table, prepared by the Office of Budget and Finance in the Department of Agriculture, shows that in 1967, 63 percent of the budget expenditures were for the benefit of the general public; and 53 percent in 1968. Estimates for 1969 place farm income support at roughly 50 percent of the total USDA budget.

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

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

U.S. DEPARTMENT OF AGRICULTURE BUDGET OUTLAYS, FISCAL YEARS 1967, 1968, AND 1969 CURRENT ESTIMATE (INCLUDES TRUST FUNDS AND REFLECTS RECEIPTS IN ACCORDANCE BUDGET CONCEPTS USED IN THE 1969 BUDGET)

[In millions]

	1967	1968	1969 current estimate
PROGRAMS WHICH CLEARLY PROVIDE BENEFITS TO CONSUMERS BUSINESSMEN, AND THE GENERAL PUBLIC			
Programs having foreign relations and defense aspects:			
Sales of agricultural commodities for foreign currencies and for dollars on credit terms (Title I, Public Law 480)	$1,070	$860	$677
Commodities and other costs in connection with donations abroad (title II, Public Law 480)	381	344	360
Transfer of bartered materials to supplemental stockpile (net)	24	24	−2
Donations of dairy products to armed services and others		15	17
Other	−2		1
Total	1,473	1,243	1,053
Food distribution programs (domestic):			
Commodities distributed to the needy and others	282	394	595
Food stamp program	114	185	273
School lunch program	208	217	246
Special milk program	96	104	104
Total	700	900	1,218
REA and FHA repayable loans:			
REA loans	412	495	528
Repayments of principal and interest	−274	−304	−296
FHA loans	−15	104	−193
Salaries and expenses for loan programs	69	77	82
Total	192	372	121
Long-range programs for the improvement of agricultural and natural resources:			
Forestry	198	189	190
Agricultural and forestry research	247	270	265
Plant and animal disease and pest control	77	82	85
Soil and water resource protection and development:			
Agricultural conservation program	257	255	244
All other	255	275	308
Cooperative agricultural extension work	92	90	97
PROGRAMS WHICH CLEARLY PROVIDE BENEFITS TO CONSUMERS, BUSINESSMEN, AND THE GENERAL PUBLIC—Continued			
Long-range programs for the improvement of agricultural and natural resources—Continued			
Inspection of commodities and other marketing services	$85	$92	$122
Other	81	91	98
Total	1,292	1,344	1,410
Total	3,657	3,859	3,802
OTHER PROGRAMS WHICH ARE PREDOMINANTLY FOR STABILIZATION OF FARM INCOME, BUT WHICH ALSO BENEFIT OTHERS			
CCC price-support and related programs:			
CCC loan, purchase, export, and related programs	−1,317	472	426
Storage, handling, and transportation expenses	261	92	110
Interest expenses (net)	302	311	299
Acreage diversion payments:			
Feed grains	542	510	787
Wheat	27		35
Cotton	303	244	103
Price-support payments:			
Feed grains	799	322	628
Cotton	489	611	639
Wheat certificate program	276	346	334
Cotton equalization payments	20		
National Wool Act program	33	70	62
Total	1,735	2,978	3,423
Cropland adjustment program, adjustment payments	44	79	75
Conservation reserve program	141	122	109
Federal crop insurance program (net)	−6	15	−2
Sugar Act program	82	84	88
Salaries and expenses for above programs	175	177	190
Total	2,171	3,455	3,883
Grand total	5,828	7,314	7,685

Mr. MONDALE. Mr. President, the Senate Agriculture Committee held hearings on this legislation in 1966, and received testimony from nearly every farm organization in the United States in support of this legislation. Subsequently, the American Farm Bureau Federation endorsed the purpose of this proposal at their annual convention.

The organizations supporting this measure are the National Farmers Union, the National Grange, the National Council of Farmer Cooperatives, National Milk Producers Federation, National Federation of Grain Cooperatives, American Farm Bureau Federation, National Creameries Association, and the National Farmers Organization.

The American farmer is rightly tired of being accused of annual Treasury raids, of being told that he somehow each year puts in his pocket enough of the agriculture budget to enable him to live well, and tired of being told that he never had it so good.

This legislation is designed to correct the myth that the entire USDA budget goes each year into the farmer's pocket. I hope it will have that result.

While this legislation does isolate the amount of money spent on farm income support programs, it does not make clear that the one-third of the budget spent on farm income programs also provides a clear benefit to the general public by helping to maintain a healthy and sound agricultural economy. It does not make clear that the money we invest in our farm programs is one of the best investments we can make today, because the American farmer contributes tremendous efficiency and productivity to our economy—so much so that if the price of food had increased as much as the price of all other products since 1952, the housewives of America would have had to spend over $7 billion more for food last year than they actually did.

Mr. President, I ask that this bill be received and appropriately referred.

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

The bill (S. 811) to require the Secretary of Agriculture and the Director of the Bureau of the Budget to make a separate accounting of funds requested for the Department of Agriculture for programs and activities that primarily stabilize farm income and those that primarily benefit consumers, businessmen, and the general public, and for other purposes, introduced by Mr. MONDALE (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Agriculture and Forestry.

S. 812—INTRODUCTION OF THE NATIONAL AGRICULTURAL BARGAINING ACT OF 1969

Mr. MONDALE. Mr. President, I introduce, for appropriate reference, the National Agricultural Bargaining Act of 1969, for myself and Senators BURDICK, HARRIS, HART, MAGNUSON, MANSFIELD, MCCARTHY, MCGEE, MCGOVERN, METCALF, MONTOYA, MOSS, MUSKIE, NELSON, PROXMIRE, YARBOROUGH, and YOUNG of North Dakota, and ask that it be received and appropriately referred.

None of those who join in support of this proposal are wedded to its specific and detailed language. Our purpose is to express our deep interest in finding out through hearings whether legislation is possible or workable.

This legislation, which would create a national collective bargaining system for determining fair prices, offers two approaches toward providing greater economic muscle for farmers. Title I of the bill enables farmer-elected marketing committees to bargain and negotiate with processors and other buyers for decent and adequate prices on a commodity by commodity basis.

Title II makes all commodities eligible for marketing orders, and provides a broad new range of powers for farmers under market orders—including collective bargaining for minimum price and nonprice terms of sale of the particular commodity involved. We have had extensive hearings on this measure in the 90th Congress, but no legislation was reported or recommended by the Senate Agriculture Committee. The hearings disclosed a great deal of controversy, but at the same time widespread and deep support for the concept of farmer bargaining legislation across the country.

The distinguished chairman of the Senate Agriculture and Forestry Committee, the Senator from Louisiana, has contributed a great deal of interest, energy, and enthusiasm in statesmanlike fashion to the discussion of the objective of improving the bargaining power of farmers. He pressed very hard for specific and detailed comments on the legislation which I introduced, but in my judgment this was not done either to his satisfaction or to the satisfaction of the members of the committee.

I think we have to proceed because the

time has come finally to get down to the hard specifics of legislation, and see whether or not this concept can be achieved at all in legislative form. It is my hope that reintroduction of this legislation will encourage and focus debate on the benefits and problems that may be associated with farmer collective bargaining.

This legislation, or something very nearly like it, is sorely needed and must be passed if we expect the American family farmer to continue in the business of farming. Without it, the farmers are doomed to economic disenfranchisement. Without it, farmers will continue to be the low man on our economic totem pole without any real hope of attaining the just portion of national income to which they are entitled.

No business—and farmers do run substantially large businesses—could function or stay in operation under the conditions faced by most farmers. They are, first of all, at the mercy of many variables, including the weather, entirely outside their control. In addition, farmers have no economic power to establish the price on the commodities they produce. They must take, in all reality, whatever is offered by way of the market price or Federal programs. They have no alternative.

There is no doubt, and the records are clear, that this inherently weak bargaining position has caused the American family farmer to lag far behind the prosperity enjoyed by nearly every other segment of our society. The record is quite clear. Consumers in this country are estimated to have expended about $85.5 billion during 1967 for domestic farm products. This represents an increase over the last 20 years of 100 percent.

The farmer's share, or the farm value of that food marketing bill, is only $27½ billion and has increased in the last 20 years by only one-half.

For example, the farmer receives only 2.7 cents for the wheat in a pound loaf of white bread, or 12 percent of the cost of that loaf. It is a fact that the American farmer subsidizes his consumer counterpart, by continuing to produce food for substandard returns. At the same time, the farmer has been increasing his own productivity fourfold over the last 30 years. Between 1950 and 1965 alone, the output per man-hour in agriculture rose nearly three times as fast as in nonfarming occupations, 132 percent in agriculture against 47 percent for the rest of the economy. In one sentence, that sums up the farm subsidy to consumers. Consumers pay more, but farmers get less.

The legislation that we introduce today is not intended to replace existing farm programs. We have not regarded the National Labor Relations Act as a total solution for all the ills of the working man, and neither will this bill. The National Labor Relations Act has not superseded the need for minimum wage legislation or unemployment compensation legislation, and I do not expect that we can regard farm bargaining as a complete substitute for existing programs, at least not without much experience under it.

I will briefly explain the provisions of the bill and describe the general framework of its provisions.

Title I of the bill provides that when the price of a particular agricultural commodity is unfair and unreasonable, the farmers producing that commodity may ask the newly established National Agricultural Relations Board to conduct a farmer referendum for the purpose of electing a bargaining committee to negotiate a fair price and other terms of sale in bargaining sessions with a similar committee representing processors and other purchasers of that commodity.

The Board is established as an independent agency to assist farmers and buyers in the process of bargaining. If no agreement can be reached—whether on price or nonprice terms of sale—or if the purchasers fail to bargain in good faith, the unsettled or disputed issues would be resolved by a three-man Joint Settlement Committee. This Joint Settlement Committee would be composed of a farmer representative, a purchasers representative, and a neutral party.

The price and nonprice terms of sale of the commodity, whether reached through the bargaining process or the joint settlement committee would be binding on all producers and all buyers.

This procedure is available to the producers of all commodities under the proposed legislation without exception, and would also permit the farmer bargaining committee to recommend a plan of marketing controls for approval by farmers in an additional referendum.

The bill does not provide a specific, detailed test for determining whether farm prices are unfair or unreasonable, but relies on basic economic realities and prevailing market factors to achieve this objective. While farmer bargaining committees would be free to ask for any price level they feel necessary, they could not demand an unreasonably high price without running a very serious risk of competition from substitutes, increased integrated farming, loss of export markets, increased imports, or, in the absence of supply control, tremendous surplus-producing increases in production.

But while this proposal will require the fullest consideration of the realities of the marketplace it does seek to overcome the American family farmer's chief handicap; namely, that he is the weakest link in the marketing chain from the land to the table.

The bill does not describe in detailed terms who may serve on a purchasers committee, nor spell out how that committee must be selected by the purchasers. It seems to me that this question may be more fairly and expeditiously reviewed during hearings in the Agriculture Committee.

Title II of the legislation is an amendment to the Agricultural Marketing Agreements Act of 1937. It would enable the producers of any agricultural commodity to form a market order, with a new broad range of powers available for use in the order—including collective bargaining for establishment of minimum prices.

Under this title, an agricultural commodity is eligible for a market order if a majority of the producers favor the establishment of minimum prices.

Title II is an amendment to the Agricultural Marketing Agreements Act of 1937. It would enable the producers of any agricultural commodity to form a market order, with a new broad range of powers available for use in the order—including collective bargaining for the establishment of minimum prices.

Under this title, an agricultural commodity is eligible for a market order if a majority of the producers favor the establishment of an order in a special referendum conducted for that purpose by the Secretary. Orders could include collective bargaining, minimum pricing, pooling of proceeds for commodities in addition to milk when prices are established on a use-classification basis, and producer allotments based on historical marketings or quantities currently available or any combination to assure equitable distribution of returns.

Prices or other terms agreed upon between farmers and processors or handlers would become binding on all producers and all buyers on the approval of the Secretary and, further, on reaching agreement with processors or handlers taking 50 percent of the volume of the commodity.

Provision is also made for the establishment of a producer advisory committee for the guidance of the Secretary on formulation of new market orders and specific order provisions.

In my judgment, titles I and II are not contradictory. Congress could pass either or both or a combination of the two. They are different approaches to the same objective—bargaining power for farmers.

Mr. President, I ask unanimous consent that the proposed legislation, as well as a section-by-section analysis of it, be printed in the RECORD at this point.

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

The bill (S. 812) to provide for the orderly marketing of agricultural commodities by the producers thereof, and for other purposes, introduced by Mr. MONDALE (for himself and other Senators), was received, read twice by its title, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

S. 812

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 Agricultural Bargaining Act."

TITLE I

POLICY AND FINDINGS

SEC. 101. The Congress finds that the production and marketing of agricultural commodities is a basic and essential industry of the United States, involving the supply of the Nation's food, feed, and fiber which must be available in adequate volume without impairing or wasting the soil resources of the country.

Agricultural commodities produced for commercial purposes are marketed either in the current of interstate and foreign commerce or in a manner which directly burdens, obstructs or affects such commerce and the marketing of that part of such commodity as enters directly into the current of interstate and foreign commerce cannot be effectively regulated without also extending the regulations, in the manner

provided in this Act, to that part which is marketed within the State of production.

Farmers, ranchers, and other producers of agricultural commodities are located and operate throughout the United States, produce the same or similar or competitive crops in many States, carry on their farming operations with the use of borrowed funds and on leased land as well as their own land, and their operations are subject to uncontrollable and unforeseeable natural causes which often adversely affect the supply and directly affect consumer and national welfare.

Agricultural producers do not now enjoy the opportunity, comparable to that of industrial workers and those in many other forms of enterprise or employment, to organize and bargain effectively for a just and reasonable return or compensation for the commodities they offer for sale in domestic and foreign commerce. Adequate government protection or assistance is not available to the vast majority of them in their effort to market their agricultural commodities in an orderly manner at reasonable prices. The producers of agricultural commodities are one of the very few economic groups, if not the only economic group, which must sell in markets largely controlled by the buyers, brokers, commission agents, and other representatives of buyers. As a result, producers of agricultural commodities are unable to effectively prevent or avoid the wasting of natural resources, the disorderly marketing of their commodities, congestion in transportation, storage and processing and other burdens on interstate and foreign commerce.

Disorderly marketing and abnormally excessive supplies of agricultural commodities unduly depress the prices received by the producers, burden and obstruct interstate and foreign commerce, cause wide and injurious disparity between the prices received by producers of such commodities and the cost to such producers of the materials and supplies required to produce such agricultural commodities, thus depressing the net return received by such producers, and threaten the maintenance of a continuous and stable supply of agricultural commodities to meet the requirement of the Nation and the consumers of said commodities.

NATIONAL AGRICULTURAL RELATIONS BOARD

SEC. 102. (1) There is hereby created a board, to be known as the National Agricultural Relations Board (hereinafter referred to as the "Board"), which shall be composed of five members, who shall be appointed by the President, by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, two for a term of three years, and two for a term of five years, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as Chairman of the Board. Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.

(2) The Board is authorized to delegate to any group of three or more members any or all of the powers which it may itself exercise. A vacancy in the Board shall not impair the right of the remaining members to exercise all of the powers of the Board, and three members of the Board shall, at all times, constitute a quorum of the Board, except that two members shall constitute a quorum of any group designated pursuant to the first sentence hereof. The Board shall have an official seal which shall be judicially noticed.

(3) The Board shall at the close of each fiscal year make a report in writing to Congress and to the President stating in detail the business it has conducted over the preceding year, the names, salaries, and duties of all employees and officers in the employ or under the supervision of the Board, and an account of all moneys it has disbursed.

(4) Each member of the Board shall be eligible for reappointment, and shall not engage in any other business, vocation, or employment. The Board shall appoint an executive secretary, and such other employees as it may from time to time find necessary for the proper performance of its duties.

(5) All of the expenses of the Board, including all necessary traveling and subsistence expenses outside the District of Columbia incurred by the members or employees of the Board under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Board or by any individual it designates for that purpose.

(6) The Board shall have authority from time to time to make, amend, and rescind, in the manner prescribed by the Administrative Procedure Act, such rules and regulations as may be necessary to carry out the provisions of title I of this Act.

(7) The Board is authorized to use the services of the employees of the Department of Agriculture and of the committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, in the performance of all of its duties and responsibilities provided for herein.

MARKETING COMMITTEES

SEC. 103. (a) In order to effectuate the policy of this title, whenever a representative group of producers of any agricultural commodity or relative group of commodities or any market classification or product thereof the initial sale of which is customarily made by the producer or his cooperative or other marketing representative, shall file with the Board a written petition stating that the average market price received by the producers of said agricultural commodity or commodities is below a fair and reasonable price to the producers thereof or that the price to the producer of said agricultural commodity or commodities may reasonably be expected to be below a fair and reasonable price to the producer thereof during the next marketing season or seasons and shall define the area within which said agricultural commodity or commodities is commercially produced or, if said agricultural commodity is produced in a lesser area than the entire United States, shall define the boundaries of the lesser area by States or political subdivision of States; or, if the Board finds and determines that the average market price received by the producers of any agricultural commodity is below a fair and reasonable price to the producers thereof or that the price to the producers of such agricultural commodity or commodities during a future marketing season may reasonably be expected to be below a fair and reasonable price to the producers thereof, taking into account: (1) the direct cost of production, including hired labor; (2) the reasonable value of the time, skill, and experience of the individual producing such commodity or commodities; (3) a fair return upon essential invested capital; (4) continuation of the American family farm pattern of agricultural production; and (5) other appropriate factors, including compensation comparable with that of other persons engaged in other means of earning a livelihood for themselves and their families, the Board shall announce the receipt of said petition or its findings and determination and promptly thereafter shall initiate and conduct a referendum among producers of such agricultural commodity to determine whether or not said producers favor the establishment of a representative marketing committee of the producers of said commodity to be chosen by such producers for the purpose of negotiating with purchasers of the commodity to determine a fair minimum price or nonprice terms for the sale and purchase of said commodity. If the Board determines that such agricultural commodity is commercially produced in a lesser area than the entire United States it shall so state in its announcement and define the boundaries of the lesser area by States or political subdivisions of States. Commodities of the same general class or which are used wholly or in part for the same purpose may be treated as a separate commodity for the purposes of this title.

(b) All phases of said referendum, including preparation and distribution of ballots, establishment of voting places and procedures defining the further qualification of producers eligible to vote, the tallying of the vote upon the issue of whether or not a marketing committee shall be created and authorized and the number of the initial members of the marketing committee for said commodity as hereinafter provided shall be prepared and conducted by the Board.

(c) Said referendum ballot shall contain the names of at least twice as many persons as the membership of the proposed initial marketing committee, to be selected by the Board from recommendations submitted to it by the Agricultural Stabilization and Conservation County Committees established by section 8(b) of the Soil Conservation and Domestic Allotments Act, as amended, in which capacity such Committees shall merely act as conduits, transmitting to the Board the names of all eligible candidates. The membership of the marketing committee shall be elected at large or the whole area may be divided into divisions or subareas and the number of members to be selected from each division or subarea to be elected by the eligible producers resident in such division or subarea shall be fixed by the Board. No person shall be eligible to vote for or serve on any marketing committee unless more than 60 per centum of his annual gross income received from production during each of the preceding three calendar years has been derived from farming or ranching as owner operator or lessee-operator and the commodity named in the Board's announcement constitutes a significant portion of the total farming or ranching operations of said proposed marketing committee member.

(d) If a majority of producers eligible to vote and voting in said referendum shall approve the establishment of such a marketing committee, the Board shall so publicly announce and shall promptly notify the persons elected as the initial members of said marketing committee that a meeting of said committee will be convened at a time and place, either in Washington, District of Columbia, or elsewhere, for the purpose of organizing and planning the work of the committee.

(e) Concurrently with its announcement of the creation of a marketing committee as provided for in this title, the Board shall give notice to prospective purchasers of such commodity and request such prospective purchasers to select a purchasers committee for the purpose of participating in negotiating a minimum price at which said commodity shall be offered for sale and sold by the producers thereof and negotiating nonprice terms of such sales.

(f) If prospective purchasers do not select a committee which is fairly representative of all prospective purchasers of the commodity within thirty days after date said invitation was issued by the Board, or within such additional period as the Board may fix, the Board is authorized to select a committee which it determines is fairly representative of all commercial purchasers of said commodity. The Board is authorized to fix the time and place of a meeting or meetings of the marketing committee and the purchasers

committee for the purpose of negotiating a minimum price at which such commodity is to be offered for sale and sold by producers and on nonprice terms of such sales. The marketing committee and the purchasers committee shall bargain in good faith during such meeting or meetings. The marketing committee shall also invite the Chairman of the President's Advisory Council on Consumer Problems to designate one or more persons to represent the interest of consumers in said meeting and to present such data and information, recommendations and suggestions on behalf of consumers as said consumer representatives deem desirable.

(g) The Board and the Secretary of Agriculture are authorized and directed to make available to the marketing and purchaser committees such information, statistics, and assistance as are reasonably available to them and will assist in determining the facts relating to the production and marketing of said agricultural commodity and a fair and reasonable minimum price. But no employee of the Board or of the Department of Agriculture shall participate in any meetings of such committees except that the Board or its delegate may act as an arbitrator in any bargaining negotiations between the marketing and purchaser committees if invited by a majority vote of the membership of both committees and both committees accept the terms and conditions prescribed by the Board concerning the scope and nature of its participation in such negotiations.

(h) If less than a majority of the producers eligible to vote and voting in the referendum favor the establishment of a marketing committee, the Board shall make public announcement of that fact and shall not take any further action to establish a marketing committee for that commodity during the current marketing year or season. The Board shall, however, be authorized to submit a referendum to the producers within the same area applicable to a subsequent marketing year or season, except that if a majority of said producers voting fail to vote in favor of a marketing committee in three successive referendums, the Board shall take no further action to establish a marketing committee for said commodity produced within said area unless at least 20 per centum of the producers of said agricultural commodity in such area shall sign and submit to the Board a petition requesting another referendum.

(i) Each marketing committee constituted pursuant to this title shall be authorized and empowered—

(1) to establish the minimum price by size, grade, quality or other type of condition, and other nonprice terms of sale, and the date upon which said price and terms shall become effective, for the agricultural commodity described in and produced within the area defined in the Board's announcement, in accord with agreements reached after negotiations with representatives of prospective purchasers of such commodity as provided in this title; or, if said representatives of the prospective purchasers of the product fail or refuse to negotiate, or, if after a reasonable period of negotiations in good faith as determined by the Board, the parties fail to agree upon a minimum price, then the Board shall promptly offer and provide such conciliation and mediation services to the marketing committee and purchasers committee as may be useful and helpful in bringing them to agreement. If such agreement is not thereupon reached within thirty days, the issues under dispute shall be submitted to a joint settlement committee to be selected as follows: One member to be chosen by the marketing committee, and one member by the purchasers committee, and the third member to be chosen within five days by the first two. If the first two members cannot agree upon such third member within such period, the latter shall be a neutral appointed by the Board. The Board may apply to the appropriate Federal district court to compel action unlawfully withheld or unreasonably delayed under this section. The joint settlement committee shall proceed to resolve such issues, allowing the marketing committee and purchasers committee reasonable opportunity to present pertinent information and argument, through submission of written data, views, or arguments, with or without opportunity to present the same orally in any manner. The decision of the joint settlement committee on the issues in dispute shall be judicially reviewable in the appropriate Federal district court to the extent provided hereafter. The reviewing court shall hold unlawful and set aside decisions found to be (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with this Act; (2) affected with bias or prejudice on the part of the neutral member of the joint settlement committee; (3) in excess of jurisdiction or authority granted under this Act; or (4) without observance of procedures required herein;

(2) to announce said minimum price and the effective date thereof of the commodity by any one or more of the usual and available media of publication and communication;

(3) to establish reasonable rules for the operation of the committee, including the rules and procedures for the election of their successors and to fill vacancies on the committee;

(4) to establish terms of service on the committee;

(5) to request the Board to submit referendums to producers from time to time for the committee's guidance;

(6) after the second year or season of its operations, to recommend to the Board a reasonable assessment on the producers of the commodity, by unit or by value, for the cost of carrying on the activities of the committee, to be assessed and collected by the Board through the committees established by section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended;

(7) to recommend to the Board that injunctive or related actions be instituted to prevent any buyers from purchasing or any producers from selling the commodity at less than the minimum price established under this section or in violation of other, nonprice terms of sale so established; and

(8) to establish additional penalties for violation of section 103(k) by producers after approval in a referendum by a majority of producers eligible to vote and voting.

(j) All marketing committees created pursuant to this title shall cease to have any authority and shall be dissolved by the Board after three years from the date of its first meeting if, during the third year of said three-year period, at least a majority of the producers then eligible to vote and voting fail to vote in favor of the continuation of the marketing committee in a referendum conducted by the Board.

(k) In order to effectuate the purposes of this title, no producer shall offer to sell or sell and no buyer shall offer to purchase or purchase from a producer said commodity at a price lower than the minimum price agreed upon and fixed by the marketing and purchasers committees or, in the absence of an agreement by said committees, at the price established by the joint settlement committee under this section. Compliance by a producer with the minimum prices established by a marketing committee under this title for a commodity shall be established by the Secretary as a condition of eligibility for price support, loans, purchases and other similar payments authorized under any other Act.

SEC. 104. All producers of a commodity covered by the provisions of this title for which a marketing committee has been elected shall keep such records and furnish such reports with respect to production, storage, marketing and other relevant matters as the marketing committee may require; and all persons purchasing or acquiring possession of any such commodity shall supply such information concerning such commodity as the marketing committee finds to be necessary to enable it to carry out the provisions of this title. Any such person failing to make any report or keep any record as required by this subsection or making any false report or record shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500.

SEC. 105. Notwithstanding the foregoing provisions of this title the Board may, with the approval of the marketing committee, if it deems such action will not substantially interfere with the achievement of the purposes of this title or the effective operation of the marketing committee, determine for any agricultural commodity a uniform amount of production (in terms of acreage, production units or commodity units) per form which may be marketed in specified markets free of restriction for all uses or limited uses.

SEC. 106. Injunctive proceedings or other penalties provided for by this title shall be brought by the Board in the name of the United States. The several district courts of the United States are vested with jurisdiction of such suits, and it shall be the duty of the United States attorneys in their respective districts, at the request of the Board and under the direction of the Attorney General, to prosecute such proceedings. The remedies and penalties provided for herein shall be in addition to and not exclusive of any of the remedies or penalties under existing law.

SEC. 107. To effectuate the purposes of this title, the Board is directed and authorized to pay the costs of conducting any referendum required to be submitted to producers, including the cost of publishing notice in newspapers, radio, and television announcements, posting notices throughout the area, giving notices to prospective purchasers of the commodity, pay the costs of operation of the marketing and purchasers committees including a meeting room, temporary clerical and stenographic assistance, necessary transportation, meals and housing costs of members while traveling to and attending such meeting or any adjournment or continuation thereof.

SEC. 108. The decision of the Board with respect to the boundaries of the area and the commodity to be affected by his announcement and the results of the referendum conducted pursuant thereto shall be final.

SEC. 109. There is authorized to be appropriated to the Board such sums as Congress may from time to time determine to be necessary to enable it to carry out the purposes of this title I including the reasonable and necessary expenses and per diem of any marketing committee elected by the producers of a commodity. Obligations may be incurred in advance of appropriations therefor and the Commodity Credit Corporation is authorized to advance from its capital fund such sums as may be necessary to implement this title during any current fiscal year.

SEC. 110. No bargaining or negotiating activities by a marketing committee pursuant to this title and no price agreement reached as a result of such negotiations and bargaining shall be deemed to be in violation of any of the antitrust laws of the United States.

SEC. 111. Whenever a marketing committee shall have established a minimum price for any commodity and thereafter shall also determine that the total supply of said commodity produced within the defined area will so substantially exceed the effective demand for said commodity during the market year as to nullify or defeat the purposes of this title, said marketing committee, in consultation with the Board and the Secretary of Agriculture, shall develop a plan or program of marketing allotment, with or without acreage or production limitations, and shall request the Board to submit said plan or pro-

gram by referendum to the producers of said commodity within said defined area for the approval or rejection of said producers. If a majority of producers eligible to vote and voting in said referendum approve said plan or program, the Board shall instruct the Secretary of Agriculture to proceed immediately to put said plan or program into effect.

SEC. 112. The Secretary of Agriculture is hereby authorized to establish all reasonable rules and regulations necessary to effectuate such plan and program, including the fixing of reasonable penalties for the violation of said rules and regulations. The Secretary is further authorized to use any existing authorities available to him for the purpose of putting said plan or program into effect and, in the event he determines that he is without sufficient authority to effectuate any part of said plan or program, the Secretary is directed to suggest enabling legislation before the Congress of the United States.

SEC. 113. For the purposes of this title, the following definitions shall apply:

(1) "Secretary" shall mean the Secretary of Agriculture.

(2) "Commodity" shall mean any agricultural commodity or any regional or market classification, or product thereof, the initial sale of which is customarily made by the producer, or his cooperative, or other marketing representative, and shall further include a combination of agricultural commodities of the same general class which are used wholly or in part for the same purpose. The plural shall be included whenever the context so requires.

(3) "Total supply" of any agricultural commodity for any marketing year shall be the carryover at the beginning of such marketing year, plus the estimated production of the commodity in the United States during the calendar year in which such marketing year begins and the estimated imports of the commodity into the United States during such marketing year.

(4) "Marketing year" for an agricultural commodity shall be any period determined by the Board during which substantially all of a crop or production of such commodity is normally marketed by the producers.

SEC. 114. If any provision of this title, or any section thereof, is declared unconstitutional or the applicability thereof to any person, circumstance, commodity, or product is held invalid, the validity of the remainder of this title and the applicability thereof to other persons, circumstances, commodities or products, shall not be affected thereby.

TITLE II—MARKETING ORDERS

SEC. 201. The Agricultural Adjustment Act of 1933, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, is further amended as follows:

(1) Section 8c(2) is amended by inserting after the third sentence ending with the words "Southwest production area." the following: "Notwithstanding any of the commodity, product, area, or approval exceptions or limitations in the foregoing sentences hereof, any agricultural commodity or product (except canned or frozen products) thereof, or any regional or market classification thereof, shall be eligible for an order, exempt from any special approval required by the preceding sentences hereof, if after referendum of the affected producers of such commodity the Secretary finds that a majority of such producers voting in such referendum favor making such commodity or product thereof, or the regional or market classification thereof specified in the referendum, eligible for an order: *Provided, however*, That such referendum shall not be required for any commodity or product for which an order otherwise is authorized under the preceding sentences of this subsection (2) and for which no special approval or area limitation is specified therein."

(2) Section 2(3) is amended by inserting "such minimum prices and other terms and conditions for the acquisition of commodities by handlers as are provided for in section 8c(6)(J)," immediately after "establish and maintain".

(3) Section 8c(5)(A) is amended by inserting "by collective bargaining in good faith (including provisions for the designation, by election of committees of producer representatives to bargain with handlers, or groups of handlers), or otherwise," after the phrase "method for fixing."

(4) Sections 8(c)(6)(A), (B), (C), (D), and (E) are amended by inserting ", species or other classification" after the words "grade, size, or quality" wherever the latter words appear.

(5) Section 8c(6), as amended, is further amended by adding the following at the end thereof:

"(J) Providing a method for establishing by collective bargaining in good faith between producers and handlers (including provision for the designation by election of committees of producer representatives to bargain with handlers or groups of handlers), the minimum price or prices and other minimum terms and conditions under which any such commodity or product, or any grade, size, quality, variety, species, container, pack, use, disposition, or volume thereof may be acquired by handlers from producers or associations of producers: *Provided*, That no such minimum price or prices or other terms and conditions shall become effective unless agreed to by handlers who during the preceding marketing year acquired from producers at least 50 per centum of the commodity sold by producers which was produced in the production area subject to the order and unless thereafter approved by the Secretary of Agriculture: *Provided further*, That if the Secretary of Agriculture finds that the parity price of any such commodity, other than milk or its products, for which such minimum prices or other terms or conditions are to be established is not adequate in view of production costs, prices to consumers, and other economic conditions which affect market supply and demand for such commodity subject to such order (including any marketing limitation of the commodity otherwise provided by such order), the Secretary of Agriculture shall determine a price or prices for such commodity at such levels as he finds will insure a sufficient market supply of the commodity, reflect such factors, and be in the public interest, and such price or prices shall be used in lieu of the parity price for the purpose of section 2 of this title: *Provided further*, That the agency designated to administer provisions authorized under this subsection shall be a committee primarily composed of producers of the commodity: *And provided further*, That an order containing provisions authorized under this subsection shall also contain provisions authorized under section 8c(6)(K) or section 8c(7)(E), or both, if the Secretary of Agriculture finds that such combination of provisions is necessary to provide an equitable distribution of market opportunity and returns among producers.

"(K) With respect to orders providing for minimum prices on a classified use basis (i) providing for the payment to all producers or associations of producers of uniform minimum prices for the commodity or product marketed by them (within their allotments, if any), irrespective of the use or disposition thereof, subject, however, to adjustments specified by the order, including but not limited to adjustments for place of production or delivery, grade, condition, size, weight, quality, or maturity, or any other adjustments found to be appropriate to provide equity among producers, and (ii) providing a method for making adjustments in payments as among handlers (including producers who are also handlers), to the end that the total sums paid by each handler shall equal the value of the commodity or product purchased or acquired by him at the classified use minimum prices fixed pursuant to such order."

(6) Section 8c(7), as amended, is further amended by adding the following at the end thereof:

"(E) Notwithstanding any other provisions of this title—

"(1) allotting, or providing methods for allotting the quantity of such commodity or product or any grade, size, or quality thereof, which each producer may be permitted to market or dispose of in any or all markets or use classifications during any specified period or periods on the basis of (i) the amount produced or marketed by such producer or produced on or marketed from the farm on which he is a producer in such prior period as the Secretary of Agriculture determines to be representative, subject to such adjustment for abnormal conditions and other factors affecting production or marketing as the Secretary may determine, or (ii) the current quantities available for marketing by such producer, or (iii) any combination of (i) and (ii), to the end that the total allotment during any specified period or periods shall be apportioned equitably among producers. Allotments hereunder may be in terms of quantities or production from given acres or other production units. If the Secretary determines that such action will facilitate the administration of a marketing order hereunder and will not substantially impair the effective operation thereof he may fix, or provide a method for fixing, a minimum allotment applicable to producers and producers whose production does not exceed such minimum shall not be subject to the regulatory provisions of the order except as prescribed therein;

"(2) any producer for whom an allotment is established or refused under the authority of this subsection may obtain a review of the lawfulness of his allotment as prescribed by the order of the Secretary establishing the allotment and rules and regulations thereunder, which shall constitute the exclusive procedure for review thereof and section 8c(15)(A) of this title shall not apply thereto. Under such order, rules or regulations any officers or employees of the Department or any committees or boards created or designated by the Secretary of Agriculture may be vested with authority to perform any or all functions in connection with such review proceedings including ruling thereon. Committees or boards created or designated for this purpose shall be deemed agencies of the Secretary within the meaning of subsection 8c(7)(C) and section 10 of this title. The ruling upon such review shall be final if in accordance with law. The producer may obtain a judicial review of such ruling in accordance with the provisions of section 8c(15)(B) of this title;

"(3) when allotments for producers are established under this subsection the order may contain provisions allotting or providing a method for allotting the quantity which any handler may handle so that any and all handlers will be limited as to any producer to the allotment established for such producer, and such allotment shall constitute an allotment fixed for each handler within the meaning of section 8a(5) of this title."

(7) Amend section 8c by adding at the end thereof a new paragraph (20) as follows:

"(20) PRODUCER ADVISORY COMMITTEES.—The Secretary of Agriculture may establish a producer advisory committee with respect to any commodity, or group of commodities, for which a marketing order is potentially authorized. Such committee shall be composed of producers of the commodity or commodities for which the committee is established. Such committees may be called on by the Secretary of Agriculture to provide advice and counsel with respect to the initiation of proceedings for the promulgation of a marketing agreement or marketing order for such commodity or commodities and may also formulate specific proposals for pur-

poses of a public hearing concerning such a proposed marketing agreement or marketing order. The establishment of such a committee shall not, however, be deemed necessary to the initiation of any such proceeding to promulgate a marketing agreement or marketing order."

(8) Amend section 10(b)(2) by adding at the end thereof a new subparagraph (iv) as follows:

"(iv) If the order contains provisions authorized by section 8c(6)(J) or section 8c(7)(E) it shall provide that the assessments payable by handlers under subsections (i) or (ii) shall initially be payable pro rata by the producers of the commodity to such handlers thereof, who shall be responsible for the collection thereof from producers and payment to the authority or agency established under such order."

SEC. 202. Nothing in this title shall supersede the provisions of other statutes relating to marketing quotas, acreage allotments or limitations, or price support, with respect to agricultural commodities and no action taken or provisions in an order issued under this title shall be inconsistent with the provisions of such other statutes or actions taken by the Secretary of Agriculture under such other statutes.

The analysis presented by Mr. MONDALE is as follows:

SECTION-BY-SECTION ANALYSIS OF THE NATIONAL AGRICULTURAL BARGAINING ACT

TITLE I. NATIONAL AGRICULTURAL BARGAINING ACT

Section 101. *Policy and Findings.* Farmers do not have the opportunity to bargain effectively for a fair and reasonable return for their production, because of an inherently weak economic position.

Section 102. *National Agricultural Relations Board.* This independent five-member Board, appointed by the President with Senate confirmation, is established to provide administrative, technical, and supporting assistance to farmer Marketing Committees and Purchasers Committees. It does not represent either farmers or buyers. It would administer farmer referendums and assist the Committees in holding meetings.

Section 103. *Marketing Committees.*

Section 103(a). *Petition and Referendum.* When the Board receives a petition from the producers of a particular agricultural commodity, stating that the average market price is below a fair and reasonable level, it shall proceed to conduct a referendum among producers to determine whether a Marketing Committee should be established and who should be elected to that Committee. The Board may also initiate a referendum upon its independent determination that the market price is below a fair and reasonable price. This procedure may be used for any commodity or commodity group.

Section 103(b). *Referendum.* The Board supervises and administers all phases of the balloting, including voting qualifications in addition to 103(c).

Section 103(c). *Voting and Candidates.* ASC County Committees will act conduits in furnishing names of candidates to the Board, which shall include on the ballot at least twice as many as will be elected. Candidates may be elected at large or from lesser subdivisions. Basic eligibility for voting and membership requires that at least 65% of income must be from farming or ranching, and the particular commodity must be a "significant portion" of the farming operation.

Section 103(d). *First Meeting.* Upon a majority referendum vote, the Board will convene the first meeting of the Marketing Committee.

Section 103(e). *Notification to Prospective Buyers.* The Board must notify prospective purchasers of the existence of the farmer Marketing Committee, requesting them to select a Purchasers Committee to meet and negotiate price and nonprice terms of sale of the particular commodity involved.

Section 103(f). Board is authorized to fix the time and place of a meeting between the Purchasers Committee and the Marketing Committee. The Marketing Committee must invite consumer representatives to present the viewpoint and information on behalf of consumers at such meetings.

Section 103(g). Statistical and factual data are to be supplied to the respective Committees by the Board and USDA. Provides that the Board may act as an arbitrator if both Committees invite its participation and if both Committees accept the Board's conditions.

Section 103(h). *Failure of Referendum.* Provides procedures for resubmission through referendum on the questions of establishing the Marketing Committee and the membership in following years.

Section 103(i). *Powers of the Marketing Committee.*

Establish minimum price and nonprice terms of sale pursuant to agreements in negotiations.

Where negotiations for whatever reason do not result in a minimum price, the Board is required to mediate the dispute. If this does not lead to agreement within 30 days, the disputed issues are referred to a Joint Settlement Committee composed of a Purchasers representative, a farmers representative, and a neutral selected by each. The Joint Settlement Committe, after reasonable opportunity for the parties to be heard, must decide the questions at issue, and its decision is judicially reviewable.

Other powers dealing with operation of the Marketing Committee, and enforcement of their responsibilities. See also Section 111.

Section 103(j). *Dissolution of Marketing Committees.* Provides for termination of a Marketing Committee unless approved by referendum every three years.

Section 103(k). Prohibition. Prohibits the sale or purchase of the commodity below the established price.

Section 104. Recordkeeping. Farmers are required to keep certain records to aid in carrying out the Marketing Committee's functions.

Section 105. Exemption. The Board may, with the approval of the Marketing Committee, where it will not interfere with the purposes of this Act, allow some farm production in the commodity to be marketed for specific markets outside the limitations of this Act.

Section 106. Injunctions and District Courts. Injunctive proceedings provided, through U.S. Attorneys in U.S. District Courts.

Section 107. The Board is required to pay for and conduct all referenda, and cost of operation of the Marketing Committee.

Section 108. The Board's decisions on the boundaries of marketing areas, the scope of the commodity, and the results of the referenda are final.

Section 109. Appropriation authorization.

Section 110. Antitrust exemption.

Section 111. Supply Control. Provides that the Marketing Committee, when necessary to achieve the purposes of the Act, may prepare in consultation with the Board and the Secretary of Agriculture a plan of marketing allotments, with or without acreage or production limitations, for submission to farmers for approval in a referendum. If approved, the Secretary of Agriculture will administer the program.

Section 112. Authorization for the Secretary to implement the plan approved under Section 111.

Section 113. Definitions.

Section 114. Separability.

TITLE II. MARKETING ORDERS

Section 201. Amends the Agricultural Marketing Agreement Act of 1937, as amended, in eight respects, as follows:

Section 201(1). Amends Section 8c(2) to make any additional agricultural commodity or product (except canned or frozen products) eligible for a marketing order if the Secretary, after a special preliminary referendum of affected producers, finds that a majority of those voting favor making that commodity or product eligible for such an order.

Sections 201(2) and 201(5). Provide authority to include in marketing orders provisions establishing a method of establishing, by collective bargaining (including provisions for the designation by election of committees of producer representatives to bargain with handlers of groups of handlers), minimum prices and terms and conditions under which handlers may acquire a regulated commodity or product thereof (other than milk and its products) from producers or associations of producers. The minimum prices and other terms prior to becoming effective would have to be agreed to by the handlers of 50 per cent of the commodity and would be subject to approval by the Secretary.

These provisions also specify special pricing standards to be the statutory objective for such price determining purposes if the Secretary finds that parity for a regulated commodity is not adequate. The alternative pricing standard would take into account factors such as production costs, prices to consumers, and other factors affecting supply and demand for the commodity, including any limitations or marketings that may otherwise be included in the marketing order.

In addition, Section 201(5) would authorize the pooling of proceeds of sale of a commodity other than milk when minimum prices are established on a use-classification basis. If the Secretary found that pooling and producer marketing quotas were necessary in conjunction with pricing provisions to provide equitable distribution of returns and market opportunity among producers, he could require the use of such combined authority.

Section 201(3). Authorizes the establishment of minimum pricing for milk through a collective bargaining process.

Section 201(4). Amends Section 8c(6)(A) through (e) by adding "species or other classification" after "grade, size, or quality" to make this regulation available by such categories with respect to livestock and other commodities.

Section 201(6). Adds a section 8c(7)(E) to:

(1) authorize the Secretary to issue producer allotment bases for any commodity including milk on the basis of (i) the amount produced or marketed by such producer or from the farm on which he is a producer in a representative prior period, subject to adjustment for abnormal conditions and other factors the Secretary may determine, or (ii) the current quantities available for marketing by such producer, or (iii) any combination of (i) and (ii) that will result in the total allotment being apportioned equitably among producers. A minimum allotment could be fixed for producers whose production does not exceed that amount.

(2) establish an administrative procedure, with subsequent court review, for reviewing the lawfulness of a producer's allotment. This would be similar to the section 8c(15)(A) and (B) review procedure for handlers.

(3) specify that a handler may not handle more of a producer's allotment base than is authorized to be marketed.

Section 201(7). Section 8c(2) to authorize the Secretary to establish a producer advisory committee for any commodity to provide advice on starting proceedings to promulgate a new order and formulate specific hearing proposals.

Section 201(8). Provides that orders containing price bargaining or producer allotment provisions under proposed Section 8c(6)(j) or Section 8c(7)(E) (see items 5, 6) would impose administrative assessments

pro rata on producers, payable through handlers to the agency administering the order. Handlers would have the responsibility of collection from producers.

Section 202. Would make it clear that the new authorities provided by Title II shall not supersede the provisions of other statutes relating to marketing quotas, acreage allotments or limitations, or price support and that no action taken or any provision of an order issued under Title II shall be inconsistent with such other statutes or actions taken by the Secretary thereunder.

S. 813—INTRODUCTION OF BILL TO PROVIDE FOR CONTINUATION OF AUTHORITY FOR REGULATION OF EXPORTS

Mr. SPARKMAN. Mr. President, I introduce, for appropriate reference, a bill to provide for continuation of authority for regulation of exports. I ask unanimous consent that a statement of purpose and need for the proposed legislation be printed in the RECORD.

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

The bill (S. 813) to provide for continuation of authority for regulation of exports, introduced by Mr. SPARKMAN, was received, read twice by its title, and referred to the Committee on Banking and Currency.

The statement presented by Mr. SPARKMAN is as follows:

STATEMENT OF PURPOSE AND NEEDS FOR LEGISLATION

This proposed legislation would extend until June 30, 1973, the Export Control Act of 1949, as amended (50 U.S.C. App. §§ 2021–2032), which is now scheduled to expire by its terms on June 30, 1969.

The Export Control Act authorizes the President to regulate exports from the United States to the extent necessary to safeguard our national security and domestic economy and to further our foreign policy. The Department of Commerce administers the Act by delegation of authority from the President. Under current administrative policies and procedures, specific export licenses, issued on the basis of applications submitted by exporters, are required for exports of certain strategic commodities and technical data to destinations other than Canada, in order to prevent the Sino-Soviet bloc from obtaining them by direct or indirect means from United States sources. Practically all exports are prohibited to Cuba, Communist China, North Korea, and North Viet-Nam in accordance with our security and foreign policy interests.

Exports to friendly nations are encouraged and are kept free of restrictive export controls except to the extent necessary to prevent diversion of U.S. commodities to unauthorized destinations or an excessive drain of materials in domestic scarce supply or other significant frustrations of U.S. export control objectives.

In view of prevailing world political tensions and uncertainties, it would be very harmful to our security and foreign policy interests to allow the authority to restrict strategic exports to lapse, as it will if the Export Control Act is permitted to expire next June 30. Realistically, a need for control over exports of strategic commodities will probably continue for some time in the future. The United States should not be left without authority to exercise such control. The Act provides the flexibility necessary to permit changes to be made in the scope and direction of export controls, as and when conditions change.

We urge consideration of the enclosed draft bill by the Congress as early in this session as possible, in view of the Act's scheduled expiration on June 30, 1969. Prompt passage of the legislation is needed in the United States or abroad concerning the continuance of this important facet of our economic defense program.

S. 817—INTRODUCTION OF BILL TO PROVIDE FOR STRIKE BALLOTS IN CERTAIN CASES

Mr. FANNIN. Mr. President, on behalf of myself and other Senators, I introduce, for appropriate reference, a bill to give union members a voice in determining whether they wish to remain on strike. I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

The bill (S. 817) to provide for strike ballots in certain cases, introduced by Mr. FANNIN (for himself and other Senators), was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 817

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That as used in this Act—

(1) The term "Board" means the National Labor Relations Board.

(2) The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(3) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia or any territory of the United States and any State or other territory, or between any foreign country and any State, territory, or the District of Columbia, or within the District of Columbia or any territory, or between points in the same State but through any other State or any territory or the District of Columbia or any foreign country.

(4) The term "affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce, or having led or tending to lead to a labor dispute burdening or obstructing commerce or the free flow of commerce.

(5) The term "strike" includes any concerted stoppage of work by employees, including a stoppage by reason of the expiration of a collective bargaining agreement, and any concerted slowdown or other concerted interruption of operations by employees.

SEC. 2. Upon the filing with the Board of a petition therefor signed by at least 20 per centum of the employees in the appropriate bargaining unit or units involved in a strike which has been pending for thirty days or more in any industry affecting commerce, the Board shall conduct a referendum among the employees of such unit or units on the question whether such strike should be continued. If a majority of the employees voting in the referendum vote against the strike, the labor organization representing the employees shall order such employees to discontinue the strike and such strike shall not be resumed until at least ninety days have elapsed following the referendum. If a majority of those voting in the referendum vote in favor of the strike no subsequent petition may be filed under this section until at least sixty days have elapsed following such referendum, and unless such subsequent petition has been signed by at least 30 per centum of the employees in the appropriate bargaining unit or units involved in the strike. In determining whether a petition under this section has been signed by the requisite percentage of employees, such petition shall be deemed to have been signed by any employee whose approval in writing of such petition is filed with the Board not later than thirty days following the filing of the petition.

SEC. 3. Any employee who participates in a strike which has been continued, or resumed prior to the expiration of ninety days, after a majority of the employees in the appropriate bargaining unit or units involved in the strike voting in the most recent referendum conducted with respect to such strike under this Act shall have voted against such strike, shall not during the existence of the strike or thereafter, unless reemployed or reinstated by the employer, be considered to be an employee of such employee for the purposes of the National Labor Relations Act or the Railway Labor Act.

SEC. 4. Referendums provided for in this Act shall be conducted by the Board, except that the Board may delegate, generally or in specific cases, authority to conduct such referendums to any public or private agency or organization which, in the opinion of the Board, is qualified to conduct such referendums.

SEC. 5. Nothing contained in this Act shall be construed to supersede or modify in any way the requirements of section 8(d) of the National Labor Relations Act.

Mr. FANNIN. I introduced a substantially similar bill in the previous Congress. As I noted at the time, the idea of providing for a secret strike vote is not new. It was recommended to the Congress by President Eisenhower in 1954. What was new about my proposal was that it recognized that there are legitimate reasons why a prestrike vote may adversely affect free collective bargaining. The bill, accordingly, provides for a secret ballot by the workers concerned only on continuing the strike and only after the right to strike has been exercised and the positions of the parties have tended to become stalemated.

Under my proposal a petition for an election to determine whether a strike should continue could not be filed until after a strike had been in effect for 30 days. The bill further provides that no more than one strike-vote election can be held within any 60-day period. The purpose of this proviso is to insure that the union's ability to bargain effectively will continue after a vote favorable to a continuation of the strike.

The bill also contains a provision designed to protect the identity of petitioners. Thus, under this proposal the required percentages necessary for an election could be secured through the filing with the board by individuals of their approval of the petition.

Within these limitations the bill provides workers caught in a protracted bargaining stalemate with a means of ending a strike which has gone beyond the point of economic return or, alternatively, with a means of expressing to management and to the public their determination to continue the strike, despite the economic costs.

Mr. President, consider the workers

whose lives and livelihoods are directly affected by these struggles between the giants of labor and the giants of industry. These are the real victims in labor disputes that drag on in long and costly strikes. I know about these workers because we had more than 10,000 of them in the State of Arizona—the victims of a copper strike who still have not recovered from the long strike. My distinguished colleagues from New Mexico, Montana, Nevada, and Utah, as well as the other copper-producing States, had thousands more of these "forgotten men" in their constituencies.

The situation in the copper industry was symptomatic of a nationwide problem that can affect almost every working man and woman in America. Consider the copper worker who endured months of enforced idleness. And think also of what the situation is in other industries around the Nation. I think it can be said with accuracy that almost any time a strike lasts more than 30 days, the worker stands to lose more than he can gain. Take the recent Ford strike, for example. It will take the average automobile production worker at Ford many, many years to make up what he lost during those 46 days of enforced idleness.

Take the machinists' strike against the major airlines during the summer of 1966—73 days of enforced idleness. Who won? Only the high chiefs of the IAM—they showed them who was top dog, all right. And they showed the general public too and thousands of vacationers who had to give up their vacation plans or who were left stranded around the country.

Take the strike in the rubber industry last year—107 days of enforced idleness. Or the long steel strike in 1959. Or the General Motors strike in 1964—it is the same story right down the line. Who wins? Well, really nobody wins in a strike, but in each instance the union high command shows who is running the ball game, who has the economic stranglehold. And who loses? The worker. Every time, it is the worker.

Strikes are becoming not only more frequent, but they are becoming more severe. The length of strikes has tended to increase in many instances. Stubborn issues affecting the prerogatives of both labor and management have impeded the settlement of many strikes. In such protracted strikes the forgotten man has become the striking worker, who has paid the price in lost earnings while the unions and management have struggled for power.

I note, for example, taking available data for the first 10 months of 1968 and comparing it with the same period in previous years, that the number of strikes taking place during the first 10 months of 1963 was only 3,143, while the number going on during the first 10 months of 1968 was 4,630. In 1967, the number had been only 4,210. But, and this is the crux of the matter, Mr. President, the number of man-days of working time lost has been higher in recent years than at any time since 1959, when we had the long, disastrous strike in the basic steel industry.

In the first 10 months of 1963, we lost some 13.7 million working days. In January through October 1967, we lost 36.4 million man-days. In the same period in 1968, we lost 38.5 million.

Now it may seem of no great significance, Mr. President, that we lost more man-days in 1968 than in 1967. We had more strikes and a greater loss was to be expected. But in the 1967 period, we had 2,590,000 workers on strike while in 1968 we have had only 2,170,000 workers idle. So the number of days lost per worker rose quite sharply between last year and this. This is the significance of these data, Mr. President.

Strikes are getting longer, harder to settle, and less and less meaningful to the workers involved in terms of economic gain. It is less and less often a day or two on the picket line and a return to a fattened pay envelope. More and more often, a strike involves weeks of unemployment and lost production: repossessed automobiles and lost profits: foreclosed mortgages and bankrupt businesses.

I think that the time is at hand when the Congress will stop automatically labeling any bill which the union leaders oppose as an "antilabor" bill and consider each such bill on its merits. Is it not just as important to protect the rights of workers to vote for an end to a strike as it is to protect their right to strike? If they strike and it proves to have been a mistake, must they, their families, management, and the public suffer the results indefinitely, with no opportunity for them to reconsider, when the point of economic return for all parties involved has been reached and passed?

I sincerely hope, Mr. President, that my bill will receive early and fair consideration on its merits, and that this Congress, like the striking workers, be given an opportunity to vote the issue, up or down.

Mr. President, I ask unanimous consent that there be included in the RECORD an article appearing in the Evening Star of January 13, 1969, showing the hours lost in strikes in 1968.

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

HOURS LOST IN STRIKES IN 1968 MOST SINCE 1959

(By Richard Critchfield)

Last year's rash of strikes—fed by wage demands to offset inflationary living costs and technological changes—made 1968 the worst year for working hours lost since 1959, the Bureau of Labor Statistics announced today.

The bureau also reported that the total number of strikes last year, 4,950, was 7 percent higher than in 1967 and the highest number in 15 years.

The number of workers involved, however, was down to 2.6 million from 2.9 million in 1967.

Thirty-three of the strikes involved more than 10,000 workers. The average employe involved was idled 10 days.

Wage settlements average what President Johnson's Committee on Price Stability in its final report called a "disturbing" rise of 6.5 percent. The committee conceded there is no longer any possibility of holding wage increases to the 3.2 percent a year justified by improvements in productivity.

This appeal has fallen on deaf ears. President-elect Nixon has condemned the guideposts as focusing on symptoms rather than the underlying causes.

Organized labor contends businessmen should absorb more of the cost increases without raising prices by holding down their profit margins.

The business community has counterattacked by trying to win bipartisan support in Congress for legislation to deal with crucial stoppages in a way more satisfactory than temporary injunctions and has pushed for other measures to curb labor's power.

This division in opinions, coupled with intensified pressures from inflation and urban crisis problems, suggests the outlook is for more strikes in 1969, not less.

Last year's biggest strike—at American Telephone & Telegraph Co.—involved a quarter of a million telephone operators and maintenance men in Illinois. It lasted a near-record 137 days.

Teachers' strikes became a major labor development in 1968. In March, school systems were struck for 19 days in Florida and a day each in Pennsylvania and Oklahoma. They centered on demands for higher wages.

In contrast, the 54-day New York City teacher's strike last fall was mainly a contest between teachers and Negro parents over control of inner city schools.

There were major 1968 strikes in steel, railroad, metal, aluminum, automobiles and chemicals; 47,000 workers in the glass container industry staged a 56-day walkout; and more than 50,000 bituminous coal miners struck for 10 days in January and for 13 days in October.

New York City had its worst year of labor disputes. Its taxi drivers started it all by leaving thousands of travelers stranded for 24 hours on New Year's Day. The city's garbage collectors walked out for eight days in February; dockers left the piers for 11 days in March; telephone operators and maintenance men struck for 47 days in April and May; the teachers followed in September, closing the city's schools for almost three months and the dockers again struck in October, resuming the strike just before Christmas after an 80-day cooling-off period.

S. 818—INTRODUCTION OF BILL TO EXTEND THE VOTING RIGHTS ACT OF 1965

Mr. MATHIAS. Mr. President, I am today introducing, on my behalf and on behalf of Senator SCOTT and Senator FONG, a bill to extend the application of the Voting Rights Act of 1965 for 5 additional years.

Similar legislation was introduced in the other body on January 30 by Mr. MCCULLOCH, the distinguished ranking minority member of the House Judiciary Committee, Mr. FORD, the distinguished minority leader, and 11 Republican members of the House Committee on the Judiciary.

Mr. President, the Voting Rights Act of 1965 was one of the great milestones of our national advance toward full equality under the law. In enacting that measure, we secured for the first time effective machinery to tear down the discriminatory barriers which for so long had denied millions of Americans the right to vote.

This act was approved only after years of frustrating experience had proved that judicial remedies and the case-by-case approach were inadequate weapons against determined, sophisticated patterns of discrimination.

The Voting Rights Act has worked. During the past few years, nonwhite registration in States and counties covered by the act has increased dramatically. Where only a small fraction of eligible nonwhite adults had been able to register and vote before 1965, we now

find substantial and vigorous Negro participation in the political process. Negro candidates have asserted their right to run for offices, ranging from congressional seats to county and town positions, on a more equal footing with whites. Real political competition has emerged in areas where politics used to be the province of a few.

For the first time, the 15th amendment has been effectively enforced throughout the Nation, and millions of Americans have at last begun to enjoy in fact the right to vote which was guaranteed by law a century ago.

The central feature of the Voting Rights Act, which has proved to be the key to its effectiveness, was its "automatic trigger," which suspended the use of literacy tests or other such devices in any jurisdiction in which, as of November 1, 1964, less than 50 percent of the persons of voting age residing therein were registered to vote. Such tests and devices were to be suspended unless it could be shown that, during the preceding 5 years, they had not been used for the purpose or with the effect of denying or abridging the right to vote on the grounds of race or color.

Mr. President, although tremendous progress has been made since 1965, there are ample signs that the right to vote, so long denied, cannot be secured beyond a doubt in 5 short years. New techniques of resistance have emerged, including gerrymandering, at-large elections, consolidation of counties, full-slate voting, abolition of offices, extension of the term of officials, substitution of appointment for election, increase of filing fees, refusal to bond black officeholders, and physical and economic intimidation.

It is difficult enough to deal with these methods of resistance now. Unless we act to extend the application of the Voting Rights Act, within the lifespan of this Congress we may also see the reappearance of the same types of discriminatory tests and devices which were suspended in 1965.

This would be a tragic step backward. It would amount to breaking the solemn promise which we made to the Nation in 1965, the promise that the 15th amendment would be finally and fully enforced.

Mr. President, we should not wait until the last minute to review the operations of the Voting Rights Act, and take the legislative steps required to insure that its full intent will be realized. Thus I am offering this bill today to provide a spur for full hearings and review by the appropriate committee early this Congress, while we still have ample time to discuss and debate rationally.

Let me emphasize that in sponsoring this simple extension of the act, both I and the distinguished Senators, also members of the Committee on the Judiciary, who have agreed to cosponsor this bill, are reserving our rights to sponsor or support any other amendments to the act which we find, after further study and reflection, are appropriate and constructive. Our intent today is simply to call attention to the need for review of the impact of the act and the import of the current 5-year limitation on its effectiveness.

Mr. President, I ask unanimous consent that the text of S. 818 be printed in the RECORD at this point.

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

The bill (S. 818) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices, introduced by Mr. MATHIAS (for himself and other Senators), was received, read twice by its title, referred to the Committee on Rules and Administration, and ordered to be printed in the RECORD, as follows:

S. 818

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(a) of the Voting Rights Act of 1965 (79 Stat. 438; 42 U.S.C. 1973b(a)) is amended as follows:

In the first and third paragraphs, after the words "during the", strike the word "five" and substitute the word "ten".

In the first paragraph, after the words "a period of", strike the word "five" and substitute the word "ten".

S. 819—INTRODUCTION OF BILL TO EXEMPT SENIOR CITIZENS FROM PAYING ENTRANCE FEES TO NATIONAL PARKS AND RECREATION AREAS

Mr. CANNON. Mr. President, the Federal Government is ofttimes portrayed as a cold, impersonal, structure, largely unresponsive to the needs of individuals or minority groups. We in the Congress realize that an organization as large as our Government is almost certain to draw such criticism. When needs are pointed out, however, Congress often is in the forefront of attempts to assist.

I am introducing today, for appropriate referral, a bill designed to provide a tenth of the Nation's citizens, 20 million people, with an expanded opportunity to enjoy the beauty and splendor of our national parks and forests. These people—our senior citizens—are to a large extent living on fixed, small incomes which in the face of rising costs grow even smaller.

A report which appeared about a year ago said:

According to the best expenditure data available, older people, who have about half the income of the younger, also spend about half as much as do younger people. However, the proportions of their total expenditures going to various types of goods and services differed considerably. Older consumers followed a pattern more closely related to low income groups in general. For instance, the older units spent proportionately more on food, housing and household operations, and medical care than did the younger units. Younger units, on the other hand, spent proportionately more on house furnishings, clothing, transportation, alcohol, tobacco, recreation and education.

Smaller expenditures by older consumers in many categories probably reflects their low-income position rather than lack of need for the goods or services.

I am aware that the admission fees to Federal recreational areas do not constitute the greatest expense of recreational travel. Nonetheless, I believe that by eliminating the entrance fee for our elderly, we will be expressing, in some small degree, our appreciation for the contributions these people have made during their working years. This is an altogether fitting and proper contribution on our part to their leisure years.

Such action is not without precedent, for in many States and municipalities there are provisions to exempt those over 65 of property or other taxes. The State of Nevada, which has long understood the social and financial requirements of the over-65 group, grants them exemptions from payments of hunting and fishing licenses.

Mr. President, I urge the acceptance by my colleagues of this proposal to make in part a present of our country's magnificent scenery to the golden age people of our Nation.

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

The bill (S. 819) to exempt citizens who are 65 years of age or over from paying entrance, admission, or user fees, introduced by Mr. CANNON, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

S. 820—INTRODUCTION OF BILL TO INCREASE THE MAXIMUM RATE OF PER DIEM ALLOWANCE FOR EMPLOYEES OF THE GOVERNMENT

Mr. HARRIS. Mr. President, I introduce, for appropriate reference, a bill to increase the maximum rate of per diem allowance for employees of the Government traveling on official business. There is now strong evidence that the present per diem allowance for Government employees is inadequate. Numerous cases are known where the cost of hotel or motel accommodation alone exceeds $16 a day, the minimum allowance under present statutes. The bill I introduce today would increase per diem allowable from $16 to $25 per day. The vast majority of Federal employees now receive the minimum amount of $16 per day while traveling on Government business unless they are traveling into an extremely expensive area. The legislation I introduce today would increase that minimum from $16 to $25 a day, which I believe is a more realistic amount. The legislation also increases the statutory maximum per diem from $30 a day to $50 per day and increases per diem allowances for railway clerks from $10 per day to $18 per day. Mr. President, I feel that these per diem increases are justified, and I, therefore, hope that the Senate will act favorably on this legislation.

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

The bill (S. 820) to increase the maximum rate of per diem allowance for employees of the Government traveling on official business, and for other purposes, introduced by Mr. HARRIS, was received, read twice by its title, and referred to the Committee on Government Operations.

S. 821—INTRODUCTION OF MODIFICATION OF CONTRACT FOR SALE OF CERTAIN REAL PROPERTY TO CITY OF LAWTON, OKLA.

Mr. HARRIS. Mr. President, I introduce, for appropriate reference, a bill to permit negotiation of a modification of

a contract for sale of certain real property by the United States to the city of Lawton, Okla. The bill I introduce today is intended to correct a situation which has existed for some 42 years and has become a burden on the city of Lawton.

Under the provisions of an indenture signed by the Secretary of the Interior on June 11, 1926, 270 acres of Kiowa, Comanche, and Apache reserve lands were conveyed to the city of Lawton in consideration of the payment, $2,880, and a promise to furnish, without cost to the Government, a sufficient supply of water for domestic use at the Fort Sill Indian School and the Kiowa Indian Hospital.

Since the signing of this indenture, the facilities of the Fort Sill Indian School and the Kiowa Indian Hospital have expanded considerably, which has required the city of Lawton to construct an 8-inch water main to the facilities of the Fort Sill Indian School and the Kiowa Indian Hospital. Also, the daily requirements of the Fort Sill Indian School have now reached approximately 45,000 to 50,000 gallons, which constitutes a sizable expense to the city of Lawton and which would appear to be somewhat beyond the intentions of the indenture agreed to in 1926.

The bill I introduce today would allow the Secretary of the Interior and the city of Lawton to negotiate an agreement under which the United States would pay for such water that is used at the Fort Sill Indian School and the Kiowa Indian Hospital.

I feel that this bill will be fair and just to both parties concerned. It will permit a renegotiation of the contract based upon changed conditions.

A bill identical to the one I introduce today was passed by the Senate last session, however, due to a lack of time, the House was unable to act. I would hope, therefore, that the Senate might act expeditiously this year so that the bill may become law.

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

The bill (S. 821) to permit negotiation of a modification to a contract for sale of certain real property by the United States to the city of Lawton, Okla., introduced by Mr. HARRIS, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

S. 822—INTRODUCTION OF BILL FOR THE RELIEF OF A. G. BARTLETT CO.

Mr. HARRIS. Mr. President, I introduce for appropriate reference, again this session of Congress, a bill for the relief of the A. G. Bartlett Co.

In a letter to me, dated August 30, 1967, Mr. A. G. Bartlett explained the problem to me as follows: This company was base contractor at Williams Air Force Base, Ariz., from May 1, 1966, through April 30, 1967. At the time the bid offer was submitted and accepted, the minimum wage to be paid to employees per hour was $1.25. On September 14, 1966, Congress passed the Minimum Wage Act calling for an increase of wages to $1.40 per hour. As a result, the A. G. Bartlett Co. suffered a loss of $8,718.53. This bill would reimburse the company for the loss it incurred due to the passage of that act.

Mr. President, I hope that favorable action can be taken on this bill both by the appropriate committees and the Congress during this session, and I ask unanimous consent that the bill be printed in the RECORD.

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

The bill (S. 822) for the relief of A. G. Bartlett Co., introduced by Mr. HARRIS, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 822

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the A. G. Bartlett Company of Tulsa, Oklahoma, the sum of $8,718.53, in full satisfaction of all claims of such company against the United States for reimbursement for losses incurred under contract numbered AF-02(600)2590, entered into by the United States with such company, such losses having resulted from increased wage costs arising out of an increase in the Federal minimum wage rate imposed after such company had computed its bid and been awarded such contract: *Provided,* That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

S. 826—INTRODUCTION OF IMPLEMENTATION OF THE WILDERNESS ACT

Mr. NELSON. Mr. President, I introduce today, for appropriate reference, a bill to add six new areas in three States to the National Wilderness Preservation System. This bill marks the first step to acquire lands in the Midwest and the East under the authority of the 1964 Wilderness Act.

Since passage of the act, 30 proposals have been made to the Congress and already two Forest Service areas have been fully considered by Congress. Acts of Congress have made the San Rafael and San Gabriel Wilderness Areas in California the first two additions to the system.

The bill I am proposing today is almost identical to one I introduced on May 16, 1968. It received hearings by the Senate Interior Committee on June 20, 1968, and was passed by the Senate on July 10, 1968.

Unfortunately, the time remaining was too limited for the other body to consider and complete action, and so I hope this early introduction will allow sufficient time during this Congress for both Houses to act favorably.

The passage of this bill will be another giant step forward in supplementing the unrivaled achievements of this conservation decade.

Since 1960 Congress has recognized the necessity to reverse the tragedies visited on our land and waters by thoughtless despoilers. Only the future can tell whether we have, in fact, stopped this insidious disaster or if we have only postponed the day of reckoning for an eye-blink of time.

The 1960's have seen a rejuvenation in the spirit of fighting for our natural heritage.

By acts of Congress and by executive proclamation we have saved over 3,800,000 acres of land for the National Park System. Over 50 new areas have been added. National seashores, lakeshores, national recreation areas, national trails, and national scenic and wild rivers have been established. Water and air quality standards for all the States to eliminate pollution are almost ready.

Over 40 pollution control enforcement conferences have been called to clean up our interstate waters.

Since 1960 attendance at our national parks has increased by 100 percent from 70 million visitors to 153 million last year.

A definite need has been established that millions need to escape the concrete jungle, the smoke-filled, jammed-up cities, and the deafening clang of the auto-strewn highways if only for an hour or two to regain their strength of spirit.

The contrast I am seeking to preserve will be abrupt and deep for our urban dwellers, but we must act if we are to withstand the pressures of the developer.

This bill would set aside in their present unspoiled and natural state important areas in Wisconsin, Michigan, and Maine.

Two of the six areas proposed will protect existing breeding and nesting grounds for waterfowl. Two other areas in Maine will offer excellent camping and hiking grounds for those who seek to appreciate the beauty of nature at close range. A fifth area contains an unusual land formation, a rarity in the northern part of our Nation, containing strips of a bog forest.

The Wisconsin Islands proposal concerns three islands just off the Door Peninsula in Lake Michigan. They total 29 acres and are in the Green Bay and Gravel Island National Wildlife Refuges. These islands are isolated because of difficult access but they offer an excellent wilderness experience to those who visit them.

The quiet and solitude of these rugged, wave-battered and windswept islands deserve the greatest protection we can offer. The islands are important nesting and breeding areas for a wide variety of waterfowl, including herons and gulls. Their importance was recognized early in this century when they were protected by Executive orders of the President in 1912 and 1913.

The citizens of Wisconsin long have endorsed this proposal for the Wisconsin Islands Wilderness. A hearing was held in 1967 at Sturgeon Bay, Wis., and received unanimous support from local and statewide conservationists for the wilderness. Some 200 written and oral statements were received, all fully endorsing the proposal.

This bill also calls for establishing the Edmunds Wilderness and the Birch Islands Wilderness, containing a total of

about 2,780 acres within the Moosehorn National Wildlife Refuge in Maine. This national wildlife refuge is one of the very few Federal areas in the Northeast which is protected for the fisherman, the hunter, the family, or the individual seeking to hike or paddle deep into the woodlands of America. These two wilderness proposals may eventually be the only areas left even in the State of Maine, where the awe-inspiring vastness of the forests and beauty of true wilderness will be guaranteed for generations to come.

In Michigan, the bill calls for protecting three areas, each of which has a unique attraction for visitors. The proposed Seney Wilderness contains about 25,150 acres in the popular Seney National Wildlife Refuge in Schoolcraft County, Mich. A receding glacier formed an outwash plain which now covers approximately two-thirds of the area. Within this area are treeless bogs and topographically oriented strips of bog forest which form an unusual land formation called a string bog. The Seney Wilderness is considered to contain the southernmost example of this unique feature in North America.

Should Congress enact this bill, and I strenuously urge its adoption, this little-used portion of the refuge should enhance the recreational use of the refuge as a result of the national publicity which the wilderness will stimulate.

The second area in Michigan that is proposed in this bill is the Huron Islands Wilderness which contains eight small islands in Lake Superior within the Huron Islands National Wildlife Refuge. These islands are relatively isolated and are seldom visited because of the rough seas and the limited landing locations available. The islands total 147 acres. Two-thirds of the surface of the islands are covered by trees, shrubs, and herbaceous plants while the remainder is barren or moss- and lichen-covered rocks.

The Michigan Islands Wilderness proposal is another group of islands which are also isolated because of difficult access. These three islands total approximately 12 acres and are considered extremely important breeding and nesting grounds for herring and ring-billed gulls. The abundant bird populations and picturesque terrain have unique beauty and are of great interest to the scientist, the student, and the nature lover.

The preservation of these six wilderness areas is a necessary part of our fight to restore quality to our environment.

We must reverse the tragic trend now spoiling our environment. The mountainous quantities of wastes being dumped into our air and water and onto our land each day must cease. We must stop the reckless pollution by tons of pesticides being sprayed into the air, water, and soil. We despoil the countryside and jar our senses with man-made intrusions such as rusting cars, broken glass, and aluminum cans with increasing ferocity.

Setting aside of these six wilderness areas, protecting them forever from the thoughtless disregard by man, is but a small part of what is needed to restore the quality of our environment. If we do not act quickly, few other areas in the Midwest and in the East will be available for protection as wilderness.

Though no mineral wealth is found on these areas, though the land is all federally owned already, and though no cost will be incurred by this designation, these wild lands are priceless. It is to secure the perpetuation of these treasured islands, that I urge your favorable support of this legislation.

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

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

The bill (S. 826) to designate certain lands in the Seney, Huron Island, and Michigan Islands National Wildlife Refuges in Michigan, the Gravel Island and Green Bay National Wildlife Refuges in Wisconsin, and the Moosehorn National Wildlife Refuge in Maine, as wilderness, introduced by Mr. NELSON (for himself and other Senators), was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 3(c) of the Wilderness Act of September 3, 1964 (78 Stat. 892; 16 U.S.C. 1132(c)), certain lands in (1) in the Seney, Huron Islands, and Michigan Islands National Wildlife Refuges, Michigan, as depicted on maps entitled "Seney Wilderness-Proposed", "Huron Islands Wilderness-Proposed", and "Michigan Islands Wilderness-Proposed", (2) the Gravel Island and Green Bay National Wildlife Refuges, Wisconsin, as depicted on a map entitled "Wisconsin Islands Wilderness-Proposed", and (3) the Moosehorn National Wildlife Refuge, Maine, as depicted on a map entitled "Edmunds Wilderness and Birch Islands Wilderness-Proposed", all said maps being dated August 1967, are hereby designated as wilderness. The maps shall be on file and available for public inspection in the offices of the Bureau of Sport Fisheries and Wildlife, Department of the Interior.

SEC. 2. The areas designated by this Act as wilderness shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act.

S. 835—INTRODUCTION OF BILL PROVIDING FOR THE ESTABLISHMENT OF THE FREDERICK DOUGLASS HOME AS A PART OF THE PARK SYSTEM IN THE NATIONAL CAPITAL

Mr. HART. Mr. President, one of the greatest figures the Nation has ever produced was Frederick Douglass.

Others are able, far better than I can, to give an account of the life of Frederick Douglass. New facets of the career of this extraordinary man are constantly coming to my attention. Born a slave near the beginning of the 19th century, his life spanned the period in our Nation's history when the struggle for freedom reached into the lives of all Americans, even to the point of civil war.

Frederick Douglass died in 1895 and was mourned throughout this country and abroad. The Legislature of North Carolina adjourned for the day as a mark of respect. The Legislatures of Indiana, Illinois, Massachusetts, and New York noted in resolutions the passing of this great American.

The London Daily News editorialized:

From first to last, he was a noble life. His own people have lost a father and a friend, and all good men have lost a comrade in the fight for the legal emancipation of one race and the spiritual emancipation of the other.

High on a hill, overlooking the community of Anacostia, stands the Victorian home purchased by Frederick Douglass on September 1, 1877. "Cedar Hill," the name given to the home, was built by one of the developers of the community, John Van Hook. This substantial house was a symbol of Douglass' achievements. In the fine rooms of Cedar Hill, he kept the mementos of an active and satisfying life—the bill of sale which released him from slavery, pictures of his coworkers in the cause of abolition and civil rights, an order signed by Lincoln, and a gift of silver from Queen Victoria. Here he lived; and was visited frequently by friends, children, and grandchildren. Douglass died in his home on February 20, 1895.

The National Association of Colored Women's Clubs wisely and generously preserved his home in Southeast Washington so that each new generation would be reminded of this man and of those events in our history which permitted Frederick Douglass, born a slave, to rise to high service in his National Government and become a world figure in the perennial struggle for human rights.

In 1962, Representative Charles Diggs and I sponsored legislation, which became Public Law 87-633, providing for the establishment of the Frederick Douglass home in Anacostia as a part of the park system in the National Capital.

It was intended that the home would be restored and refurbished, and developed as an "historic house museum" with proper safeguards to protect the historic furnishings and library. At the time it was hoped that the home would be staffed, and open to the public, in about 2 years.

The 1962 act, however, authorized only $25,000 for repairing and refurbishing the home of this famous man. More detailed examination of the property has since shown that damage to the house by Hurricane Hazel and other storms, plus termite damage, have resulted in severe deterioration.

As a result, the house has been boarded up, the public is not admitted and, instead of a fine monument to a great American, we have in Anacostia a symbol of rot and decay.

This situation must not be allowed to continue. I have been in touch with officials of the Department of Interior and they have made available to me copies of a communication to the President of the Senate, dated August 20, 1968, detailing the need for funds in the amount of $450,000 for carrying out the purposes of the act of September 5, 1962, and enclosing a draft bill to authorize this amount. The draft bill was approved by the Bureau of the Budget.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the Department's letter and draft bill—which I am today introduc-

ing; a portion of an article from Life magazine of November 22, 1968—on which date the picture of Frederick Douglass was on the cover of Life—and an article from the Saturday Review of December 28, 1968, bearing on the significance of Frederick Douglass in our Nation's history.

The need for prompt congressional action to remedy this present intolerable situation is evident to all who pass by the property in its present condition.

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

The bill (S. 835) to amend the act of September 5, 1962 (76 Stat. 435), providing for the establishment of the Frederick Douglass home as a part of the park system in the National Capital, introduced by Mr. HART, 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. 835

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Act entitled "An Act to provide for the establishment of the Frederick Douglass home as a part of the park system in the National Capital, and for other purposes", approved September 5, 1962 (76 Stat. 435), is amended to read as follows:

"SEC. 4. There are authorized to be appropriated not more than $450,000 for repairing and refurbishing Cedar Hill in furtherance of the purposes of this Act."

The letter and articles, presented by Mr. HART, follow:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., August 20, 1968.

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 Act of September 5, 1962 (76 Stat. 435), providing for the establishment of the Frederick Douglass home as a part of the park system in the National Capital."

We recommend that the draft bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

The Act of September 5, 1962 (76 Stat. 435), established the Frederick Douglass home as part of the park system of the National Capital. It authorized the appropriation of not more than $25,000 for repairing and refurbishing the home of this famous educator. The enclosed bill will increase the appropriation authorization to $450,000 for repairing and refurbishing Cedar Hill.

At the time the 1962 Act was passed, only a surface examination had been made of the Frederick Douglass home. This examination indicated that the house was structurally sound. It was anticipated at that time that donated funds would cover any cost in excess of the amount authorized to be appropriated in the 1962 Act. Donations have not been forthcoming, however, and it now appears only small donations, if any, can be expected in the future.

When the Department assumed control of the Frederick Douglass home on June 25, 1964, an intensive study was made of the interior structure of the home. The study revealed that structural members of the building had decomposed to such extent that it would be unsafe to permit the public to enter the home. Such decomposition is apparently the result of termite and water damage or dry rot, and it is now proceeding rapidly.

Furthermore, we learned after the Department assumed control of the home that damage to the roof of the house in 1958 by Hurricane Hazel and in 1962 by another storm resulted in serious water damage to furnishings such as floor coverings, draperies, paintings, and furniture. The roof had been repaired after these storms and the damage to the furnishings was not readily apparent. The damage was discovered in our recent intensive studies of the home, which revealed that the furnishings of the house will require extensive restoration before they can be placed on public display again.

The condition of the grounds around the home has also deteriorated in recent years. We believe the grounds must be improved to make the site suitable for an interpretative program and for public enjoyment.

The $25,000 authorized in the 1962 Act has already been appropriated. Of that sum $12,959 has been obligated as follows:

Historical research	$3,000
Plans, surveys and supervision	4,250
Removal and storage of mantel, mirrors and other items of historic interest	1,375
Miscellaneous expenses such as pest control, removal of items not associated with the original structure and repairs to prevent further deterioration	4,334
Total	12,959

After a careful analysis of the home and the surrounding grounds, we find that an additional $437,000, beyond the approximately $13,000 already obligated, is required to enable the Department to repair and refurbish the home. The additional costs are as follows:

1. $59,300 for repair of the furnishings;

2. $16,200 for exhibits and interpretive devices;

3. $37,800 for the historic road leading to the home, additional foot trails and a parking area; and

4. $323,700 for general restoration of the interior and exterior of the home including the utility system, the heating system and related research.

The enclosed bill will enable the Department to restore the Frederick Douglass home for the benefit and inspiration of the American people, and to provide adequate visitor use facilities.

The Bureau of the Budget has advised that there would be no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

Sincerely yours,

C. F. LAYTON,
Acting Deputy Assistant Secretary of the Interior.

Enclosure.

A bill to amend the Act of September 5, 1962 (76 Stat. 435), providing for the establishment of the Frederick Douglass home as a part of the park system in the National Capital

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Act entitled "An Act to provide for the establishment of the Frederick Douglass home as a part of the park system in the National Capital, and for other purposes", approved September 5, 1962 (76 Stat. 435), is amended to read as follows:

"SEC. 4. There are authorized to be appropriated not more than $450,000 for repairing and refurbishing Cedar Hill in furtherance of the purposes of this Act."

[From Life magazine, Nov. 22, 1968]

FOR ALL NEGROES, FREDERICK DOUGLASS WAS THEIR LEADER

Frederick Douglass looked so much like a President that one day in the White House a visiting judge mistook him for Abraham Lincoln. Douglass' skin was a middling brown color, and he was never bashful about his mixed parentage. "The son of a slaveholder stands before you, by a colored mother," he told a New York audience.

Douglass was, in fact, the unofficial president of American Negroes in the years before and immediately after the Civil War. His achievements made the careers of most men seem puny. He was born, probably in February 1817, on a plantation in Talbot County, Md. His owner was rich but held down maintenance costs on even small slaves. "In hottest summer and coldest winter I was kept almost in a state of nudity," Douglass recalled. "My only clothing—a little coarse sackcloth or tow-linen sort of shirt, scarcely reaching to my knees, was worn night and day and changed once a week. . . . I slept generally in a little closet, without even a blanket to cover me. In very cold weather. I sometimes got down the bag in which corn was carried to the mill, and crawled into that. . . . My feet have been so cracked with the frost that the pen with which I am writing might be laid in the gashes."

Dinner for the young slaves was cornmeal mush poured in a trough. "This was set down either on the floor of the kitchen, or out of doors on the ground, and the children were called like so many pigs, and like so many pigs would come, some with oyster-shells, some with pieces of shingles . . . but few left the trough really satisfied."

Despite this he grew up tall and handsome, and eager to learn. At 8 he was sent as a house servant to Baltimore, where his new mistress gave him spelling lessons until her husband angrily intervened. He taught himself to write by tracing carpenters' chalk marks at his master's shipyard and by copying passages from white boys' schoolbooks. With 50 cents in saved pennies he bought a schoolbook of famous orations, printed in the North. This contained several speeches on "Liberty," which he made the theme of his own harangues to other teen-age slaves.

Put in the care of a slave-breaker—a man who contracted to break the spirit of troublesome Negroes—Douglass tried to run away but failed. His second effort, in 1838, was more carefully planned. Wearing sailor's clothes and carrying a legal pass—lent to him at great risk by a Negro—he went by train and steamboat to New Bedford, Mass., where he began free life as a shipyard laborer at $1 a day.

His real career opened in 1841, when he stood up at a white antislavery meeting and described the brutal experiences he had lived through as a slave. His eloquence and fearless demeanor lifted him at once to the forefront of the antislavery crusade. He became a paid abolitionist lecturer and organizer, then a newspaper publisher. In 1846 English admirers made him legally free by paying his Maryland master £150 sterling.

Douglass broke with leading white abolitionists when he began to ask for something more than freedom—he demanded black equality as well. During the Civil War, when he was the Negroes' voice in the White House, he proclaimed that the war was not just against slavery but for all the rights that would make the slaves full citizens, including the right to vote. Later he included "the poor whites of the South," who were to be "lifted up from their social and political debasement" after the war.

Douglass' wife for 44 years was a free Negro woman he met while he was still a slave in Baltimore. Two years after she died in 1882, he married a white woman, Helen Pitts,

who had been his secretary. This brought him a storm of criticism from both blacks and whites. In reply Douglass sought to give an exact definition of his feelings about color and race. "The fundamental and everlasting objection to slavery is not that it sinks a Negro to the condition of a brute, but that it sinks a *man to* that condition," he wrote. "I base no man's right upon his color and plead no man's rights because of his color. My interest in any man is objectively in his manhood and subjectively in my own manhood."

[From Saturday Review, Dec. 28, 1968]

FREDERICK DOUGLASS

(By Kenneth Rexroth)

If the function of a classic is to provide archetypes of human motives and relationships that will form myths for a usable past, the early literature of Black America suffers from a limitation which might well be assumed to be crippling. It is conditioned by slavery, and therefore by the highly abnormal relationship between white and black people in a slave society.

This is true whether the subject is a Southern plantation or the Abolitionist movement in the North. The slave is forced to live a fundamentally perverted life, as though an ant were forced by his colleagues to behave like an aphid. The Abolitionist is engaged in the struggle against an absurdity, an ant protesting against being treated as an aphid. So those earliest works of Black Americans are of greatest value when their subject is not simple escape from slavery, but the achievement of true freedom. This is the essence of the program of the radical exponents of black culture today. They point out most correctly that as long as black literature concerns itself with racial conflict in terms that appeal primarily to a white audience it is not a free literature. A classic of black literature would transcend racial conflict and exist in a realm of the fully human. Its terms would be self-sufficient, self-determining—and black. This is a subtle matter and has nothing to do with overt subject matter, which, as long as racial conflict exists, must include it.

Frederick Douglass was born free. His servile status was a juridical delusion of his owner. His race, his existence as a Negro, was the "custom of the country." It was also his deliberate choice. His mother was a house servant and not fully black. His father was white. In more civilized countries than the United States he would have been considered, if anyone bothered to think about it, a white man with some mixture of Negro ancestry, no more a "black" than Pushkin or the elder Dumas. Although his adult life was spent almost entirely with white people, Frederick Douglass chose to think as a black man. This in itself was no small accomplishment. It is more difficult to avoid becoming an *assimilado* than, for Douglass, at least, to escape from slavery.

The most remarkable thing about Frederick Douglass's story of his childhood and youth, the thing that gives the narrative its simple and yet overwhelming power, is his total inability to think with servility. Aristotle said that it was impossible for a slave to be the subject of tragedy because a slave had no will of his own and could not determine his own conduct. Aristotle probably meant this as a permanent, indelible condition conferred by servile status. So that, for instance, the rise and fall of Spartacus, the leader of the Great Roman slave revolt, could not be a tragedy, because it was conditioned entirely by his relationship to slavery. Aristotle's is a false assumption. It does not apply to Douglass. He does not escape from slavery, he does not revolt against it, he simply walks away from it, as soon as he gets a chance, as from an absurdity which has nothing to do with him.

We accept the preconditions of Frederick Douglass's life far too easily. We forget how extraordinary it is to witness the growth and ultimate victory of a truly autonomous man in such a situation. The details are amazing enough, his struggle to obtain an education, to learn a trade, his adventures with cruel or kind or indifferent owners. Most amazing is the indestructible humanity of one whom society called a thing, a chattel to be bought and sold.

Douglass's fame in his own day was primarily as an orator, and that of course to audiences mostly of white people. He was the most powerful speaker of a fairly large number of ex-slaves who were professional agitators in the Abolitionist movement. So his writing is colored by the oratorical rhetoric of the first half of the nineteenth century, yet this has singularly little effect upon the present cogency of his style. We find similar rhetoric on the part of white men unreadable today. Douglass's is as effective as ever. It's not just that he is in fact simpler and more direct than his white contemporaries. It is that his rhetoric is true. He believes and means what he says. He is not trying to seduce the reader with false promises of a flowery style. A hard, true rhetoric is not rhetoric in the pejorative sense. So today his autobiography is completely meaningful. His poetry and quotations from his speeches are being recited in churches and meetings all over America. One of the great values to us of Frederick Douglass is that he makes it abundantly clear that not all white people even in the slave states, partook of the collective guilt of mastership. Most of his early education was due to the sister-in-law of one of his owners, Mrs. Hugh Auld. The Aulds later took him back from an owner who had imprisoned him for "suspicion of planning an escape," and apprenticed him to a ship caulker. Thus they gave Douglass a trade which enabled him at last to get away.

In these days when black people go about shouting indiscriminately, "You kept me in slavery for 400 years," many white Americans forget that among their own ancestry were people who spent their time and substance in the Abolitionist movement, or risked and sometimes lost their lives on the Underground Railroad. We all forget that, although the economic interpreters of history tell us that the Civil War was a quarrel between the industrialists of the North and the great land owners of the South, the thousands of young men who died in the bloodiest battles in history to that date were under the impression they were fighting to free the slaves.

It is horrifying to think that this great man with his indomitable, massive mind was eventually able to purchase his own freedom for 150 pounds subscribed by the antislavery movement. It is as though Michelangelo or Thomas Jefferson had price tags of $500 hung about their necks. The autobiography of Frederick Douglass is a "Great Book," a classic—not because it is the story of a Negro who escaped from slavery, but because it is the story of a human being who always knew he was free and who devoted his life to helping other men realize freedom.

The original edition, *Narrative of the Life of Frederick Douglass, an American Slave,* and *The Life and Times of Frederick Douglass,* and selections from his poems and speeches are all available in paperback.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may proceed for approximately 8 to 10 minutes.

The VICE PRESIDENT. Without objection, the Senator from Montana is recognized for 10 minutes.

SENATE JOINT RESOLUTION 36—INTRODUCTION OF PROPOSED CONSTITUTIONAL AMENDMENT TO LIMIT SENATE DEBATE

Mr. MANSFIELD. Mr. President, this year's debate on rule XXII may be over, but the issue is still very much alive. The Senate finds itself approaching the day when majority cloture will be firmly established as a procedure of the Senate. It shall come, I think, for a number of reasons—reasons that I have attempted to outline in the discussions thus far this year.

It has been because of the rigid opposition to cloture by some which has done much to bring the existing requirement of two-thirds into question. It has been the determined effort of others—increasing in numbers—to obtain a majority cloture rule that compelled me this year to seek a compromise with the Church-Pearson three-fifths resolution. I simply suggested that the Senate adopt a three-fifths rule now as a sensible way out of this dilemma—a dilemma finding a majority of the Senate today in favor of three-fifths, but unable to work its will because of the rigidity some of us have demonstrated on this question.

As I have said already, my suggestion met little success; not, I feel because of its merits, but simply because there is no ironclad guarantee contained in a rules change—in any rules change—that at some time in the not far off future the Senate will use this precedent for cloture relaxation to obtain ultimately a majority cloture rule. This cannot be avoided, since it is inherent in any parliamentary body for a simple majority with a cooperative presiding officer to effect any action it desires regardless of self-imposed rules.

In the light of this situation, I have endeavored to find some way of obtaining such a guarantee, of locking in, so to speak, a three-fifths rule that will withstand the assaults of the future, and thereby eliminate the chance of an ultimate change to majority cloture. I believe that a reduction to three-fifths will be difficult to obtain and dangerous to impose unless such a guarantee is ironclad.

The change I suggest is contained in a proposed amendment to the Constitution that provides for three-fifths of those present and voting to limit debate in the Senate. This is the only real guarantee that can ever be obtained. It is the only logical way of meeting the desires of the frustrated and the fears of the frustrators.

I think all Members will agree that an amendment to the Constitution will provide the necessary safeguards against future efforts to further relax cloture procedures. If obtained, it is difficult indeed to imagine that at any time in the future both bodies of Congress together with the requisite number of State legislatures could muster enough support to sustain a successful attack.

In suggesting this procedure, I must say that I was greatly impressed with the remarks on this matter by the junior Senator from Arkansas (Mr. FULBRIGHT) and also by the position of the senior Senator from Florida (Mr. HOLLAND).

I would only add that it is my hope in introducing this proposal that the Subcommittee on Constitutional Amendments—and its parent Committee on the Judiciary—give the matter its earliest attention. It is action that may seem burdensome, but certainly no more so

than the procedural inhibitions of the Senate under rule XXII as it now applies.

In conclusion, may I say that because of the time which will be consumed, even under the most favorable circumstances, in achieving and making a constitutional amendment operative, efforts will be continued in future Congresses to achieve a dilution of rule XXII. And while the issue is unresolved, majority cloture efforts will be in evidence to a degree probably equal to any three-fifths effort. I believe it is in the best interest of all Senators to lend their efforts to a swift disposition, one way or the other, on the merits of the approach offered today.

Mr. President, I introduce a joint resolution and ask that it be appropriately referred.

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

Mr. MANSFIELD. I yield.

Mr. HOLLAND. First, I wish to express my appreciation to the majority leader for carrying through on the program he suggested the other day. I believe that his suggestion, if carried out, would give some assurance, not possible in any other way, against changes in the future except by the most careful procedure, and one that would take considerable time.

I call attention to the fact that none of us has seen the proposed amendment. I also call attention to the fact that heretofore I have made it very clear that on matters relating to the security of the Nation in the military field, I have thought there should be the assurance of our ability to reach a determination on such questions very quickly whenever it is necessary.

I certainly shall appear at the hearings, and I shall have some suggestions that I hope will be rather favorable to the proposal made by the Senator from Montana. I may have suggestions which will be by way of amendment to the proposed constitutional amendment, which I have not yet been privileged to see.

I want the RECORD to show that I am appreciative of the fact that the majority leader recognizes the fact that there are many Senators here who have been greatly disturbed by the prospect of majority cloture being voted, and properly so, in view of the fact that there were many Senators who voted to sustain the ruling of the former Presiding Officer of the Senate, the former Vice President, which would have upheld majority cloture, at least in certain cases.

I think we are entitled to have some assurance and that we are entitled to have some security as we proceed in a very guarded way to this question.

I thank the Senator for what he is doing. I shall be cooperative, at least to the degree of appearing before a committee to testify, and I may make some suggestions. I have not yet seen the text of the proposed constitutional amendment, but I am grateful to the Senator for proceeding in the cautious and deliberative way he has proceeded.

Mr. MANSFIELD. Mr. President, I appreciate the remarks of the distinguished Senator from Florida. I wish to emphasize that this joint resolution in no way would preclude proposals in the future to try to bring about a change in rule XXII.

I also want it thoroughly understood that the introduction of the joint resolution does not represent a stalling procedure but only a way to try to resolve a problem which confronts the Congress at the opening of every new Congress, and I would hope it could be disposed of one way or another.

My position, of course, is known. I am not in favor of majority cloture; I am in favor of three-fifths. That is about as far as I can go in good conscience.

The VICE PRESIDENT. The joint resolution will be received and appropriately referred.

The joint resolution (S.J. Res. 36) proposing an amendment to the Constitution of the United States relating to limitation of debate in the Senate, introduced by Mr. MANSFIELD, was received, read twice by its title, and referred to the Committee on the Judiciary.

SENATE JOINT RESOLUTION 38—INTRODUCTION OF JOINT RESOLUTION EXTENDING THE RIGHT TO VOTE IN FEDERAL ELECTIONS TO CITIZENS 18 YEARS OF AGE OR OLDER

Mr. BAKER. Mr. President, I introduce a proposed amendment to the Constitution extending to 18-year-olds the right to vote in all Federal elections. I request that the joint resolution be printed in the RECORD at this point.

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

The joint resolution (S.J. Res. 38) proposing an amendment to the Constitution of the United States extending the right to vote in Federal elections to citizens 18 years of age or older, introduced by Mr. BAKER, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S.J. RES. 38

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. The right of any citizen of the United States to vote in Federal elections shall not be denied or abridged by the United States or by any State on account of age if such a citizen is eighteen years of age or older. The Congress shall have power to enforce this article by appropriate legislation.

"SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

Mr. BAKER. Mr. President, I have a deep reverence for the fundamental right and privilege of the various States to make their own election laws and determine their own election procedures within the framework of constitutional federalism. I would neither propose nor support any reform that would interfere with or in any way endanger these rights.

On the other hand, I must say in all frankness that I do believe that in Federal elections it is both proper and equitable that some national qualifications be enacted, including the reduction of the voting age to 18 years in Federal elections. Not only is it unfair that today's active and educated young Americans should have no voice in the future of the country, it is also true that the country will benefit from their participation.

Full effectiveness of a governing system which depends on self-determination and self-government requires maximum involvement of those mature enough to be aware of the problems that confront this Nation, and it is for this reason that I support efforts to lower the legal voting age.

The basic question underlying any consideration of changing the legal voting age is how we can best capture the energy and enthusiasm of the youth of America and channel them into directions of more idealism and less cynicism in the decisionmaking process of our representative government. Total involvement and total participation of these young people through the exercise of suffrage will, I believe, bring a new vitality to the American political scene.

ADDITIONAL COSPONSORS OF BILLS

Mr. PROXMIRE. Mr. President, I ask unanimous consent that, at its next printing, the names of the Senator from Rhode Island (Mr. PELL) and the Senator from Maryland (Mr. TYDINGS) be added as cosponsors of the bill (S. 721) to safeguard the consumer by requiring greater standards of care in the issuance of unsolicited credit cards and by limiting the liability of consumers for the unauthorized use of credit cards, and for other purposes.

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

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from South Dakota (Mr. MCGOVERN) I ask unanimous consent that, at its next printing, the name of the Senator from Texas (Mr. YARBOROUGH) be added as a cosponsor of the bill (S. 562) the Full Opportunity Act.

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

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from Oklahoma (Mr. HARRIS), I ask unanimous consent that, at its next printing, the names of the Senator from Missouri (Mr. EAGLETON) and the Senator from Virginia (Mr. SPONG) be added as cosponsors of the bill (S. 15) the Rural Job Development Act of 1969.

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

Mr. MOSS. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from Texas (Mr. TOWER) be added as a cosponsor of the bill (S. 583) to provide for the flying of the American flag over the remains of the U.S.S. *Utah* in honor of the heroic men who were entombed in her hull on December 7, 1941.

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

SENATE CONCURRENT RESOLUTION 8—BIAFRA: THE NEED FOR AN IMMEDIATE CEASE-FIRE

Mr. DODD. Mr. President, I submit, for appropriate reference, a concurrent resolution which states that it is the sense of the Congress of the United States that our Government should do everything in its power for the purpose of bringing about an immediate cease-fire between the Nigerian and Biafran forces; and that it should thereafter lend its good offices and use its diplomatic resources on the African continent to promote the conclusion of a just and durable settlement of the Biafran conflict.

In submitting this resolution, I am honored to be joined as cosponsors by Senators BENNETT, BYRD of West Virginia, FONG, GRAVEL, HART, HARTKE, INOUYE, MAGNUSON, MILLER, MOSS, MURPHY, NELSON, PASTORE, RIBICOFF, STEVENS, and WILLIAMS of New Jersey.

Mr. President, the deep concern which Congress feels over the appalling loss of life in the Nigerian-Biafran conflict is evident from the many statements that have been made on the floor of the House and on the floor of the Senate. It is also evident from the fact that some 60 Members of the Senate have cosponsored a resolution calling upor the U.S. Government to take the lead in stepping up the scale of relief operations in Nigeria-Biafra.

This resolution represents a first step. But in my opinion, in order to give this resolution meaning and plausibility, a second resolution is necessary calling upon the Government of the United States to use its good offices and diplomatic resources in the interests of an immediate cease-fire.

It is reported that more than 2 million people have died in the Nigerian-Biafran war over the past 18 months. The great majority of these are women and children who have died of starvation. All reports indicate that more than 10,000 people are still dying every day from the mass famine which afflicts Biafra.

No matter how much we may step up our relief shipments, it is clear that without a cease-fire more hundreds of thousands of women and children are bound to die over the coming months.

That is why I am introducing my resolution.

The tragedy of Biafra has moved and united the American people in a manner that cuts across all racial, religious, and even political lines. What has moved them more than anything else were the heartrending pictures of starving Biafran children with their swollen bellies and matchstick limbs and pleading eyes.

War is war. But the American people find it morally intolerable that any war should be fought by methods which result in the mass starvation of millions of civilians, especially women and children.

Across the country, Protestant, Catholic, and Jewish clergymen, university and high school students, Republican and Democratic leaders, conservative and liberal editors have joined in a crusade to save the people of Biafra.

In a series of statements which I made on the floor of the Senate beginning last July, I repeatedly urged the Department of State to use all of its influence with Nigeria and with the countries of Africa, in the interest of bringing about an immediate cease-fire. Until recently our policy seemed to be governed by a tendency to regard the frontiers of every former colonial country as something sacred. Because of this, even though we have shipped no arms, we have been in the position of morally supporting the Nigerian Government in its efforts to crush Biafran independence.

But can we take the stand that the national unity of every newly born country in Africa must be maintained intact, no matter how many millions of human lives this may cost? Can we morally defend the proposition that Nigerian unity must be maintained even if it means the total destruction of the 12 million Biafrans? I don't think so.

So much blood has already been shed between the Nigerians and Biafrans that it is highly questionable whether a unified Nigeria can be put together again. In my opinion, the best that one can hope for once peace is reestablished is a loose economic confederation that preserves the advantages of economic unity.

In the closing days of the Johnson administration, the State Department appears to have had some new thoughts on the Biafran conflict and on the advisability of working for a cease-fire.

The fact is that the continuation of the Biafran conflict is not in the interest of Nigeria nor is it in the interest of the African community of nations.

There is only one country that stands to benefit from it and that is the Soviet Union.

The Soviet Union has from the beginning been the prime supporter of this genocidal war. In addition to large quantities of small arms, it has given the Nigerian Government an air force consisting of some 30 Soviet fighters and a half dozen bombers; and this air force has been used with murderous effect against the civilian population of Biafra.

The Soviet Government, of course, does not give anything for nothing. One of the things it seeks is a foothold in Nigeria from which it can pursue the infiltration of western Africa. There are also persistent reports that it has asked for and been promised port facilities for the Red navy in Nigeria. This would bring the Red navy into the Atlantic Ocean.

Because every month's delay costs hundreds of thousands of human lives, it is my earnest hope that the new administration will waste no time in moving to organize a massive international emergency program adequate to deal with the Biafran famine, and that it will bend every effort to bring about an immediate cease-fire and a peaceful settlement of this senseless genocidal conflict.

I hope that the administration will be encouraged to move in this direction by the resolution which I have today introduced.

There is reason for believing that the present moment is opportune for such an initiative. Six months ago the Nigerian Government was talking hopefully about winding up the war in a matter of weeks or months. Since then, it has become evident that the war has degenerated into a stalemate, and that the chances of a military solution in the foreseeable future are virtually nil.

Until recently, although four African governments had recognized Biafra, the great majority of the African leaders were disposed to back the Nigerian Government for fear that an independent Biafra would spark secessionist movements in other parts of Africa. But recent reports indicate that an increasing number of African leaders are beginning to have doubts about the Biafran conflict on both political and humanitarian grounds, and that they are now more disposed to favor a negotiated compromise.

The governments of black Africa, because of their experience with European colonialism, are disposed to be suspicious of any outside intervention, even by the United Nations, unless they themselves request it. This is an understandable and proper attitude.

The settlement of the Biafran conflict will have to be an African settlement, and the prime initiative will have to come from the African states themselves.

Our own diplomacy will have to be used with restraint and delicacy.

But I am certain that it can be used, and that an increasing number of African countries would welcome an American commitment to a cease-fire because events have compelled them to recognize the validity of the statement made almost a year ago by Felix Houphouet-Boigny, the esteemed president of the Ivory Coast. This is what he said:

> I want . . . to cry out my indignation in the face of the inexplicable indifference—culpable indifference—of the whole world with respect to the massacres of which Biafra has been the theatre for more than ten months. I rejoin my country, pained, indignant, deeply upset and revolted by the prolongation of this atrocious war which rages in Biafra and which has already cost more than 200,000 human lives, not to count the immeasurable cost in destruction of all kinds, in a country definitely rich but still underdeveloped.
>
> Unity will be the fruit of the common will to live together. It should not be imposed by force by one group upon another.
>
> Insofar as we Africans form a part of the world, we could not but be astonished at how little we are valued; at the indifference with which people treat everything that concerns us.
>
> We must realize this ineluctable fact: even if, as a result of this military superiority in men and materials, Nigeria succeeds in occupying the whole of Biafra, the problem of the secession will not be involved. There will, therefore, be no real peace in Nigeria as long as Biafra fights for its independence.

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

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

The concurrent resolution (S. Con. Res. 8) was referred to the Committee on Foreign Relations, as follows:

S. CON. RES. 8

Whereas the war that has been going on for 18 months now between the government of Nigeria and the breakaway state of Biafra has resulted in a tragic loss of life, including

the death by starvation of many hundreds of thousands of women and children; and

Whereas the American people have been deeply moved by this tragedy, in a manner that cuts across all political, racial and religious lines, while Congress has manifested its concern through numerous individual statements in the House and Senate, and most recently through a Senate resolution calling for a greatly enhanced international relief operation to cope with the famine conditions now prevailing in Biafra and certain parts of Nigeria; and

Whereas, despite emergency relief shipments, more than 10,000 people are still dying every day from the mass famine which afflicts Biafra; and

Whereas, according to relief experts working in the area, the coming months are bound to witness a grave intensification of the famine because most of the seed for next year's crop has already been eaten, so that the protein starvation from which the Biafrans are now suffering will soon be compounded by carbohydrate starvation; and

Whereas the famine in Biafra has now grown to such dimensions that without a cease-fire it will be impossible to mount an adequate relief operation; and

Whereas, in addition to resulting in the mass starvation of the civilian population of Biafra, the war is impoverishing and exhausting Nigeria and imperiling its future security because of the machinations of the growing corps of Soviet technicians and advisers; and

Whereas the continuation of this tragic conflict does not serve the interests of the people of Nigeria or the people of Biafra or the peoples of Africa; and

Whereas it is clear from all that has happened that the Biafran people are prepared to fight to the last man rather than submit, and that there can therefore be no military solution to the Nigerian-Biafran conflict: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the United States Government, in the interest of putting an end to the killing and starvation, should lend its good offices and utilize all of its diplomatic resources for the purpose of bringing about an immediate cease-fire between the Nigerian and Biafran forces and to thereafter promote the conclusion of a just and durable settlement of the Biafran conflict; and

Be it further resolved, That it is the hope of the Congress that, whatever the political terms of such a settlement, the settlement will at least provide for some form of continuing economic integration because of the manifest advantages of economic unity to the peoples on both sides of this conflict.

SENATE RESOLUTION 84—RESOLUTION AUTHORIZING THE COMMITTEE ON THE DISTRICT OF COLUMBIA TO INVESTIGATE CERTAIN MATTERS WITHIN ITS JURISDICTION—REPORT OF A COMMITTEE

S. RES. 84

Mr. SPONG, from the Committee on the District of Columbia, reported the following original resolution (S. Res. 84); which was referred to the Committee on Rules and Administration:

Resolved, That the Committee on the District of Columbia, 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 District of Columbia, particularly, as rule XXV provides, in the matters of public safety, the municipal and juvenile courts, the municipal code and amendments to the criminal laws.

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 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 $129,400.00 shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

NOTICE OF HEARING ON NOMINATIONS TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. SPARKMAN. Mr. President, I wish to announce that the Committee on Banking and Currency will hold a hearing on Monday, February 3, 1969, on the following nominations to the Department of Housing and Urban Development:

Richard C. Van Duesen, of Michigan, to be Under Secretary;

Floyd H. Hyde, of California, to be Assistant Secretary;

Samuel C. Jackson, of District of Columbia, to be Assistant Secretary;

Samuel J. Simmons, of Michigan, to be Assistant Secretary; and

Sherman Unger, of Ohio, to be general counsel.

The hearing will commence at 10:30 a.m., in room 5302 New Senate Office Building.

HEARINGS BY SMALL BUSINESS SUBCOMMITTEE

Mr. McINTYRE. Mr. President, I wish to announce that the Small Business Subcommittee of the Senate Banking and Currency Committee will hold a hearing to review the Government's disaster loan program. The hearing will be held on Thursday, February 6, 1969, at 10 o'clock in room 5302 of the New Senate Office Building. Anyone wishing to testify should contact Mr. Reginald W. Barnes, assistant counsel, Senate Banking and Currency Committee, 5300 New Senate Office Building, Washington, D.C. 20510, telephone 225-7391, as soon as possible.

NOTICE OF RECEIPT OF NOMINATIONS BY THE COMMITTEE ON FOREIGN RELATIONS

Mr. FULBRIGHT. Mr. President, as chairman of the Committee on Foreign Relations, I desire to announce that today the Senate received the following nominations:

Gerard C. Smith, of the District of Columbia, to be Director of the U.S. Arms Control and Disarmament Agency.

Albert W. Sherer, Jr., of Illinois, a Foreign Service officer of class 1, now Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea, to which office he was appointed during the last recess of the Senate.

In accordance with the committee rule, these pending nominations may not be considered prior to the expiration of 6 days of their receipt in the Senate.

LOVE WHICH TRANSCENDS EMOTIONS

Mr. STENNIS. Mr. President, Mrs. Virginia Kelly, a Washington columnist, wrote an inspiring and elevating editorial entitled "Love Which Transcends Emotions," which appeared in the December 25, 1968, edition of the newspaper Independent and Press-Telegram, Long Beach, Calif., and other newspapers. This editorial not only reflects the true meaning of Christmas, but challenges the serious-minded person, and in order to share both its spirit and thought, I ask unanimous consent that the editorial be inserted in the RECORD.

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

LOVE WHICH TRANSCENDS EMOTIONS

(By Virginia Kelly)

Jesus, whose birth we celebrate, said, "Except a man be born of water and the spirit, he cannot enter into the Kingdom of God."

Spiritual rebirth is urgently needed in this era of violence, war and alienation of races, age groups and nations. Only citizens of superior moral character can preserve our Republic which is founded on noble concepts.

Rebirth requires God's Grace, self-analysis and lifelong commitment. Jesus gave directions for rebirth and eternal life basic to the Judaic-Christian faiths: You shall love the Lord with all your heart, soul and mind, and your neighbor as yourself.

In "Anti-Memories," Andre Malraux wrote "Christianity's genius is that the path to the deepest mystery is love which transcends men's emotions like the soul of the world, more powerful than death and justice."

Jesus gave wonderful gifts when he said "God is love" and "The Kingdom of God is within you." Judaism and Christianity teach that one aspect of heaven is the consciousness of perfect love.

St. Paul said that love encompasses patience, kindness, humility, generosity, forgiveness, modesty, innocence, endurance and truth.

Our Christmas wish is that you shall radiate love and exemplify St. Paul's promise: "Christ in you, the hope of Glory."

WILL MOSCOW HELP RESTRAIN IRAQ?

Mr. DODD. Mr. President, the entire civilized world has been horrified by the gruesome public hanging in Iraq a few days ago of 14 alleged Israel agents, of whom nine were Iraqi Jews.

These hangings, followed by the announcement that there would be further

mass trials, and, obviously, more group hangings, mark a new stage in the terror which the extremist pro-Marxist government in Iraq has been waging against the several thousand Jews who still remain in their country.

The fact that the trials had been conducted in secret has only served to confirm the general suspicion of the world community that the Jewish victims of these hangings were not executed because they were spies but simply because they were Jews.

Apart from the shocking inhumanity of the executions, and the threat of genocide which now hangs over the Iraqi-Jewish community, the hangings have served to dangerously inflame the entire Mideastern situation and to bring it one step nearer the brink of a general conflagration.

The Iraqi action has already gravely undermined the efforts of the U.N. and of the many concerned governments to promote a peaceful settlement of the Mideast crisis. It has also undercut the efforts of moderate Arab leaders to bring about a compromise with Israel, acceptable to both sides.

Let us hope that the general condemnation of world opinion will serve to restrain the Iraq leaders from indulging in any more public executions of Iraq Jews on the pretense of espionage.

In this situation, the Soviet Government, because of the very great influence it has in Iraq, bears a heavy responsibility.

Since 1959 the Soviets have given Iraq almost $200 million worth of economic aid, and over the past 5 years alone they have invested in Iraq one quarter of a billion dollars worth of military assistance. Indeed, virtually the entire equipment of the Iraq Armed Forces today was provided to them by the Soviet Government.

The question which remains to be answered is whether Moscow is willing to use the influence which has inevitably accrued to it as a result of its massive military and economic aid, in the cause of urging restraint on its Iraq proteges.

I believe it necessary to emphasize that the action of the extremists in charge of the Iraq Government is not characteristic of the entire Arab world. Indeed, the Iraq actions have horrified more moderate Arabs, as well as moderate elements in the Iraq nation.

Yesterday's Washington Post, for example, carried one article reporting that Iraq's envoy to the U.N. was resigning in protest against his Government's policies, and another article reporting that the Syrian Government had charged the Iraq Government with planning the assassination of a Syrian diplomat in Baghdad.

A third article reported that the Iraq Government was teetering.

It said:

Violence and venom and the wild accusations of Zionist activity, of Central Intelligence Agency maneuvering, of "counter-revolution," are often signs of an Arab regime that feels the skids are under it.

There was one particularly significant paragraph in this latter article which I would like to quote in full:

With the public hanging Monday of 14 alleged Israeli spies, nine of them Iraq Jews, the regime has dealt one more blow to the efforts of responsible Arab leaders to convince the world that the conflict between Israel and the Arabs is not one between civilization and reasonableness on the one hand and barbarism on the other.

Mr. President, I ask unanimous consent to insert into the RECORD at this point the text of the three articles in the Washington Post to which I refer.

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

[From the Washington (D.C.) Post, Jan. 30, 1969]

IRAQ'S U.N. ENVOY SAID TO QUIT

(By Robert H. Estabrook)

UNITED NATIONS, N.Y., January 29.—Iraq's permanent representative to the United Nations, Ambassador Adnan Pachachi, has resigned in protest against his government's policies, reliable sources said today.

There were unconfirmed reports that Pachachi's deputy, Adnan Raouf, also has resigned separately in the wake of the new spy trials in Iraq that have followed the hanging on Monday of 14 persons accused of spying for Israel. Raouf was not available for comment, but an Arab source doubted he would resign on an issue affecting trials of Jews.

American Ambassador Charles W. Yost, meanwhile, sent a letter to Security Council President Max Jakobson of Finland this afternoon saying that "the spectacular way" in which the previous trials were carried out "seems to have been designed to arouse emotions and to intensify the very explosive atmosphere of suspicion and hostility in the Middle East.

"The United States hopes that the worldwide revulsion aroused by the reports of these trials and executions will induce those responsible to carry out their solemn Charter obligations to promote 'universal respect for observance of human rights and fundamental freedoms for all,'" the letter said.

One consideration in sending the U.S. note was said to be the report that two American citizens have been arrested with no statement of charges against them.

Secretary General U Thant, who strongly criticized the Iraqi executions, decided to comment today on what steps he is taking in respect to the new trials. Yost discussed the issue in a meeting with him this afternoon that also touched on other Middle East problems.

Thant plans to leave Friday for an official visit to Ethiopia, returning Feb. 6, but some diplomats believed the situation might force him to change his plans.

Pachachi's resignation occurred approximately three weeks ago and was not directly connected with the world uproar over the hangings, the sources said. It appeared to have been related, however, to the government's decision to hold the mass trials that began Jan. 4.

In any event, the resignation takes on special significance because of the 45-year-old Pachachi's ability to survive previous coups and changes of government.

A former foreign minister, he had been Iraqi ambassador to the U.N. from 1959 to 1965 and again since 1967 and is widely respected here.

Pachachi reportedly has been in Switzerland the last two weeks looking for a job. He left New York after Thant called him in on Jan. 13 to stress his anxiety about the explosive effects of the spy trials.

An Iraq diplomat denied today that Pachachi has resigned, contending that he has been in Switzerland on vacation. The diplomat said the ambassador will return to New York after another week of vacation.

This diplomat made available a copy of the English-language Baghdad Observer of Jan. 5 recounting the start of the first mass spy trial.

It said that some of the 19 persons on trial—two in absentia—were accused of using a clandestine radio transmitter in the "Adventist Church" in Basra to transmit information to a foreign consul.

Information about the transmitter was given to the Iraqi government by a foreign steamship which intercepted the broadcasts, the account said.

The statement accused Iraqi Jews of being recruited by Israeli intelligence and said they had been asked to furnish information about Soviet weapons supplied to Iraq. Nine of the 14 persons hanged Monday were Jews.

The situation in Iraq distracted attention from new activities here by U.N. Middle East representative Gunnar Jarring. He met with Yost for an hour this morning and was expected also to have consultations with the Soviet, British and French ambassadors.

An eastern European diplomat said today that the Russians are extremely worried about the possibility of a new flareup in the Middle East and are particularly affronted by the actions in Iraq.

He contended that recently the Soviet Union has reduced arms shipment to Egypt. As a result, he said, the Egyptians are complaining that they are not receiving enough and have begun buying surplus Soviet arms previously sent to Indonesia.

The source expressed concern that the Palestine commando organizations such as El Fatah are getting out of control and may pose a threat not only to a peace settlement but also to some Arab governments themselves.

The Communist source asserted that the Russians also have clamped down on arms going to the guerrilla organizations. This conflicts with American estimates that the Russians are supporting the organizations.

[From the Washington (D.C.) Post, Jan. 30, 1969]

SYRIANS ASSAIL BAGHDAD—CLAIM IRAQI SHOT AT ENVOY—TRIAL CONTINUES

The Syrian Foreign Ministry charged yesterday that an Iraqi intelligence officer fired a shot into the automobile of a Syrian political attaché in Baghdad.

A Ministry spokesman said the diplomat, Abdul Karim Sabbagh, was unhurt but Syria has lodged an official protest and coupled it with a demand that an inquiry be made immediately into the "disgraceful attack." The date of the shooting was not disclosed.

Syria and Iraq are ruled by separate left-wing factions of Baathist Socialists.

TRIAL GOES ON

Iraq was believed to be going ahead with another trial of accused spies despite the furor of international protest which followed the public execution Monday of 14 alleged Israeli agents, including nine Iraqi Jews.

The number of persons being tried and details of the charges were not disclosed. Col. Ali Hadi Witwit, president of the revolutionary court, was quoted Tuesday as saying only that the trial began that day and involved members of a CIA-imperialist network. Baghdad Radio made no mention of the trial today, and no Western news dispatches of any kind were received from Iraq.

The charge of CIA involvement was described as "far-fetched" by State Department spokesman Robert J. McCloskey in Washington.

"This sort of allegation about the CIA is constantly made wherever difficulties of this sort, situations like this, arise," McCloskey said.

SIXTY-FIVE BEING HELD

Arab and Israeli sources estimate that as many as 65 persons may be facing espionage charges in Baghdad. Several observers believe the six-month-old government of President Ahmed al-Bakr is using the trials to suppress political opposition.

Baghdad Radio said 10,000 persons demonstrated for two hours before the British Embassy in the Iraqi capital in protest over an all-night pro-Jewish demonstration in London on Tuesday.

According to Baghdad Radio, the demonstrators consisted of workers, students and teachers who shouted slogans denouncing "Britain's interference in Iraq's internal affairs and the chaotic attack on the Iraqi Embasy in London."

Britain expressed regret for damage to the Iraqi Embassy during the London demonstration. A onetime Israeli paratrooper was stabbed in a rooftop struggle while he was attempting to hang two Israeli flags from an Embassy parapet.

ISRAELI APPEAL

Israeli Foreign Minister Abba Eban yesterday appealed to "the conscience of civilized mankind" to rescue any Iraqi Jews sentenced to the gallows in the future.

Eban called Monday's execution "persecution of a helpless and defenseless community" and said "the moral abyss revealed by the murders themselves is matched by the public display of the bodies amidst obscene manifestations of official rejoicing."

Abdullah Salloum al Samarri, Iraqi Culture and Information Minister, was quoted by Baghdad Radio as denying that any Iraqi citizen, Jewish or otherwise, was being persecuted. He reportedly invited foreign correspondents to visit Baghdad and follow future trials.

A cautionary word to the Israeli people came from Defense Minister Moshe Dayan, who said Israel must refrain from any move liable to endanger the 3000 Jews living in Iraq.

Dayan said it would be up to other foreign powers as well as international bodies to rescue the Iraqi Jews.

"Israel must refrain from any action that could hamper such attempts or endanger the lives of these Jews," Dayan told youth leaders of his Labor Party.

The Israeli army officially denied Iraq's charge that it was massing troops for an attack on Iraqi military units stationed in Jordan.

The State Department reported that two American citizens, Mr. and Mrs. Paul Bail, had been arrested in Iraq on unspecified charges. Bail was said to have been imprisoned for several weeks while his wife is under "what amounts to a house arrest."

A member of the Belgian mission in Baghdad, which looks after U.S. interests in Iraq, reported that both had told him they are being well-treated. There are about 400 Americans in the country.

In Paris, a statement issued in the name of President de Gaulle called again for efforts by the so-called Big Four—France, the United States, the Soviet Union and Great Britain—to work out a solution to the Middle East situation.

Canada yesterday added its voice to the international condemnation of the Iraqi executions, saying it was "deeply disturbed."

In Vatican City, Pope Paul, who had appealed for a stay of execution, told his weekly general audience that the Iraqi action "can engender suspicion that racist motives were not extraneous to this episode."

Washington area synagogues plan memorial observances, in their services Friday night and Saturday, for the Jews hanged by Iraq.

[From the Washington (D.C.) Post, Jan. 30, 1969]

IRAQ GOVERNMENT TEETERING IN POWER

(By Gavin Young)

LONDON, January 29—Iraq's six-month-old government of Gen. Ahmed al-Bakr is already widely unpopular—in other Arab states as well as in Iraq itself—for its violent and erratic ways. Now the left-wing Baathist regime has shown itself as indifferent to the general good name of the Arabs as it seems to be to its own.

With the public hanging Monday of 14 alleged Israeli spies, nine of them Iraqi Jews, the regime has dealt one more blow to the efforts of responsible Arab leaders to convince the world that the conflict between Israel and the Arabs is not one between civilization and reasonableness on the one hand and barbarism on the other.

There are said to be some 65 other Iraqis awaiting trial on charges of espionage. They include Abdul Rahman el-Bazzaz, the widely respected former premier, and a former defense minister, Major Gen. Abdul Aziz el-Uquaili.

Bazzaz held office for only a short time. But he is one of the few Iraqi politicians since the 1958 revolution against the unpopular Hashemite monarchy to attempt to pull the bitterly conflicting political factions together and achieve some form of positive government.

Whoever succeeds in doing this will be owed a massive debt of gratitude by the people of Iraq. For over 10 years they have been obliged to live in confusion, economic stagnation and often fear, though their country is potentially one of the richest in the Arab world.

Bazzaz, accused of spying for Israel, faces the death penalty if the special revolutionary court finds him guilty. Yet he is a well-known and respected nationalist of the middle-of-the-road variety. Imprisoned under the old monarchy, he is neither a leftist extremist nor pro-American. He is a man, many say, whom it is ludicrous to call an Israeli agent.

His only crime may well be that he has no love for the present Baathist rulers as they pursue an authoritarian policy that has increasingly toughened.

Since he returned to Baghdad—against his friends' advice—last November he has been closely watched. According to reports, he has had no opportunity to engage in any political activities, let alone active espionage. But the Baathists recognize in him a dangerously popular opponent.

His friend, Nasir el-Hani, an equally respected moderate diplomat and academic, was found dead in a Baghdad ditch last year, apparently the victim of a strong-arm group of Baathist security men.

Having bloodlessly overthrown the autocratic government of Gen. Abdul Rahman Arif last July, the Baath regime then spent a few months in political fence-mending. But after the initial phase, in which Communists and other non-Baathists seemed to be encouraged to make common cause with Bakr, it swung into an orgy of intolerance and intimidation of political enemies.

The regime is now the isolated center of a latent political storm. Violence and venom, and the wild accusations of Zionist activity, of Central Intelligence Agency maneuvering, of "counter-revolution," are often signs of an Arab regime that feels the skids are under it.

Thus, Iraq, with its oil, its great agricultural potential, its abundant water, its enviable small population of about 8.2 million, its intellectual and technical resources, flounders on in the 10-year-old quagmire of political infighting.

And, with Monday's executions, an era of violent repression seems to have settled once more on Iraq. But it may not last long. The Baathists are no more firmly in power than other Iraqi regimes have been, and, in fact, the signs indicate their tenure of office is less firm than most.

ORDER OF BUSINESS

Mr. MOSS. Mr. President, I ask unanimous consent that I may proceed without regard to the 3-minute limitation for approximately 15 minutes.

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

CIGARETTE ADVERTISING

Mr. MOSS. Mr. President, since coming to the Senate in 1959, I have sponsored or cosponsored one or more bills aimed at reducing the tragic toll caused by cigarette smoking in every Congress. I do not now intend to introduce such legislation this year, not because cigarette smoking is no longer the No. 1 public health problem in this Nation; not because the American people have come to comprehend fully the magnitude of the risk in smoking; not because the cigarette industry has finally faced its responsibilities to the public. I will not introduce such legislation this year because, in my judgment, the forces of health in this country today stand to gain more by stopping legislation designed to bind the hands of the regulatory agencies than by vainly pressing for new regulatory authority.

In mid-1964, the Federal Trade Commission, in perhaps its finest hour, issued a rule scheduled to take effect on January 1, 1965. This rule would have required all cigarette packages and all cigarette advertising to bear a warning that cigarette smoking causes death through lung cancer and other diseases. The rule was stillborn.

Instead, Congress forced the FTC to suspend its rule, and on July 27, 1964, the Federal Cigarette Labeling and Advertising Act was signed into law. Most people know that that act required every package of cigarettes manufactured for sale in the United States after January 1, 1966, to bear the warning: "Caution: Cigarette smoking may be hazardous to your health."

Few people realize that the same act prohibited any agency of government, local and State as well as Federal, from requiring a warning in cigarette advertising.

Many Members of Congress sincerely viewed the act as a step forward. In retrospect, it was a tragic step backward.

In urging the President to veto the bill on July 9, 1965, the New York Times said, in part:

> The Federal Trade Commission has the legal responsibility to regulate advertising of any substance that may be injurious to health. Eighteen months ago the Surgeon General's Advisory Committee on Smoking and Health unanimously concluded that "cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action."
>
> Acting on this clear medical judgment and pursuant to its duty under the law, the F.T.C. issued regulations for cigarette advertising. But it held up the effective date of the regulations while Congress reviewed the question.
>
> Congress has now virtually completed action on a shocking piece of special interest legislation in this field. The bill forbids not only the F.T.C. but also state and local governments from regulating cigarette advertising in any way for the next four years. As a maneuver to distract attention from this surrender to the tobacco interests, the bill also directs that cigarette packages carry

an innocuous warning that smoking *"may be hazardous"* . . .

The central issue now confronting the President is the integrity and independence of the Federal Trade Commission. What possible objective justification can there be for Congress intervening to strip a regulatory agency of its authority over a particular industry? This bill confers a favor on one industry that all the other industries under the commission's jurisdiction would naturally like to have.

Sound governmental practice requires a veto of this bill. Otherwise, the President and Congress will be flashing a green signal to the lobbyists that any regulatory agency is open to invasion and emasculation.

On July 16, the Washington Post carried an editorial entitled "Veto in Order" which read:

The bill to regulate the labeling of cigarettes, which Congress has sent to the White House, is itself mislabeled. It would be more appropriately called a bill for relief of the tobacco industry. For its effect will be to revoke an order by the Federal Trade Commission requiring a warning against the health hazards of cigarettes in advertising as well as on the packages. That order was to become effective on July 1. The bill which Congress passed would postpone the effective date so far as advertising is concerned until July 1, 1969.

Representative Moss made the point which seems to us most vital in regard to warning the public about the dangers of smoking. The mild "caution" which Congress would require on all cigarette packages would necessarily be addressed to current smokers—the men and women who are already hooked, as the Congressman put it. His major concern was for the warning of the 4000 young people who start smoking every day. Instead of requiring an effective warning to these young consumers, Congress would strip the FTC of the authority it now has to require a proper relation between cigarette promotion and the health problem.

In these circumstances the best course would be for President Johnson to veto the bill. There is no sound reason for excepting this one industry from supervision by appropriate authority. If every new discovery about substances that are menacing the health of the Nation were to be nullified by legislation, the basic philosophy behind the Food and Drug Act and the Federal Trade Commission Act could be undermined.

In other words, in exchange for 11 words on the side of the cigarette package, Congress had exempted the cigarette industry from the normal regulatory processes of Federal, State, and local regulations.

But Congress now has the opportunity to redeem itself. Thanks to the determined opposition of our former colleague from Oregon, Mrs. Neuberger, and of the Chairman of the Commerce Committee (Mr. MAGNUSON), the prohibition against the regulation of advertising was not made permanent. Senator MAGNUSON and Mrs. Neuberger insisted both in the committee and in conference with the House—which had voted for a permanent ban—that, if the agencies' hands were to be tied, at least the prohibition should be limited in time. And they were successful. Through their efforts, the straitjacket imposed by the act on the regulatory agencies terminates on July 1 of this year.

As of that date, the Federal Trade Commission will be free to move ahead to carry out its responsibilities in restricting cigarette advertising, unless Congress acts to stop them. Last year, a majority of the Commission, in the report to Congress required by the Cigarette Labeling Act, expressed the belief that the only adequate response to the threat posed by cigarette smoking to the American public is a ban on the broadcast advertising of cigarettes. I believe that the FTC can be relied upon to move against cigarette advertising to the limits of its powers. In addition, the Federal Communications Commission which had long been dormant on the responsibilities of broadcasters relating to cigarette advertising, has taken a significant step by requiring broadcasters who accept cigarette advertising to carry antismoking commercials in significant numbers and at prime times.

If the Cigarette Labeling Act's provisions banning agency regulation of cigarette advertising expire on schedule, I would hope that the FCC would examine its authority to determine if it cannot take even more vigorous steps consonant with the severity of the problem.

Past experience tells us that the cigarette industry will attempt to extend or to make permanent the ban against agency regulation of cigarette advertising. One of the ways in which this might be accomplished, as it was in 1965, is by the passage of legislation seemingly taking a step forward but, in reality, primarily intended to prevent the responsible agencies of Government from carrying out their duties.

It is no secret that the tobacco industry has its friends in Congress. Committee chairmanships in both Houses abound with Representatives of tobacco-growing States. And those Congressmen and Senators who need not be sensitive to the demands of the tobacco industry are too often reluctant to incur the wrath of the broadcasters and other media which derive substantial income from cigarette advertising.

Perhaps we can sympathize with those who defend the economic heartland of their region, serving their own people as they interpret their responsibilities. In fact, I pledge my full support to my colleagues for programs to alleviate the plight of the tobacco farmers. But economic dislocation cannot be permitted to outweigh the health of the Nation.

But to offset such concentrated political and economic power, the public health forces need more than moral outrage and a fistful of proposed new laws. What has been lacking is a realistic legislative strategy. Now, for the first time we have such a strategy. For the first time, the legislative advantage lies with the public. It is the cigarette industry which has the burden of getting Congress to act. If there is no new legislation extending the ban on agency regulation, then the agencies will again be free to act on July 1.

Mr. President, I want to serve notice here and now that I shall do all within my power to see that no such law to continue the ban passes.

Although, as my colleagues know, I have long and steadfastly opposed rules which make it possible for a small group of Senators to prevent the passage of legislation through a filibuster, when it comes to a matter involving the lives and health of millions of Americans, I shall not hesitate to take full advantage of the existing rules, and to enlist the support of my many colleagues of like mind in the Senate—and there are many—to stop the passage of "disabling" legislation.

My general purpose here today—and it has been my general purpose ever since I introduced my first cigarette bill—has been to try to discourage young people from adopting the cigarette habit.

Last year, for the first time in 4 years, there was a decrease in the number of cigarettes sold in this country. A billion fewer cigarettes were sold in 1968 than in 1967—571.5 billion in 1968 and 572.5 billion in 1967.

But the best news is that while there is a decline in smokers in all groups, smoking is dropping fastest among teenagers. The National Clearing House of Smoking and Health reports that only 3 percent of high school students say they expect to take up smoking in the next 5 years, and that furthermore, 91 percent are now aware of the connection between the habit and their health.

We should try to help those teenagers who have resolved not to take up smoking to keep that resolve—we should stop constantly putting before their eyes in their own living room tantalizing pictures and messages which make it appear that the most virile and accomplished of men, the most attractive and feminine of women, and our leaders in almost every field are all cigarette smokers.

I recognize the efforts the broadcasting industry has made to counterbalance cigarette advertising with public service announcements on the dangers of smoking—ads which I have already credited with helping to cut the number of cigarettes smoked and the number of smokers. I would strongly urge that those public service ads continue after cigarette advertising leaves the air.

May I say also that I am sure that if the tobacco industry could make a cigarette which was not in any way injurious to health—could make a safe cigarette—that they would do it. But we have no such cigarette.

My own record on tobacco advertising is clear. I have tried the legislative route. As I mentioned earlier, I have sponsored or cosponsored one or more bills relating to some aspect of smoking and health in every Congress in which I have served since coming to the Senate in 1959. For the RECORD, I ask that a list of these bills be carried at this point in my statement.

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

TOBACCO LEGISLATION INTRODUCED OR COSPONSORED BY SENATOR FRANK E. MOSS

86TH CONGRESS

S. 1394: Providing for study in schools of effects of alcohol and tobacco.

87TH CONGRESS

S. 21: Providing for study in schools of effects of alcohol and tobacco.

S.J. Res. 174: Asking the President to create the Commission on Tobacco and Health to conduct a massive educational program on hazards of cigarette smoking, particularly on the relationship between smoking and lung cancer.

88TH CONGRESS

S. 1682: To amend Federal Food, Drug and Cosmetic Act so as to make it applicable to tobacco on smoking products.

89TH CONGRESS

S. 559: To require warning of possible ill effects of tar and nicotine contents of tobacco on cigarette packages.

90TH CONGRESS

S. 1803: To amend Federal Cigarette Labeling Act to require a full statement of quantity of tar and nicotine contained in each cigarette on each package, and in all advertising.

S. 2394: To provide for a new warning and a statement of tar and nicotine content on cigarette packages and in advertising.

Mr. MOSS. I have also tried the voluntary route. On several occasions I have encouraged both the major television networks and the tobacco companies to do more themselves to take the glamour out of cigarette advertising, and particularly not to show people smoking, in the same way that they have voluntarily agreed not to show people drinking alcoholic beverages. I wrote my first letter to the presidents of the major television and tobacco companies in 1962, and wrote again on other occasions in the succeeding years. Much has been done in this field since that time, but not as much as must be done.

The cigarette industry could, if it chose, take responsible charge of its own destiny by voluntarily abandoning broadcast advertising. If the industry, publicly and unequivocally, agreed to do this, then I would be the first to assist them to attain antitrust immunity. But nothing less is acceptable.

If what I have had to say today appears to be an ultimatum to the cigarette industry, perhaps 5 years after the devastating verdict of the Surgeon General's Committee on Smoking and Health, it is time for ultimatum. This year, for all those groups and citizens dedicated to the public health, let our motto be: "It shall not pass."

NO BANG FOR A BUCK?

Mr. PROXMIRE. Mr. President, last Sunday, January 26, 1969, the Washington Post carried a brilliant article by Bernard Nossiter on the failures of the military electronic weapons systems during the past two decades. What Mr. Nossiter revealed is shocking, indeed. His article is based on a paper authored by one of the Budget Bureau's senior experts in the examination and analysis of defense systems expenditures. It has since been revealed that the identity of the author is Richard A. Stubbings. In 1966 he received the Budget Bureau Director's Professional Achievement Award and in 1967–68 was selected to attend the Woodrow Wilson School at Princeton. The article, therefore, merits the most serious attention. It raises fundamental questions about our weapons systems and their costs.

FAILURE TO MEET PERFORMANCE STANDARDS

Among the findings in the paper are:

First. Of 13 major aircraft and missile programs with sophisticated electronic systems built for the Air Force and the Navy since 1955, at a cost of $40 billion, only four costing $5 billion could be relied upon to reach a performance level of 75 percent or above of their specifications; four more were poor performers and broke down at a performance level which was 75 percent or less than their specifications. These systems cost $13 billion. Two more, costing $10 billion, were dropped within 3 years because of "low reliability"; two more, costing $2 billion, were canceled.

Second. The performance record of the electronic systems themselves in 12 programs started in the 1950's show that only five performed up to specifications or better; only one performed at the 75-percent level; four performed up to 50 percent of their promised performance; two met only the 25-percent performance level of their original specification requirements.

Third. The performance record of 11 major systems begun in the 1960's is worse than that of the systems begun in the 1950's. The record shows only two performed up to standard; one more met a 75-percent level of performance standard based on the contract specifications; two met a 50-percent performance level. six performed at only 25 percent of the standards specified in the contracts.

Mr. President, this certainly appears to be a shocking situation. We are talking about the computers, radar, and gyroscopes in these weapons systems.

In the past the system managers and efficiency experts talked about "more bang for a buck." But the analysis Mr. Nossiter reported on raises the question if we are not approaching the time when there will be "No bang for a buck."

Electronic airplane and missile systems which do not perform one-quarter or half or three-quarters of the time raise fundamental issues about the basic reliability of our weapons.

EXCESSIVE COST AND HIGH PROFITS

But there are additional shocking revelations which Mr. Nossiter points out and which are raised by the facts in the original paper. Among them are the highest profits often go to the most inefficient firms. This is truly an upside down, Alice in Wonderland world. After-tax earnings, as a percent of investment by the aerospace firms in the 1957–66 decade, were higher by one-eighth, or 12.5 percent than top American industry as a whole.

REWARDS FOR LATE DELIVERY

The complex electronic systems typically cost 200 to 300 percent more than the Pentagon expects and are delivered 2 years later than promised. Generally speaking, one would expect increased payments for speedier performance, and lower payments for slower performance. But, again the Pentagon seems to pay more for those who do less.

Two firms with very bad performance records nevertheless had good to superior profit records. In the case of one, which had high failures on five out of seven major systems, it earned 40 percent more than the rest of the aerospace industry and 50 percent more than industry as a whole.

The other company, none of whose seven weapon systems has measured up to the performance specifications, had earnings in excess of the industry average.

Mr. President, these revelations raise the most serious questions. We have high profits without performance. Rewards are in inverse relationship to time taken and funds spent. Failures are rewarded and minimum standards seldom met. Prices soar, profits rise, and contracts continue.

This matter must be examined both from the viewpoint of the security of our Nation and excessive costs; and, I may add, of course it is the heaviest burden of all on the American taxpayer, because this is where we spend a very large proportion of our taxes.

I ask unanimous consent that Mr. Nossiter's article of Sunday, January 26, 1969, and an editorial in the Washintgon Post of Thursday, January 30, 1969, be printed in the RECORD.

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

[From the Washington Post, Jan. 26, 1969]

WEAPONS SYSTEMS: A STORY OF FAILURE

(By Bernard D. Nossiter)

The complex electronic gadgetry at the heart of new warplanes and missiles generally works only a fraction of the time that its builders had promised.

The performance of the multi-billion-dollar weapons systems started in the 1950s was bad; those of the 1960s are worse.

The Pentagon appears to be giving the highest profits to the poorer performers in the aerospace industry.

These are the conclusions of an abstruse 41-page paper now circulating in Government and academic circles. The document, a copy of which has been made available to The Washington Post, is believed to be the first systematic effort to measure how well or ill the Pentagon's expensive weapons perform.

Its author is a key Government official with access to secret data and responsibility for examining the costs of the Pentagon's complex ventures. He and his agency cannot be identified here.

His paper, entitled "Improving the Acquisition Process for High Risk Military Electronics Systems," aims at bringing down the costs and bettering the dismal performance of weapons. It does not discuss a question that might occur to others: if these weapons behave so badly, why is the money being spent at all?

For security reasons, many of the planes and missiles examined are not identified by name.

The paper first examined 13 major aircraft and missile programs, all with "sophisticated" electronic systems, built for the Air Force and the Navy beginning in 1955, at a cost of $40 billion.

Of the 13, only four, costing $5 billion, could be relied upon to perform at more than 75 per cent of their specifications. Five others, costing $13 billion, were rated as "poor" performers, breaking down 25 per cent more often than promised or worse. Two more systems, costing $10 billion, were dropped within three years because of "low reliability." The last two, the B–70 bomber and the Skybolt missile, worked so badly they were canceled outright after an outlay of $2 billion.

LOSES FURTHER LUSTER

The paper sums up: "Less than 40 per cent of the effort produced systems with acceptable electronic performance—an uninspiring record that loses further luster when cost overruns and schedule delays are also evaluated."

The paper measures "reliability" in this context: The electronic core of a modern plane or missile consists essentially of three devices. One is a computer that is supposed

to improve the navigation and automatically control the fire of the vehicle's weapons and explosives. Another is a radar that spots enemy planes and targets. The third is a gyroscope that keeps the plane or missile on a steady course.

When the Pentagon buys a new gadget, its contract with the aerospace company calls for a specified "mean time between failure of the electronic system." In lay language, this is the average number of continuous hours that the systems will work.

In a hypothetical contract for a new jet bomber, Universal Avionics will sell the Air Force on its new * * * by promising that the three crucial electronic elements will operate continuously for at least 50 hours without a breakdown. In the reliability measures used in the paper described here, the plane is said to meet 100 per cent of the performance standards, if, in fact, its gadgetry did run 50 consecutive hours. However, if a key element breaks down every twelve and a half hours, it gets a rating of 25 per cent; every 25 hours, 50 per cent and so on. Should a system operate with a breakdown interval of 62.5 hours—a phenomenon that happens rarely—its reliability is rated at 125 per cent.

TEST FOR THE PILOT

Quite obviously, the more frequent the breakdown, the more the pilot of a plane has to rely on his wit and imagination to navigate, find targets and fly a steady course. Over-frequent breakdowns in a missile can render it worthless as an instrument of destruction.

Curiously enough, as the paper demonstrates, the Pentagon and the aerospace industry apparently learned * * * the systems of the 1960s are even worse.

The document first looks at the performance record of the electronic systems in 12 important programs begun in the 1950s. As the accompanying chart shows, all but four missiles can be identified by name without breaching security.

Of the 12, only five perform up to standard or better; one breaks down 25 per cent more frequently than promised; four fail twice as often and two break down four times as frequently as the specifications allow.

The document discusses some of the good and bad performers in this group. It observes that the F-102, the Delta wing interceptor for the Air Defense Command, was bedevilled by an unsatisfactory fire control system. It first had to be replaced; the next was also unsatisfactory, and an extensive, two-year program to modify the device was then undertaken.

SIDEWINDER DID WELL

In contrast, the Sidewinder, a heat sensing missile, performed very well. The study attributes this to the fact that the missile was developed in a liesurely fashion, without a "crash" sechedule, and that several contractors were brought in to compete for key components.

The paper next examines eleven principal systems of the 1960's. These cannot be identified beyond a letter designation.

Thus, in the chart (chart not printed in RECORD), A1 is the first version of a plane or missile; A2 is the second version, possibly one for a sister service; A3 is the third version and so on. B1 is the first version of an entirely different system; so on C1, D1 and E1.

To make the best possible case for the Pentagon and its contractors, this survey does not include two systems costing $2 billion that performed so badly they were killed off. The eleven systems of the 1960s evaluated here account for more than half of those begun in the most recent decade and their electronic hearts cost well in excess of $100 million each.

Of the eleven systems, only two perform to standard. One breaks down 25 per cent more rapidly than promised; two break down twice as fast and six, four times as fast.

As a group, the eleven average a breakdown more than twice as fast as the specifications demand. Oddly enough, the first version of the system designated as "A" met the standard. But the same unidentified contractor produced three succeeding versions that fail on the average more than three times as often as they should. All these successors, the paper observes, were ordered on a "pressure cooker" basis, on crash schedules.

HIGHEST REWARDS

The paper also examines the relationship between contractors' profits and performance, and suggests that, contrary to what might be expected, some of the most inefficient firms doing business with the Pentagon earn the highest rewards.

The second chart looks at profits, after-tax returns as a percentage of investment, the only valid basis for determining profitability, for the ten years from 1957 through 1966. During the decade, the aerospace firms managed to earn consistently more than American industry as a whole, piling up nine dollars (or billions of dollars) in profits for every eight garnered by companies not doing business with the Pentagon.

Even more peculiar is the brilliant earnings record of two of the biggest contractors, North American and General Dynamics. Both, except for a brief period when General Dynamics tried its hand at some civilian business, made profits far above the industrial average and generally in excess of their colleagues in aerospace.

During the ten years, North American did all but two per cent of its business with the Government. The study reports that it produced one highly successful plane in the mid-50s, another system that met performance specifications, one that was canceled and four that broke down four times as frequently as promised. Nevertheless, the company's profits were 40 per cent above those of the aerospace industry and 50 per cent above the average for all industries.

NONE MEASURES UP

General Dynamics had, as the chart shows, a much more uneven profits record. But its years of disaster and even losses were those when it ventured into the economically colder climate of the civilian world to produce a commercial jet airliner. Having learned its lesson, it retreated to the warmer regions of defense procurement and, in recent years, has netted more than the industry average. It has compiled this happy earnings score, the study observes, despite the fact that none of the seven weapons systems it built for the Pentagon "measured up to expectations." Its most notorious failure is the F-111 swing-wing fighter-bomber.

As a final touch, the study notes that complex electronic systems typically cost 200 to 300 per cent more than the Pentagon expects and generally are turned out two years later than promised. But both of these phenomena have been examined so frequently by specialists in the field that the paper does not dwell on them.

HOW MUCH PROTECTION?

These findings raise some serious questions. Perhaps the most important is how much protection the United States is getting for the tens of billions of dollars invested in expensive weaponry. Another is whether the whole process should be turned off and improvements made in the existing devices. Secretaries of Defense have repeatedly assured the Nation that present weaponry guarantees the destruction of any Nation that attacks the United States.

The document under study here, however, takes a different line, one aimed at getting less costly weapons that measure up to the promised performance.

It blames the dismal record on several factors. One is the relentless search for newer and more complicated electronic "systems." The aerospace contractors has an obvious vested interest in promoting "breakthrough" gadgetry. This is the way he gets new, and clearly profitable business.

CLOSE CORRELATION SHOWN

But the study asks, do the services need it? Since the Air Force and the Navy almost always accept a plane or a missile that performs at a fraction of its promised standard, it would appear from an exclusively military standpoint that a device of a much lower order of performance fits the Nation's defense needs.

The document also shows a close correlation between "crash" programs and poor performance. Thus, it proposes more realistic schedules. If a weapon is wanted in short order, five years or less, the study recommends that its electronic gradgetry be limited to familiar items.

If the Pentagon wants something that makes a "technical breakthrough," it should allow a minimum development period of five to seven years, it is pointed out.

Another factor in poor performance, the study says, is the absence of competition for new systems after the initial designs are accepted. Typically, the Pentagon requires five or so aerospace firms to bid on its original proposal. But typically, it selects one winner on the basis of blueprint papers. The study says that the military could save more money and get a better product if it financed two competitors to build prototypes after the design stage. Such a technique was followed, it recalls, with the F-4, a supersonic Navy interceptor. Even though the F-4 employed both a new radar and a new computer, it performed up to the promised standard.

At first glance, such a technique might seem like throwing good money after dubious dollars. But the study contends that if two aerospace competitors are forced to build and fly prototypes before they win the big prize—the contract to produce a series of planes or missiles—they will be under a genuine incentive to be efficient, hold costs down and make things that work.

[From the Washington Post, Jan. 30, 1969]

THE MILITARY SPENDING SPONGE

Any survey of Federal spending these days leads inevitably to the conclusion that the needs of national defense outrank, in our priorities, the urgent domestic programs which may make the difference between a bearable and an unbearable life in the Nation's cities or farms. There is some logic in this, of course, for we cannot deal effectively with our domestic ills unless we are, first of all, free from external threat. So, on its face, there is nothing wrong with the fact that it is easier to sell Congress a shiny new missile than a slum clearance project, or that the Defense Department gets almost 40 per cent of the Federal budget, or that just one part of the Pentagon's activities—research, development and testing of new weapons—gets more money than all the programs of the Department of Urban Development. There is some logic in this, however, only if this massive grant of money to the military is wisely spent. And that is what is so disquieting about the recent report by Bernard D. Nossiter in this newspaper about the performance of our defense planners and our military contractors—because what it says, quite starkly, is that new weapons systems consistently cost far more than originally estimated and consistently fail to perform up to the specifications set for them.

A report by a Government analyst involved in military programs says that weapons systems with sophisticated electronic components encounter delays averaging two years in their completion, run up costs of 200 to 300 per cent more than anticipated, and have reliability, when they are completed, of less than half of that promised. It is hard to keep

from wondering whether military dollars are being well spent and whether Congress would authorize the new systems in the first place if it knew what the ultimate results would be. It is even harder to keep from wondering about these questions when it is clear that the failure of some aerospace contractors to meet the terms of the contracts they will has nothing to do with the profits they make.

It is undoubtedly true, as the Pentagon is sure to tell us soon, that modern weapons systems are fantastically complex and that a high degree of risk is involved in their development. It may also be true that a new weapons system, developed at three times its anticipated cost and reliable at less than 50 per cent of its contract specifications, provides, nevertheless, a substantial improvement in the Nation's defenses. But the question that needs to be answered is whether the aerospace contractors and the military promise far more than they can deliver in order to win funds from Congress. If Congress approves a new system that is claimed to improve our defenses by a factor of 4 three years from now at a cost of $1 billion, it ought not to wind up buying a system that takes 5 years to install at a cost of $2 billion and improves defenses by a factor of 2. It may be that the latter would be worth the additional cost and time but it may also be that Congress wouldn't have approved the program if it had known what it was really buying.

On this kind of issue, of course, it is almost impossible for laymen to oppose the judgment of military experts and systems analysts. Yet, the questions persist. Why does the Government Accounting Office have more men poking into the affairs of Pride, Inc., the local antipoverty agency, than it does poking into the affairs of the aerospace contractors who spend more money before lunch than Pride will ever spend? Would Congress tolerate for a second the kind of performance on the development of antipoverty and anticrime programs that it tolerates on the development of military weapons systems? Why does a company that consistently promises more than it delivers continue to make substantial profits? Do the vast outlays for weapons development and procurement really bolster national defense as much as they appear to?

These questions are particularly pertinent this year. The military wants to embark on a vast, new antiballistic missile system that will, before it is completed, eat up billions of dollars. Yet every proposal to Congress for mundane things—from funds for the Washington area's rapid transit system to new outlays for housing or education—encounters the argument that the money simply isn't there. Even the hope of many that an end to the war in Vietnam would free great sums of money for domestic programs—programs, we are now told, which may be illusory. Pentagon officials now warn that lower expenditures in Vietnam will simply break the dam that has been imposed on requests for all three military services for substantial investments in new weapons systems.

Somewhere in this maze, Congress must begin to face the realities. Military needs seem to be like a sponge that is never filled. If the money soaked up frequently buys less than is bargained for, the question is how much more should be poured in before the methods of development and procurement are radically changed. Just as there is a minimum level of national security that must be maintained, so there is a minimum level of domestic programs that must be sustained; the Government ought not to have lower standards of performance in one field than in the other; on the contrary, the greatest caution and the greatest care should be given to that category of spending which has been granted, of necessity, the highest priority; it is the ease with which Congress will contemplate an outpouring of billions in the name of defense that makes it so easy for this sort of spending to get out of hand.

THE MEANING OF THE CONVENTION FOR THE POLITICAL RIGHTS OF WOMEN—XV

Mr. PROXMIRE. Mr. President, some Members of the Senate, as well as the general public, may not be aware of the intent of the Convention for the Political Rights of Women. Let me explore todav the meaning of the Convention.

The preamble to the Convention states its intent to implement the principles of the United Nations Charter, which we signed in 1945. This Convention recognizes, as does our Constitution, the right of every citizen to take part in his Nation's government. In addition, the preamble recognizes the need to implement the provisions not only of the United Nations Charter, but of the Universal Declaration of Human Rights. This declaration sets "a common standard of achievement for all peoples and all nations," and virtually repeats what our own Constitution and laws declare.

Of the 11 articles contained in the Convention, four are substantive in nature. Article I is a rewording of the 19th amendment to our Constitution—that women may vote on an equal basis with men. Article II, pertaining to the right of women to be elected to "all publicly elected bodies, established by national law," and rephrases concepts included in our own body of laws. Article III of the Convention entitles women not only to election but to hold public office, which is both an extension of their eligibility for election to public office, and guaranteed in our national laws. Finally, article IX addresses itself to problems arising from differing interpretations of the Convention. It states that disputes be referred to the International Court of Justice, unless the parties "agree to another mode of settlement."

The great similarity of these articles to our own national body of laws is a strong reason for our ratification of this Convention. If we have accorded these rights to the women of this Nation, why should we fail to extend the same rights—human rights—to women throughout the world? Let us ratify the Convention for the Political Rights of Women.

THE CIGARETTE LABELING ACT

Mr. COOK. Mr. President, the Senator from Utah (Mr. Moss) appears to want the Congress to abdicate the responsibility it assumed in 1965, and to do it without any hearings to check the state of knowledge about smoking and health. There is, in fact, every reason to believe that there has been very little clarification of this picture in the past 4 years. I would hope Congress would not allow the Cigarette Labeling Act's provisions banning agency regulation of cigarette advertising to expire on time.

After all, it was the Congress which delegated this regulatory authority to the FTC in the first place, and Congress has a perfect constitutional right to reassume its authority in this area.

Senator Moss is correct that the burden is with those who favor extension of the ban on agency regulation to extend the legislation. We shall be very vigorous in our support of the right of Congress to regulate in this area, if it so chooses.

Congress, which has the power to delegate authority to a commission, certainly has the privilege and the right to rescind that authority. This the Congress did in the 1965 act, and I favor extension of the ban on FTC regulation of the tobacco industry, in this area, in the absence of specific congressional authorization.

The Senator's ultimatum seems to be directed much more at the Congress than at the tobacco industry.

COMMITTEE MEETING DURING SENATE SESSION

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Rules be permitted to meet during the session of the Senate today.

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

ORDER FOR ADJOURNMENT UNTIL TUESDAY, FEBRUARY 4, 1969

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

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

U.S.-U.S.S.R. FISHERY TALKS CONCLUDED

Mr. STEVENS. Mr. President, the Russian-United States negotiations on the Northwestern Pacific fisheries have been completed. Agreement has been reached and announcement of the details of this agreement was made at noon today.

The results of the negotiations were not all that Alaskans might have wished. But by the same token the results were not all the Russians wished either. There was give and there was take. Alaska's fishing experts who were consulted during the course of the meetings tell me that Alaska will definitely benefit from the agreement. The King Crab catch by Alaska fishermen will be increased, the Soviet catch will be cut in half. The area in which crab pots only may be used has been increased and the area will now be closed to trawling to avoid conflicts. It is hoped that the new agreement will improve relations and lessen tensions between the fishing industries of the two countries.

I have talked with Alaskans in the fishing industry, Alaskans of both parties. They are united in endorsing the work of the U.S. negotiator, Ambassador Donald L. McKernan, special assistant for fisheries and wildlife to the Secretary of State.

I ask unanimous consent that the text of the announcement, the background document provided by Ambassador McKernan, and the list of the Alaskans who participated in these negotiations be printed in the RECORD.

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

U.S.-U.S.S.R. FISHERY TALKS CONCLUDED

Representatives of the United States and the Soviet Union today concluded three weeks of discussions on northeastern Pacific fishery problems with the signing of new agreements on various matters relating to the fisheries of both countries off the coasts of Alaska, Washington, Oregon and California. Today's agreements were signed for the United States by Ambassador Donald L. McKernan, Special Assistant for Fisheries and Wildlife to the Secretary of State, and for the Soviet Union by Mr. M. N. Sukhoruchenko, Deputy Minister of Fisheries of the U.S.S.R.

The new agreements extend for two years, with substantial changes, the provisions of three existing agreements having to do with the king crab fisheries in the eastern Bering Sea and the fisheries for various other species off the U.S. Pacific coast. Both delegations considered the new agreements to be a further positive step in the development of cooperation in the fisheries field, looking to the rational use of the sea's resources.

In the case of the king crab fisheries, it was agreed that the annual Soviet catch quota in the eastern Bering Sea will be reduced from 100,000 cases of canned crab to 52,000 cases in order to meet conservation needs while providing for an increased catch by U.S. fishermen. The new agreement also provides, for the first time, for controls over the Soviet catch of tanner crab, a resource of considerable future potential. In addition, the area in which only crab pots (or traps) may be used is enlarged, and the area will now be closed to trawling in order to avoid conflicts arising from the use of stationary as opposed to mobile fishing gear.

In other aspects, the new agreements provide improved protection for the fishing gear of American crab fishermen by changing to conform to the current king crab fishing season the period of closure to mobile fishing gear of certain areas of the high seas near Kodiak Island, Alaska. A new area on the high seas south of Unimak Island, known as Davidson Bank, is also closed to Soviet trawling during the crab fishing season. In order to lessen the risks of gear conflicts between trawl fishermen and US halibut fishermen, special measures are provided for two main halibut fishing grounds in the eastern Bering Sea, including a closure to mobile fishing gear during the first half of the halibut fishing season.

Off Washington, Oregon and California, for purposes of conservation of Pacific Ocean perch and other rockfish, it was agreed that bottom trawling would not be permitted during the winter months in areas where the major winter concentrations of ocean perch and other rockfish occur, and that there would be no specialized Soviet fishery for these species during the remainder of the year.

Under the previous agreements Soviet vessels have been permitted to fish within the nine-mile zone contiguous to the US territorial sea in areas of the central and western Aleutians and a smaller area in the northern Gulf of Alaska. The new agreements provide additional areas for Soviet fishing within the contiguous fishing zone off the Aleutians in certain periods of the year. The areas within the contiguous zone designated for use by Soviet fishing vessels as cargo transfer points have been adjusted by eliminating the areas off Washington and Oregon and adding new areas off Alaska near St. George Island and Nunivak Island in the Bering Sea and Marmot Island in the Gulf of Alaska.

The agreements continue to provide for cooperation in scientific research, exchange of scientific data and personnel and general procedures for reducing conflicts between vessels and gear of the two countries.

The US delegation included, in addition to US Government officials, advisers from the state fishery agencies and commercial and sports fisheries of Alaska, Washington, Oregon and California.

U.S.-U.S.S.R. CONFERENCE ON NORTHEASTERN PACIFIC FISHERY PROBLEMS, WASHINGTON, D.C., JANUARY 8–31, 1969

BACKGROUND

Negotiations between the United States and the Soviet Union involving three existing fishery agreements between the two countries came to an end with the signing of new agreements Friday morning, January 31. The three new agreements involve: (1) king crab fishing in the eastern Bering Sea on the US continental shelf off Alaska. This agreement includes the regulation of fishing for tanner crabs as well as provisions for joint research by the two countries on both species of crab; (2) fishing for various species of fish in waters off Alaska, Washington, Oregon and California; and (3) the regulation of Soviet fishing operations in the vicinity of Kodiak Island to prevent conflict between United States king crab fishing gear and Soviet trawlers.

The new arrangements are of two-years duration and will enter into effect immediately.

The United States Delegation was headed by Ambassador Donald L. McKernan and the Soviet Delegation was headed by Deputy Minister of Fisheries, Mr. Mikhail N. Sukhoruchenko. The United States Delegation included about 40 state, federal and industry representatives from Alaska, Washington, Oregon, and California. The discussions extended over a period of nearly four weeks and involved questions of conservation of fishery resources found off the coast of North America and questions of the regulation of fishing so as to prevent interference with the operations and success of American coastal fishermen in the northeastern Pacific Ocean.

Examination of the provisions of the new agreements negotiated with the Soviet Union indicate that they are more favorable to the interests of the United States than the provisions of the past agreements. Considering the fishing agreements between the U.S. and the Soviet Union and Japan together, it seems clear that improved conservation of resources of concern to the U.S. and better opportunity for American fishermen are provided for in the new agreements.

THE KING CRAB AGREEMENT

In the case of king crabs in the Bering Sea, the US asserts total jurisdiction over these crabs, but because of the previous fishery of the Soviet Union in the area, they have been allowed to continue to fish for a limited quantity of this species. The new agreement reduces the annual quota of the Soviet Union from 100,000 cases to 52,000 cases of king crab during the next two years, an approximately 50% reduction. An annual quota of 40,000 cases of tanner crab was allowed the Soviet Union, which brings the catch of this species of crab under the control of the US for the first time.

Scientists on the US side indicate that provisions in the new agreement calling for the reduction in king crab fishing by the Soviet Union were necessary to preserve the king crab stocks in the eastern Bering Sea. Regulation of the catch of tanner crabs is necessary to ensure adequate conservation of this resource so that it will remain at a high level of abundance. Ambassador McKernan pointed out that American fishermen are rapidly moving into the Bering Sea and it is necessary to control and reduce the catch of both species of crabs from the Bering Sea in order to provide for both the conservation of resources as well as ensuring an adequate supply of crabs for American fishermen.

In addition to the reduction in king crab quota and the regulation of tanner crab fishing by the Soviet Union, the new king crab agreement provides for an enlarged crab pot sanctuary in the southeastern Bering Sea which will be available for American fishermen and within which no tanglenet fishing or trawling will be allowed.

The discussions of king and tanner crab fishing in the Bering Sea included a detailed examination of research being carried out by both countries and plans have been made between the scientists to continue and expand research programs on these species. It is anticipated that the results of the research will lead in the future to improved management of the resources and more adequate conservation.

THE FISHING AGREEMENT

United States halibut fishermen have had increasing difficulty in recent years, with a decline in the abundance of halibut occurring generally throughout northeastern Pacific halibut grounds. There has also been increasing interference with US halibut fishermen by the large mobile trawlers from Japan and the Soviet Union. The new agreements with the Soviet Union provide for restrictions on Soviet fishing operations in both waters in the vicinity of Kodiak and in the southern Bering Sea. American fishermen have a short but intensive season for halibut in the Bering Sea and it is during this relatively brief period of two weeks that major instances of gear conflict between US and Soviet fishing gear have occurred. The new agreement calls for Soviet trawlers to refrain from fishing in two areas of heaviest US fishing—on the "Misty Moon" grounds south of the Pribilof Islands and on the "Polaris" grounds north of the Aleutians. In addition to the complete abstention from fishing on the grounds during a portion of the season, the Soviet Union agreed to take special precautions to refrain from interfering with American halibut fishing gear. It is hoped by these measures to prevent the preemption of the halibut grounds by foreign vessels and to prevent damage to the American fishing gear once it is set.

On the Davidsons Bank area south of Unalaska and Unimak Islands, the Soviet Union has agreed to refrain from trawling during a five-month period of the year when the Alaska king crab fishing season is open and heavy gear concentrations are found there. Thus, another potentially serious area of gear conflict between Soviet trawlers and American king crab fishermen will be eliminated.

In the Pacific Northwest off the coast of Washington, Oregon and California, special concern has been expressed by fishermen and scientists about Pacific ocean perch and other stocks of rockfish. Fishing by Japan and the Soviet Union during the past several years has seriously reduced the abundance of these species to a point where the US fishermen's catch is very low. The new agreement with the Soviet Union provides for six large closed areas located in areas of the contential shelf and slope where rockfish, flounders and other species of fish important to US trawl fisheries are concentrated during the winter. The closures will be effective generally during December through mid-April, varying in time from California northward to the Strait of Juan de Fuca. In addition, the Soviet Union has agreed to refrain from fishing for Pacific ocean perch and other species of rockfish during any time of the year off the coast of Washington, Oregon or California. They will confine their fishery to hake and other species not now fished intensively by the United States. Conservation measures agreed to would limit the size and kind of trawl nets used off the coast so as to reduce the retention in the trawl nets of small immature fish of all species. Five loading zones located off the coast of Washington and Oregon, included in the original agreement, were eliminated in this latest arrangement.

In return for the concessions to the United States by the Soviet Union on the high seas,

the United States on its part agreed to add three new loading zones, one off Marmot Island north of Kodiak Island, Alaska, and two others in the Bering Sea—off St. George Island and Nunivak Island. In addition, the fishing area allowed the Soviet Union in the Aleutian Islands within the contiguous fishing zone of the United States was altered so that it now coincides with the same fishing zones provided the Japanese. Other provisions of the new agreement were continued as in the previous agreement.

THE KODIAK KING CRAB FISHING GEAR AGREEMENT

The Soviets agreed to continue their abstention from fishing in six areas of the high seas in the vicinity of Kodiak where concentrations of American king crab gear are located. They also agreed to increase the time of closure of these areas to five months to correspond with the open season for American king crab fishing. Thus, in three major areas of the high seas off the coast of the United States, in the Bering Sea as well as in the North Pacific Ocean in areas of very heavy king crab fishing, the Soviets have agreed to refrain from trawling either throughout the entire year or during the crab fishing season. Thus, interference with U.S. fishing gear is minimized and the incidental catch of king crabs is also reduced.

Alaskans who participated in the negotiations were Charles H. Meacham, Director of International Fisheries, Office of the Governor, State of Alaska, Juneau; Wallace H. Noerenberg, Deputy Commissioner, Alaska Department of Fish and Game, Juneau; Harry L. Rietze, Regional Director, Bureau of Commercial Fisheries, Juneau, Alaska; David T. Hoopes, Biological Laboratory, Bureau of Commercial Fisheries, Auke Bay, Alaska; Donald E. Smith, Alaska Board of Fish and Game, Kodiak, Alaska; Lowell A. Wakefield, Wakefield Fisheries, Port Wakefield, Alaska.

NIXON ADMINISTRATION FACES THE SCHOOL DESEGREGATION ISSUE

Mr. JAVITS. Mr. President, I wish to address myself today to a very important test which the new administration is facing in the school desegregation issue. It comes very shortly, of course, after inauguration; but nonetheless, it was anticipated, and it is going to be very important, in my judgment, to see how the administration measures up to it.

The facts, Mr. President, are well known. The previous administration, under Secretary of Health, Education, and Welfare Wilbur Cohen, actually withheld funds for Federal aid to elementary and secondary education from public school systems which persisted, 14 years after the Supreme Court decision in some form of segregation, or in practices conducive to segregation; and there was a very real effort to see through and to pierce subterfuges like pupil placement and similar strategies.

This administration, Mr. President, has adopted a somewhat new procedure, though it has not broken with the basic proposition that title VI of the Civil Rights Act of 1964 requires that funds be cut off from a school district operating a public school system which continues practices of segregation with respect to color.

Mr. President, this whole matter is given greater importance by the fact that the President is said to have advised Secretary Finch on his course of conduct, which, therefore, will be taken, and I think quite properly, as basic administration policy—which, in turn, is the issue.

First and foremost, Mr. President, I agree—and I believe that this is a general sentiment among those who favored the Civil Rights Act of 1964—that title VI should and must be enforced. There were many rumors, based upon various campaign statements, that perhaps this administration would take a different view, and would not actually withhold Federal aid to education money in such situations.

The fundamental proposition, it seems to me, has now been laid down that the administration will not do that, but that it will continue to interpret title VI so as to require the denial of funds. Mr. President, I support that proposition, and I would feel it my duty to fight very hard against any other point of view.

Now the question arises as to dynamics within that context. Here there has been a variance on the part of the new administration, in this respect: The previous administration, when it cut off funds, would not restore them until the segregative practices were changed, or there was a real factual basis to assume that they would be changed; and when the payments were restored, there was no retroactivity.

Under yesterday's announced procedure, which the Secretary stressed was unique and not a new pattern, there will be, a provision for retroactivity, because the money has been deposited in trusts, and if there is a correction of the practices complained of within 60 days, then money paid out of the trusts will constitute a retroactive payment.

Mr. President, the impact of yesterday's action depends upon four things: First, the actual results, what actually happens; second, whether the teams that he puts in are effective; third, whether he is permitted to put teams in given school districts which are in that situation, and whether he will make it a condition of adopting this practice that the teams be put in; and, fourth, that there is some promise, in such districts, that what the teams recommend will be done, and that the whole thing will not be just a front for really not dealing with such districts as firmly as the previous administration did.

He is a new Secretary, Mr. President. He is entitled to a chance to try out what he thinks is the best way to proceed, and I am for giving him that opportunity. I have so advised the Secretary, both orally and in writing.

But, Mr. President, I take to the floor of the Senate because this is congressional legislation we are dealing with. I must say, first, that I thoroughly approve of the fact that there is no basic change in policy with respect to the cutting off of funds from districts which persistently refuse to desegregate, or try, by the adoption of stratagems, to get around it. Second, Mr. President, if the Secretary wishes to try out this practice, as I say, I am for giving him a chance to do it, but he should know that we will be looking over his shoulder very carefully, to see if it works, and that if I or others who feel as I do believe it does not work or will not work, we reserve the right to protest very strongly against it. I believe that, Mr. President, is the composite of my attitude.

It is interesting that, side by side with the new stress on this subject, we now find another court ruling, right down in Mississippi, which prevents the State of Mississippi from making contributions to private schools, which is another way of trying to evade the desegregation mandate of the law. I believe this is a very helpful indication of the fact that the whole country, including the courts, and now even courts in the South, is determined that there shall be no avoidance or evasion of the mandate of the U.S. Supreme Court, now incorporated in the law of the land, the Civil Rights Act of 1964, that our schools shall not be segregated.

I emphasize, Mr. President, that the reason for my statement today is to preserve my right and those of others in this matter to protest, if protest is justified, to advise the Secretary that what he has done is very much on trial, and to express approval of the fact that it does not represent a fundamental break with the policy which has heretofore been pursued in the enforcement of what I consider to be both the letter and the spirit of the Civil Rights Act of 1964, that Federal aid to education shall be denied to school districts which persist in disregarding the legislative and constitutional mandate requiring that there be no segregation in our public school systems.

Mr. President, I yield the floor.

The VICE PRESIDENT. Is there further morning business?

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

The VICE PRESIDENT. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CRIME IN THE NATION'S CAPITAL

Mr. SCOTT. Mr. President, I understand that President Nixon will soon send to Congress his proposals to deal with the very serious crime problem in the Nation's Capital. The alarming rate of serious crimes in Washington, D.C., and every other major city in every part of the country, is a vital problem to every American. Too often, unfortunately, it is a matter of life and death.

Last night I had a brush with a violent crime on one of Washington's busiest streets. Shortly before midnight, several other Members of Congress and I, accompanied by our wives, were leaving a reception for a member of the press and her fiance near Dupont Circle, where Connecticut and Massachusetts Avenues intersect. Among the group were the Senator from Tennessee (Mr. BAKER), the Senator from Oregon (Mr. HATFIELD), and Mr. Herbert Klein, the President's Director of Communications, as well as our respective wives.

We heard several gunshots and rushed to the aid of a gentleman who had been held up and shot because he refused to hand over his money.

I say "rushed" to his aid, although he

was well able to take care of himself in the sense that he was shot in the calf; and, being in training as a Treasury agent, he had a considerable amount of personal aplomb and courage, and seemed as much interested in meeting several Senators as in having his wound dressed.

The victim, Thomas Dunleavey, of Philadelphia, Pa., is in training as a Treasury agent. Fortunately, the wound was not critical. He was given emergency first aid treatment by Representative TIM LEE CARTER, of Kentucky, a physician, who was also at the scene, and then taken to George Washington University Hospital.

The suspect escaped, although the Washington police, to their great credit, arrived within 5 minutes of the shooting.

The crime problem is not unique to Washington, D.C. But I hope that improvements here can serve as guidelines for other cities similarly afflicted. I urge full support of the President's proposals to reduce crime in the District of Columbia, and throughout the Nation.

There are many root causes for criminal behavior, and the President and Congress must work vigorously to eliminate them. But in the meantime, we must take effective action to restore law and order with justice and with full attention to the rights of the accused and the rights of innocent citizens.

As one who has been exposed so recently to this aspect of violent crime, as one who is aware of the fact that for every 45 felonies committed in the District of Columbia, there is only one conviction, and as one who is aware, as I have noted, that President Nixon and the Attorney General shortly plan to suggest some very concrete and, I would sincerely hope, effective proposals to lower the level of violence in the District of Columbia, so that we might establish the Capital as a place of safety for our citizens to visit, I thought I would recite this incident.

Last August, I was in Russia for the first time in my life—in the streets of Moscow. I arrived about the same hour, midnight. I asked American Embassy officials whether I could walk around the streets with safety; and the answer was, "Yes, you can walk around with perfect safety."

This is not cited in praise of any other regime—far from it; and their method of achieving order is not the method I would hope we would pursue. But it is an ironic situation when the Nation's Capital is so crime ridden that it now becomes customary for its citizens, its residents and its visitors to be able freely to recite to each other their own personal brushes with criminal law violations.

If I may, I yield the floor to the Senator from Tennessee.

Mr. BAKER. Mr. President, I commend the Senator from Pennsylvania (Mr. SCOTT) for bringing this matter to the attention of the Senate and, hopefully, to the attention of the country.

The uniqueness of Members of this body having witnessed, or virtually witnessed, a violent crime on the streets of the Nation's Capital is not an important item, although it is a traumatic experience to leave a social function and to encounter a victim of three gunshot wounds in the downtown metropolitan area of Washington, D.C. This is not unique. And our witnessing it is not the unique feature.

The importance of the event—and the justification for these remarks, I believe—is to underline and to underscore the necessity for doing two things: First, to provide for an orderly effort to reduce the level of crime and lawlessness in the District of Columbia and in the country, as I understand will be done in the recommendations of the President shortly; and, second, to create an atmosphere that will permit the symbolism of law, justice, equity, and order to become the norm in this Nation, the expected mode of conduct, and to once again become the civilizing force in this, the greatest nation on earth.

I very much fear that the symbolism of civilization is ebbing away for lack of effective law, equity, justice, and order. The District of Columbia is the place to start, and now is the time to start. I urge this administration and Congress to take effective action, not only by way of statutory enactments but also by pronouncements, in an effort to mobilize the conscience of the Nation in support of reasonable efforts to restore civilization to this city and to this Nation.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield to me for a brief comment?

Mr. SCOTT. The Senator from Tennessee has the floor.

Mr. BAKER. I yield to the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, I congratulate the Senator from Tennessee and the Senator from Pennsylvania on the statements they have just made.

As chairman of the Appropriations Subcommittee on the District of Columbia for 8 years, and as a member of that subcommittee for 10 years, I have had occasion to study the situation with regard to crime in this city; and for a long, long time I have urged that adequate steps be taken to provide additional judges, and to appoint judges who would be realistic and hard-nosed, if you please, in dealing with criminals.

I supported President Johnson's request of last year for 1,000 additional policemen in the District of Columbia; and, as chairman of the subcommittee, I recommended that moneys for 1,000 additional policemen be included in the fiscal year 1969 bill making appropriations for the District of Columbia.

I hesitate to express a great deal of optimism with regard to the chances of securing this number of additional policemen, especially in view of the very difficult experiences and difficult problems which confront policemen themselves in the District of Columbia. I sometimes wonder why any individual would apply for a position on the Police Department in the District of Columbia if he realized at all the background and the experience of the past 8 or 10 years, which would indicate that the policeman, if he does his job, would be highly criticized by some militant pressure groups in the city. If he makes an arrest, likely as not, he will be charged with police brutality; and if he has to use force to make and maintain an arrest he may end up finding himself in greater trouble than does the person arrested.

Whether or not any of these things happen, he will find that the individual arrested for the crime is usually back on the streets before the policeman himself can get back on the streets. I think the courts have been entirely too lenient with criminals, not only in the District of Columbia but also throughout the country. Of course, the court which more or less has set the pace for this convenient molly-coddling of criminals has been the Supreme Court of the United States.

I would hope that the Nixon administration has read the mood of the people of the country. The people are sick and tired and completely fed up with crime, violence, demonstrations, and college insurrection. I would hope that the administration would not forget promises which were made to the people during the campaign, leaving the people of the country with the impression that this administration is going to do something about crime and the criminal.

I believe Mr. Nixon knows this and there are indications that he intends to crack down on the criminals. If he does, I am all for it, because this is what I have been advocating for a long time.

I hope we will get away from so much theory and sociology and be more practical in dealing with criminals.

I am glad that these two Senators have related their experience of last evening. Mr. President, Senators may go down to the morgue any day of the week and see what is happening in the city. I have been there many times. It is not a pleasant place, but if one wants to see the hideous aspects of crime in this city, one may visit the morgue on any day. The gentleman victim of last evening to whom the able Senators have referred was lucky. He was only shot in the calf of the leg.

I pity the women of this city who have to keep their shades drawn and their doors locked, who are afraid to go into the streets without escorts. I pity the staffs in Senators' offices who are afraid to go home after they have worked the day in the office.

There is entirely too much concern expressed for the rights of the rioters, the rapists, and the murderers, and not enough concern for the rights of the law-abiding citizen. We hear much about civil rights. Every citizen has a civil right to be able to go to the grocery store, the movies, the office where he works, or to return to his home after he works. Every citizen has a constitutional right and a civil right to be able to do all of these things without fear of violence against his person and property and without suffering the fears and the dangers that the people of the District of Columbia constantly suffer.

Mr. President, the victims are soon forgotten. Many of the people who are beaten over the head and stabbed and shot live the remainder of their lives perhaps blind or crippled or incapacitated physically or even mentally as a result of the crimes committed against them. They are forgotten about, but they have to continue to pay their doctor bills and medical bills.

But the criminal—what happens to him? He may be arrested or he may not be arrested. If he is arrested he may be convicted or he may not be convicted. If he is convicted he may serve a sentence or he may not. If he is punished, he is pitied by the theorists. But the poor victim has to go on paying the nursing bill, the doctor bill, the hospital bill, and suffering whatever the result might have been of the crime perpetrated against him. He is forgotten by all but his immediate family.

I say society should be tough on these criminals and let them realize once again that crime does not pay. We have gotten away from that concept in this country and in this city. So if the administration really means business, let it lead the way and appoint hard-nosed, realistic, practical judges to the courts of the country and especially to the Supreme Court of the United States. When this is done, we will begin to see the criminals take for cover.

I am in favor of additional policemen. I saw something in the newspaper the other day to the effect that the new administration is going to ask for 2,000 more policemen. I am for it. I would be for adding 5,000 more policemen if we could get them. However, for 8 long years I have seen the Police Department in this city unable to fill vacancies for which moneys were appropriated by my subcommittee. I would like to see the Department fill those vacancies.

These militant civil rights groups are always shouting about discrimination. Let them bring forth qualified Negroes from the Negro community in the city to fill these positions. Surely, in a city which is 65 percent Negro, the Negro community can bring forward enough qualified Negro applicants to fill police positions that are vacant; and let them stop shouting discrimination from the steeples and housetops.

Certainly with a 65-percent Negro population there should be more than a 22- or 23-percent representation on the police department in the District. As I remember, as of the last time I conducted hearings about a year ago, only about 22 or 23 percent of the total police force was Negro. In a city that is 65 percent Negro, surely the Negro community can do better than that. Let them fill these jobs.

When the courts start handing out stiff penalties to these rapists, muggers, murderers, and thieves, and making sure that criminals understand punishment is going to be severe, sure, and prompt, then we will begin to see a little improvement in the crime situation in the District of Columbia.

I am tired of letting criminals run over the rest of the community roughshod. As far as I am concerned, society should get back to executing a few of the rapists and murderers.

Mr. President, I witnessed one execution at the West Virginia Penetentiary 18 years ago. There was a time when I would have voted against capital punishment, but as I observe day after day the spiraling crime rate, and as I observe men and women in the city of Washington afraid to go to the park or to the supermarket, afraid to go to the offices where they work, teachers afraid to go to the schools where they teach, and the rapists having a field day, I have changed my mind about capital punishment. I think there are certain crimes for which there should be capital punishment and if there were a few executions of these rapists and confessed murderers, there would no longer be open season on rape in the Nation's Capital.

Mr. BAKER. Mr. President, I thank the Senator from West Virginia for his remarks in this regard, and the Senator from Pennsylvania for his remarks in connection with this important matter.

I do not presume to advise the administration how to solve the problems outlined today in this Chamber, but there are one or two points I would make that I think should be considered.

First, we are not going to solve the problem simply by the addition of more policemen. I agree that we need more policemen. We need more courts because we must have the judicial machinery to bring to prompt and speedy justice those charged with crime. For this purpose I hope the Department of Justice would consider calling to active duty district judges who have retired, and other judges, so that we might set up a sufficiently large body of machinery to try promptly, within days or weeks, those charged with crime in this city; and if need be, that we recruit or call on the bar associations throughout the country to assign competent counsel who might be appointed to defend the rights of those persons so that there would not be a bottleneck. That is infinitely superior to any sort of abridgement of the right of habeas corpus, or the right to a swift, fair, and prompt justice, the meting out of justice within a matter of weeks. So that not only can we decrease violence on the streets, but we can also create that symbolism of civilization which is the missing ingredient, which is contributing to the spiraling crime rate throughout the Nation.

Mr. BYRD of West Virginia. Mr. President, will the Senator from Tennessee yield?

Mr. BAKER. I yield.

Mr. BYRD of West Virginia. I agree with the Senator that we need additional judges—does the Senator yield to me?

Mr. BAKER. I yield the floor.

Mr. BYRD of West Virginia. I do not want the floor again, because I have already had it. I want to make this known: The Senator is correct, we do need additional judges and court personnel. The court dockets in this city, I noted 2 years ago, were going backward at the rate of about 40 cases per week. An effort was made then to get judges to come to Washington, D.C., from other jurisdictions to help the courts in this city with their very heavy caseloads.

I think this is one important approach to the problem. I think another important approach would be to amend the Bail Reform Act. In the hearings which my subcommittee conducted, it was stated by various judges in the city that they felt they were being restricted by the Bail Reform Act and could not consider the potential danger of an individual to the community when it came to considering his release on bail.

Finally, it is important that probation and parole officers consider how to deal more rapidly with parolees and those on probation. As was indicated in those hearings, individuals often commit additional crimes while out on probation or on parole. The officers took no steps to revoke probation or parole. We must deal more strictly and rigidly—and harshly, if you please, if I may use that word—with criminals.

LOSS OF NUCLEAR SUBMARINE "SCORPION"

Mr. PASTORE. Mr. President, today the U.S. Navy released the unclassified portion of its findings concerning the loss of the nuclear submarine *Scorpion* last May.

Before I comment on the findings, I again want to pay tribute to the crew of *Scorpion*. A total of 99 brave and courageous men who had dedicated themselves to the Nation's and the free world's security were lost in that tragic event. I placed the names of these valiant men in the CONGRESSIONAL RECORD on June 12, 1968. All we can offer in payment of the great debt we owe these brave men is our prayers; and all we can offer their families and friends are our sympathies.

In the deepest sense of responsibility the Joint Committee on Atomic Energy has followed events in the inquiry concerning the loss of the nuclear attack submarine *Scorpion* very closely. The committee has dedicated and will continue to dedicate its efforts toward the development of nuclear submarines which are as reliable and safe as we can provide for those who man our first line of defense. I, as chairman of the Joint Committee, last year assigned a specially qualified member of our staff as an observer at the inquiry. I had the same unhappy responsibility in 1963, when another great ship, the nuclear submarine *Thresher*, was lost at sea in April of that year. Our objective, as always, was to get prompt and firsthand information on these vital matters. Our most important task when such tragic events occur is to learn all we can about it and do whatever is humanly possible to keep things of this nature from recurring.

I am able to report that the information we have obtained indicates that the Court of Inquiry sitting in review of the *Scorpion* loss performed in a highly thorough and professional way. I expected this would be the case when I learned last May that Adm. Bernard L. Austin, U.S. Navy, retired, was designated to head up the inquiry. Admiral Austin had the same responsibility during the inquiry on the loss of *Thresher*. The committee had the opportunity to get to know Admiral Austin very well during the 1963–64 *Thresher* inquiry and, based on this personal observation, holds him in the highest esteem. I believe we can be assured that with his leadership every fact that was obtainable was obtained.

Much of the technical material developed in the inquiry and the recommendations which were made are, of course,

classified for reasons of military security. These must be followed up on by all of the organizations responsible in the particular areas. I am sure the Armed Services Committee in addition to the Joint Committee will want to go over the information which was developed in detail. We also look forward to reviewing whatever information the *Trieste* will obtain on *Scorpion* next spring. I note that, although "the certain cause of the loss of *Scorpion* cannot be ascertained from any evidence now available" as quoted from the court's report, the Navy is going to continue to try to get more information in its attempt to fix the cause.

The data made available today by the Navy contains the unclassified facts on the loss of *Scorpion*. I believe it is important for all interested parties to have these facts and, accordingly, I ask unanimous consent to have them printed in the RECORD.

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

SUMMARY OF FINDINGS OF COURT OF INQUIRY CONVENED TO INQUIRE INTO THE LOSS OF THE U.S.S. "SCORPION" (SSN 589) BETWEEN MAY 21–27, 1968

The USS *Scorpion* (SSN 589) commissioned on 29 July, 1960, was built by the Electric Boat Division, General Dynamics Corporation, at Groton, Connecticut, as the second nuclear submarine of her class. She was overhauled by the manufacturer after shakedown operations. This overhaul took place over October-January 1960–61. She underwent a regular overhaul at the Naval Shipyard in Charleston, South Carolina, from June, 1963, to April, 1964. From February to October, 1967, she underwent further overhaul at the Naval Shipyard, Norfolk, Virginia. The Court of Inquiry was of the opinion that overhaul work had been well and conscientiously performed, and that at the time of the loss of the *Scorpion* there was no known discrepancy which would have significantly affected her operational capability, reliability, or safety.

On 17 October, 1967, Commander Francis A. Slattery, U.S. Navy, took command of the *Scorpion*. He had previously served for 23 months as Executive Officer of the submarine USS *Nautilus* (SSN 571). Immediately prior to reporting on board, he had received 3 months Prospective Commanding Officer training in nuclear reactors. On 18 October, the *Scorpion* began refresher training at New London, Connecticut, under the supervision of the Submarine School; 10 of the 12 officers and 71 of the 87 enlisted men subsequently lost were on board at that time. From 31 October to 23 November, the *Scorpion* conducted individual ship exercises and weapons systems accuracy tests while enroute to and in the Caribbean. Commander, Submarine Squadron Six, conducted an administrative inspection of the *Scorpion* on 28–29 November, assigning a grade of "outstanding" to her engineering department, and an overall grade of "excellent." During the week of 4 December, 1967, the *Scorpion* engaged in type training exercises off the Virginia Capes. In January, 1968, she participated in an advanced submarine versus submarine exercise. In February, the *Scorpion* was inspected for damage control readiness by the Inspector General, U.S. Atlantic Fleet, who reported that her ability to fight fires and to control damage was good. At the time of the *Scorpion's* loss, Commander Submarine Force, U.S. Atlantic Fleet (Comsublant) carried her in a "C–1" or "fully combat ready" status.

In February, 1968, the *Scorpion* was deployed to the Mediterranean. She underwent pre-deployment sea trials and upkeep at Norfolk, Virginia, and departed on 15 February. She was in company with Task Group 83.4 (an anti-submarine warfare carrier-destroyer task group) which was enroute to the Mediterranean, and both the *Scorpion* and ships in the Task Group conducted exercises during the crossing. The Plans Officer of the Task Group testified that the *Scorpion* earned a good reputation in every facet of these operations. Upon arrival in Europe, the *Scorpion* underwent a brief in port maintenance period. Thereafter she made port visits to Italian and Sicilian cities, and participated in NATO (North Atlantic Treaty Organization) exercises and Sixth Fleet operations. Her performance was favorably noted by Commander, Allied Naval Forces, Southern Europe (a NATO command) and by the Commander, U.S. Sixth Fleet.

USS *Scorpion* was returning to the United States in May, 1968. On the night of 16 May she transferred ashore Sonar Technician (SS) First Class Bill G. Elrod, U.S. Navy, to permit him to return by air to the United States due to a family emergency, and Interior Communications Electrician (SS) First Class Joseph D. Underwood, U.S. Navy, to permit medical observation of some respiratory symptoms. She engaged in some further operations, and on 21 May was underway on her return to Norfolk. Shortly before midnight on the 21st (Tuesday) she reported her position as south of the Azores, and indicated that she should arrive at Norfolk at about 1:00 p.m., local time, the following Monday, the 27th. Over the 21–27 May period the weather over the course which the *Scorpion* had indicated intent to follow was good. The maximum wind velocity was about 25 knots; the maximum sea height, about 12 feet. It was the opinion of the Court of Inquiry that there is slight likelihood that the state of the weather played a significant role in the loss of the *Scorpion*.

At 12:40 p.m. (local time) on Monday, 27 May 1968, the submarine tender USS *Orion* (AS 18) advised the Commander Submarine Force, U.S. Atlantic Fleet, that no word had been received from the *Scorpion* relative to assignment of a berth and tug services. Intensive efforts were made to establish radio communications with the *Scorpion*, with no success. At 3:15 p.m., the announcement Submarine Missing was made and operation SubMis instituted. The units initially assigned to the search included 18 destroyer type vessels, 12 submarines, 5 submarine rescue ships, 1 oceanographic survey ship, and 1 fleet oiler. In addition, there were up to 27 flights per day of long range patrol aircraft. The Western Atlantic shelf, from 73° West to the 30 fathom curve, was searched intensively in the area of the *Scorpion's* probable track, with negative results.

On 5 June 1968, Admiral Thomas H. Moorer, U.S. Navy, Chief of Naval Operations, declared that USS *Scorpion* must be presumed lost and the 99 men aboard her, dead. The communication of shortly before midnight (Greenwich time) on 21 May 1968, was the last word ever received from anyone on board that vessel.

Search operations continued, although the scale of such operations was later reduced, until the 29th of October, 1968. At that time, the USNS *Mizar* located portions of the hull of the submarine in more than 10,000 feet of water, at a point some 400 miles southwest of the Azores.

A Court of Inquiry composed of seven members, with Vice Admiral Bernard L. Austin, U.S. Navy (retired), as president, was convened on 5 June 1968 to investigate the loss of the *Scorpion*. The Court conducted its proceedings at U.S. Atlantic Fleet Headquarters at the Naval Base in Norfolk, Virginia. After the discovery of the portions of the *Scorpion* hull the Court of Inquiry reconvened. The Court was in session for an aggregate of some eleven weeks. During that time ninety witnesses were examined, including military and civilian technical experts in the nuclear design and construction fields, photographic interpretation analysts, cartographers, naval officers and enlisted men who previously served in the *Scorpion* or nuclear submarines of the same class, naval officers from various submarine staffs, and many other individuals who were associated with USS *Scorpion* or similar submarines. Much of the testimony was received in open sessions. The aggregate record to date includes 1334 pages of testimony, findings of fact, opinion, and recommendation, and 232 numbered exhibits, including photographs, charts, graphs, radio messages, diagrams, letters, and other pertinent documents. Some of the numbered exhibits include several representative photographs, diagrams, or other documentary items.

The Court of Inquiry considered a wide range of possibilities in seeking to ascertain the cause of the loss of the submarine. The photographs made of portions of the wreckage that were found did not furnish definite clues to the cause of her loss. After full study of the available evidence the Court dismissed the nuclear reactor plant as a possible cause of the loss. The Court also gave the opinion that "the loss of *Scorpion* is not attributed to the delayed completion of her full Subsafe (Submarine Safety) Program."

The Court further stated that "*Scorpion's* overall material condition was excellent and none of the outstanding ship alterations . . . were required for safe operation to her restricted depth." In addition, none of the pending work requests "were of a nature that would affect safe operation of the ship."

From the testimony of officers and men who had previously been on board the ship for duty or who had observed the ship, it was unanimously agreed that the crew was well trained. Witnesses were also in agreement that the *Scorpion* crew could be expected to take proper action in event of a ship control casualty in order to prevent the submarine from descending to crush depth. A flooding accident would normally be brought quickly under control by a crew as well trained and experienced as *Scorpion's*.

From these same witnesses and experts in submarine torpedoes it was developed that *Scorpion's* torpedomen were well trained and that procedures used in handling ordnance on board were consistent with established safety precautions. Testimony also established the long history of safety in submarine torpedoes.

The Court found no evidence that collision with another submarine or ship caused *Scorpion's* loss. No U.S. ships or submarines have reported such a collision, nor have those of any other nation. Additionally, no wreckage other than *Scorpion's* has appeared in the thousands of photographs taken by *Mizar*. There is also no sea mount in the area of the *Scorpion's* loss with which the submarine might have collided.

No evidence of any kind to suggest foul play or sabotage was found by the Court.

Testimony before the court established that *Scorpion's* crew was stable and mature with no indication that anyone was other than fully reliable. In addressing this question, the Court stated that "the evidence does not establish that the loss of *Scorpion* and deaths of those embarked were caused by the intent, fault, negligence or inefficiency of any person or persons in the naval service or connected therewith."

Upon fully appraising the various possible causes, and after examining the *Mizar* photographs as well as other evidence surrounding the loss of the *Scorpion*, the Court of Inquiry concluded: "The certain cause of the loss of *Scorpion* cannot be ascertained from any evidence now available."

The Court of Inquiry included in its report a recommendation for further examination of the wreckage in an effort to determine the cause of the tragedy and to prevent

others. In pursuance of this recommendation, the Navy's deep diving submersible *Trieste II* will be moved from the West Coast to the Atlantic early this year to take additional photographs and afford on-the-spot observation of portions of the *Scorpion's* hull. *Trieste's* crewmen will be able to conduct visual inspection of *Scorpion's* hull through the use of powerful spotlights, and will be able to make photographs from different angles than was possible with the *Mizar's* towed underwater camera.

The comment of Admiral Thomas H. Moorer, U.S. Navy, Chief of Naval Operations, upon considering all data relating to the loss of *Scorpion* was:

"I have no doubt that the concepts, procedures, and operating practices employed by the United States Navy in submarine operations are sound and effective. Nevertheless, such practices will continue to be reviewed in the future as they have been in the past. The long history of outstandingly successful submarine operations; the current state of our advanced submarine technology; and the knowledge, experience, and training of our submarine personnel warrant the continued confidence of the public in this naval capability which is of such paramount importance to our nation's future security."

A SALUTE TO ITALY BY CITY OF BIRMINGHAM, ALA.

Mr. SPARKMAN. Mr. President, the city of Birmingham, Ala., each year has a great spring festival and fair, at which some friendly nation is honored.

This year the festival is to be held on March 14 through 30, and it is to be called A Salute to Italy. I have had some small part in preparing for this affair, and I know that it will be a great event. The Italian Ambassador, the Honorable Edigio Ortona, and His Excellency Archbishop Raimondi, the apostolic delegate, are coming for the event. I invite my congressional colleagues and all other Americans to visit Birmingham and Alabama at this beautiful spring season, and to join in Birmingham's "Salute to Italy."

In keeping with the festival plans, Birmingham's 19th and 20th Streets will be renamed Via Veneto and Via Condotti. Important Italian art, much of it from Italy, will be displayed. There will be Italian food, Italian dancing, and Italian costumes.

Signor Franco Corelli will appear in concert. There will be special showing of Italian films. The Vatican is sending the Pope's tiara to be exhibited. The University of Rome will show centuries-old anatomical drawings.

These are only a few of the attractions which will bring thousands to Birmingham during the second half of March. The city of Birmingham and the officials of the city and of the State of Alabama join me in this invitation to come to Alabama at that time.

STABILITY FOR DOMESTIC STEEL INDUSTRY

Mr. DIRKSEN. Mr. President, very shortly there will be introduced in the Senate a measure designed to provide some stability for our domestic steel industry. Originally I had not intended to be a cosponsor of that measure and had so notified the Senator from Indiana (Mr. HARTKE), who will introduce it. However, information that was available only yesterday caused me to reconsider my position. As a Senator from Illinois, one of the principal steel-producing States in the Nation. I cannot stand aside and permit imports to capture an ever-increasing share of our domestic market to the further injury of our domestic industry. I will be a cosponsor of the steel quota bill.

Preliminary figures given me yesterday show that steel imports for 1968 were far higher than anyone had expected—they total 17,959,886 tons, an increase of over 56 percent from 1967. In fact, for the month of August, imports were running at an annual rate of 30 percent of domestic consumption. Imports in 1967 represented 12.2 percent of consumption, in 1968 even with the dock strike they jumped to 16.7 percent of consumption. Unquestionably a situation such as this cannot be permitted to continue. The measure that will soon be introduced will restore some stability while permitting imports a fair share of our growing market.

We do have a recognition by foreign producers of the injury they have inflicted upon our domestic industry. In letters directed to our Government last month they have indicated their willingness to voluntarily curtail their exports to our market. But I question whether this unilateral offer will sufficiently reduce imports to the level needed to assure our domestic producers of an equitable share of the market. It is to be hoped that the new administration will quickly undertake to negotiate a voluntary agreement with the Japanese, E.E.C. and other steel producing nations, one that will be meaningful, one that will preserve for our domestic producers a fair and equitable share of the domestic market. Such a voluntary agreement is a far more preferable way of solving this problem than legislative quotas. But, if they cannot obtain such an agreement, then legislation is the only solution.

THE NUCLEAR NONPROLIFERATION TREATY—IT WILL NOT WAIT

Mr. MONTOYA. Mr. President, underlying the nonproliferation treaty is the premise that the larger the number of countries that possess nuclear weapons, the greater becomes the danger of nuclear war. The possibility of nuclear war beginning by accident or miscalculation will multiply with each addition to the current number of nuclear powers, proponents of the treaty contend, particularly since few other nations will have the resources to devote to safety precautions such as those devised by the United States. Moreover, they fear, with proliferation the danger increases that nuclear weapons will fall under the control of irresponsible persons or governments who will deliberately initiate a nuclear war without regard to the consequences.

More than 40 non-nuclear nations already possess operating nuclear reactors, proponents point out, and power reactors fueled with natural uranium produce plutonium, which can be used in the manufacture of nuclear bombs, as a by-product. In his message transmitting the treaty to the Senate, President Johnson said that "by 1985 the world's peaceful nuclear power stations will probably be turning out enough byproduct plutonium for the production of tens of nuclear bombs every day."

A growing number of countries are developing the nuclear technology industrial capacity, wealth, and access to fissionable material which would make it possible for them to enter the ranks of nuclear-weapons powers within a few years if they chose. A memorandum from the Atomic Energy Commission has stated:

The resources necessary for the manufacture of a few rudimentary nuclear weapons are within the means of many nations. The essentials are a cadre of trained personnel, uranium, and an industrial base adequate to permit the construction of a nuclear reactor and auxiliary facilities large enough to provide the necessary quantities of plutonium. Thus many nations possess resources sufficient to undertake, without special outside assistance, to manufacture a few rudimentary nuclear weapons, given the national will to do so and the readiness, in some cases, to forego the benefits from the endeavors to which those resources might otherwise be applied. The time required would vary among the group of countries, and for those which have only the minimum resources, the time might be ten years or more.

At the upper end of the scale, highly industrialized nations, with substantial national income, large numbers of trained scientific, technical and managerial personnel and a reasonable available source of uranium could become capable of manufacturing a few rudimentary nuclear weapons within a few years or less.

Among those non-nuclear-weapon countries whose industrial economies are probably adequate to support a program for the manufacture of a sizable number of reasonably sophisticated nuclear weapons and systems for their delivery, within five to ten years from a national decision to do so, are those such as Australia, Canada, the Federal Republic of Germany, India, Italy, Japan and Sweden. Those states whose resources are somewhat more limited, and might therefore take somewhat longer to reach that level of numbers or types of weapons systems, could include Argentina, Austria, Belgium, Brazil, Chile, Czechoslovakia, Hungary, Israel, Netherlands, Pakistan, Poland, South Africa, Spain, Switzerland, United Arab Republic, and Yugoslavia.[1]

Proponents point out that the prevention of the proliferation of nuclear weapons has been a major objection of U.S. foreign policy for several years. In testimony before the Joint Committee on Atomic Energy on February 23, 1966, Secretary of State Rusk said:

The further spread of nuclear weapons increases the danger of nuclear war and diminishes the security of all nations, including the United States. This is true for a variety of reasons, and it may be useful to spell out some of the reasons that have led the executive branch to make nonproliferation a major objective of our foreign policy.

Nuclear proliferation could add a new and dangerous dimension to historical ethnic and territorial disputes existing between nations. A decision by one party to acquire nuclear weapons could generate pressures on others to "go nuclear"—or to destroy the nuclear facilities of the acquiring state before the program reaches completion. In other words, it stimulates the threat of preventive war.

Nuclear weapons in the hands of more

[1] Nonproliferation Treaty. Hearings before the Senate Committee on Foreign Relations, July 10–17, 1968. p. 31.

countries could have consequences for world security which no one can foresee. Every additional country having nuclear weapons, no matter how responsibly governed—and may I inject that not all countries are always responsibly governed—is an additional center of independent decision-making on the use of nuclear weapons. International relations are thereby made more complex and more dangerous, and the risk that one of such centers could fall into irresponsible hands is increased. Indeed, the United States believed—and this is something that is easy for everyone in the world to forget—that even one nuclear power was too many, and immediately after World War II we sought to remove nuclear energy from the military field. It is a great tragedy that our proposals were not accepted at that time.

Efforts of the present nuclear powers to negotiate mutually advantageous nuclear arms control agreements will be more complex and hence more difficult as the number of such powers increases, and, of course, the overall chance of accident or unauthorized use would increase as more nations acquired nuclear weapons.

Our efforts to maintain friendly relations with as many countries as possible would become more difficult by virtue of nuclear weapons spread. This is because we are seriously and solemnly committed to nonproliferation. If one of two parties to a continuing dispute should decide to produce a nuclear arsenal, the United States might have to decide whether to assist the other party, either through direct military assistance or security assurances; whether to continue economic assistance for the acquiring country; or whether to attempt to disengage completely from the area, with all the consequences that that would entail. The impact of any of these decisions would be far-reaching and complex.

The spread of national nuclear capabilities would interfere with vitally needed economic growth in the less developed countries. Some potential nth countries are attempting to promote their economic development with the support of the United States. The cost of developing nuclear weapons and delivery systems could force curtailment of that effort and tend to cancel out benefits of economic assistance provided by the United States.[2]

Those in favor of the nonproliferation treaty believe it will be a major step toward preventing proliferation of nuclear weapons. First, they say, it will represent a formal mutual commitment by the two largest nuclear powers, the United States and the Soviet Union, not to disseminate nuclear weapons or help other nations manufacture them, and to pursue a policy aimed at preventing further spread of nuclear weapons. Without assistance by the major nuclear powers, achievement of a significant nuclear capability by any other country would be more difficult.

Second, conclusion of the treaty would create considerable pressure in world opinion for each non-nuclear state to become a signatory. At the same time, it would relieve some pressures which would otherwise push nations in the direction of seeking nuclear weapons. In those areas where strong local rivalries exist, as between Arab States and Israel, for example, suspicion that one side may be acquiring nuclear weapons may make similar acquisitions seem imperative to the other side. On the other hand, if Egypt and Israel signed the nonproliferation treaty, suspicion between the two sides could be replaced by assurance that each was pledged not to acquire nuclear weapons and would submit its peaceful nuclear facilities to international inspection.

Pressures to enhance status and prestige through obtaining of nuclear weapons can also be reduced by the nonproliferation treaty. Without conclusion of a treaty it is only a matter of time till some additional nation manufactures nuclear weapons. Then other nations will feel they too must have nuclear weapons to maintain equal status. The five current nuclear powers already have special status because, except for the special problem of China, they coincide with the five permanent members of the United Nations Security Council. Achievement of nuclear weapons by a sixth power might generate a nuclear arms race among other nations to become the strongest of the middle powers. The only way to prevent this race is through convincing non-nuclear powers of greater advantages of remaining non-nuclear and obtaining their adherence to the nonproliferation treaty.

A representative of Mexico at the Eighteen Nation Disarmament Commission has said:

> We believe that no treaty on the nonproliferation of nuclear weapons that could be signed, or even conceived, would satisfy everybody. . . .
>
> But it is equally certain, or even more so, that, unless a radical change comes about in the international situation, either the nonproliferation treaty will be concluded with all its limitations and inevitable shortcomings, or all reasonable possibility of stopping the arms race and making progress towards general and complete disarmament will be removed forever. The non-proliferation treaty is only one step on the long road to disarmament. But it is a necessary step. If it is not taken, this road will not be travelled. And if it is not taken soon, within a short time this road will be closed.[3]

[2] Hearings before Joint Committee on Atomic Energy on S. Res. 179, pp. 4–5.

[3] Mr. J. Castaneda, Rep. of Mexico to ENDC, June 13, 1967, ENDC/PV. 304, p. 4–5.

SENATOR COOPER'S VIEWS ON FOREIGN POLICY

Mr. CASE. Mr. President, the senior Senator from Kentucky (Mr. COOPER) always speaks with great authority on matters of foreign policy, and it is a pleasure to call attention to two of his recent statements: An article entitled "Foreign Affairs," published in the Hearst newspapers, and a paper on "U.S. Policy in Asia," prepared for the Japanese-American Conference sponsored by the Center for the Study of Democratic Institutions. Because of the wide interest that his views enjoy, I ask unanimous consent that the statements be printed in the RECORD.

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

FOREIGN AFFAIRS

(By JOHN SHERMAN COOPER, Senate Foreign Relations Committee)

In suggesting the immediate tasks and future trends of American foreign policy, one must take into account the fact that President-elect Richard Nixon will make the decisions upon issues as they arise—at times in consultation with the Congress—and that he will set out long-term policies and goals for our country.

Nevertheless, it is important that private citizens and members of Congress give their views, for our foreign policy must express the will and have the support of the people. Although my views cannot be comprehensive, I would like to emphasize three urgent tasks:

First, and of critical importance, is the settlement of several dangerous situations in the world which continuously threaten war, with the possibility of an American confrontation with the Soviet Union, and nuclear catastrophe.

The second task is to examine means to avoid future military engagements throughout the world, unless it is determined by both branches of our government to be clearly in our national interest and within the scope of our national resources.

Third is the imperative task of reducing the arms race, and of fostering peaceful associations throughout the world, if we are to have any reasonable and positive hope of a stable and peaceful world.

Since World War II, the United States has grappled with situations of danger all around the world. They remain unsettled—the war in divided Vietnam, the potentially explosive situation in the Middle East, the problems of a divided Korea and China, and the security of Western Europe and the United States under the NATO shield. It may be argued that as the United States has maintained a constant and fairly successful policy toward these problems, no radical changes are required. But new developments have occurred in all of these situations in the past year. There are new necessities, and new opportunities to deal with them now in a more radical and effective way than in the past.

The war in Vietnam remains the most troubling issue. Great credit is due President Johnson for his unselfish initiative, in ceasing the bombing, as many of us advocated in order to bring about talks in Paris, and we hope that progress will be made during the remainder of his term. Advances have been made, and if North Vietnam and the National Liberation Front will discuss with the United States and South Vietnam matters of substance, and if the level of fighting is reduced by the North Vietnamese, true negotiations and a settlement may be reached.

If progress is not made in Paris and the heavy fighting continues, I would urge, as I have in the past, that the United States take the initiative in proposing that the Vietnam question be referred to a reconvened Geneva Conference.

Such an initiative would determine whether the Soviet Union is genuinely interested in a settlement, and whether Communist China's recent statement about coexistence has any substance. A reconvened conference should include all the Southeast Asian countries and the National Liberation Front, and would provide an opportunity for a settlement of the problems of the entire area as well as Vietnam. The participation of the United States, the Soviet Union, Communist China and, I would hope, France, would give authority for the establishment of an effective international body, backed by these powers, to supervise and to assist in implementing the terms of any settlement.

But whether from the Paris meetings, or a reconvened Geneva Conference, a final agreement emerges for free and adequately supervised elections in South Vietnam, I would consider that the United States had performed its full duty, that the securing for South Vietnam the right of self-determination of its form of government and institutions, and that our country could then honorably withdraw its forces.

We know that President-elect Nixon will support strongly negotiations for an honorable political settlement. As he is not com-

mitted to any particular formulation for a settlement, or to the support of any personality in South Vietnam, he enjoys the freedom to lead in the formulation of a settlement through which the processes of self-determination may be commenced.

The second obvious area of danger is in Europe. The deployment by the Soviet Union of ten divisions in Eastern Europe during and before its invasion of Czechoslovakia, increasing its forces to 32 divisions, upset any assumed balance of power between the NATO and Warsaw Pact forces.

Implications of the invasion were made more ominous by the statements of Soviet leaders and Pravda, claiming the right to intervene in the affairs of nations within the "socialist commonwealth" in the name of the "class struggle," whenever the Soviet Union determines to do so. It is a declaration of policy unknown in any concept of international law. It raises serious questions about the stability of Soviet leadership, and their intentions toward the areas protected by the North Atlantic Treaty Organization, and the nearby states of Rumania and Yugoslavia.

The purpose of NATO is essentially defensive. Its objectives are to maintain forces sufficient to deter military aggression by the Soviet bloc and to meet and restrain an attack if it comes. But its purpose also is to provide the security necessary to seek detente with the Soviet bloc and the eventual settlement of the issues left from World War II.

The immediate and urgent task of the United States and its NATO partners is to restore the credibility of the NATO mission.

I have obtained an estimate from our Defense Department, and I believe it is the first made public of the cost of maintaining our forces in Europe, including the Sixth Fleet, and backup forces in the United States. It is in the neighborhood of $12 billion annually.

Despite this vast expenditure the United States must continue to improve the quality of its ground forces, but the test of NATO's future lies with our allies who have never met their military requirements. Mr. Nixon has indicated that he will insist strongly that our NATO allies, who for the most part are quite prosperous, take the required steps to increase their strength, manpower, training, equipment, and reserve forces. Unless our NATO allies take these steps, I foresee opposition in the United States to the continued presence of our forces in Europe.

To prevent future involvements such as Vietnam, the Executive and the Congress should examine critically the multi-lateral and bilateral security agreements to which the United States has become a party since World War II—the essential party, since its major allies, Great Britain and France, are disengaging themselves from many burdens of responsibility.

I do not propose that the U.S. abandon constitutional agreements essential to our security, but I do propose that we find out to what degree—whether by treaty or executive agreement—the United States has committed itself to provide assistance, and particularly troops, to the defense of other countries. We should know if these agreements are constitutional, are in the interest of our national security, and within the capabilities of our resources.

Generally, the agreements require that in the event of an armed attack upon a party to the treaty, the other signatories will assist in meeting the danger "in accordance with its constitutional processes." The term "constitutional processes" is not defined, but it should mean congressional approval.

The deployment of large American forces on the territory of another country, even in peacetime, increases the danger of an American engagement, for if they are fired upon they must be defended and our national honor becomes an issue. This is the lesson of Vietnam. The manpower of the United States should not be committed to the territory of another country without the approval of the Congress.

These suggestions do not restrict the constitutional powers of the President—his authority to dispatch forces to protect American lives and property, to defend our troops, and to defend our country. But my proposal would provide to the Executive and the Congress and the people the opportunity to determine, in advance, under what conditions we should commit our military forces.

I believe that my suggestions are in accord with the statements of the President-elect. For if one reads Mr. Nixon's statements closely and in connection with his plans to "review our commitments," he makes a distinction between the defense of the United States and the defense of a region, such as the NATO area and the western hemisphere, on one hand, and becoming involved militarily in other areas which are not in the scope of our security interests or within the capability of our resources.

A further step should be taken to reduce tensions and the chance of war between the divided countries. The time is near when we should support the admittance of North and South Korea, North and South Vietnam, and of Communist China to the United Nations, while continuing our support of the membership of Nationalist China.

The United States has discharged faithfully its obligations to South Korea on behalf of the United Nations, and its obligations to Nationalist China and to South Vietnam. It is time to transfer at least part of our vast responsibilities to the world community represented in the United Nations. The United Nations could bring to bear on these divided states a considerable influence toward the settlement of their problems, the protection of their integrity as states, and without prejudice to their ultimate reunification.

These immediate tasks and long-range policies which our country must examine and undertake do not suggest any return to isolationism. The United States will look more closely at its capabilities and the purpose of its foreign policy and this, I believe, will bring a larger involvement and appreciation of our people in the development of a more realistic and constructive foreign policy.

They include our commitment to assist our Latin American neighbors through the Alliance For Progress; the strengthening of our ties with Western Europe through support of the Common Market and the establishment of a workable international monetary system; the return of Okinawa to Japan and the strengthening of our naval and merchant marine fleets to deter hostile pressures in Asia as well as Europe.

U.S. Policy in Asia

(By Senator John Sherman Cooper)

(Note.—A paper prepared for the Japanese-American Conference under the auspices of the Center for the Study of Democratic Institutions at Santa Barbara, Calif., January 24–25, 1969.)

I appreciate very much the opportunity to take part in this discussion concerning the relations of the United States with the countries of Asia and to consider whether a modification of existing policy, particularly toward Communist China, would be in the interest of our country and of the countries of Asia.

This is a field in which I do not have special knowledge or experience, and I think it better that I stay on familiar ground. Perhaps, as a member of the Senate, I can suggest an inquiry into the attitudes which the Congress holds toward present policy, and more particularly, whether there are any indications that the Congress would support a modification of our policy toward Communist China. While the Executive Branch has jurisdiction to take initiatives, the influence of the Congress and the people it represents, either to resist or to support change, could be a determining factor. This influence, as we know so well, has been demonstrated with respect to Vietnam.

Great bitterness remains in the Congress and in the country over the Communist takeover of China. This bitterness derives in part from a widely held opinion, sentimental and exaggerated, that the United States had a special relationship with China prior to World War II, because of trade and the selfless service of our churches and missionaries.

It was fostered, and I believe correctly so, by admiration for the Chinese during World War II for their long struggle against the Japanese under very critical conditions, and their refusal to surrender. The reality of Communist expansion in Eastern Europe after World War II and the threat of its vast extension over Asia was felt very strongly. It was not lessened by our experience in the Korean War. Whatever the merits of the issues between Communist China, India and Tibet, China's action toward them, and its training and support of anti-government forces in Laos, Thailand, and South Vietnam have strengthened the view that Communist China is set on an aggressive and expansionist course.

This view of Communist China has been expressed clearly by a series of treaties and resolutions which were approved overwhelmingly. Security treaties were entered into with Australia and New Zealand, the Philippines, Korea, the Republic of China, Japan and the SEATO countries including the protocol states of South Vietnam, Cambodia and Laos. Each of these treaties commits the United States in case of "an armed attack" on a specified geographical area to "act to meet the common danger in accordance with its constitutional processes," although "constitutional processes" is nowhere defined.

The Formosa Resolution of 1955 granted to the President broad powers to employ the armed forces to defend Formosa, the Pescadores, Quemoy and Matsu, and the Tonkin Bay Resolution of 1964 gave the President much broader authority to take all necessary steps not only to repel an armed attack but also to "prevent further aggression."

There is no need to review the history of our involvement in Vietnam, but I am sure we would agree that a very strong factor was the official position that without our intervention, South Vietnam and the whole of Southeast Asia would be subject, if not now, certainly later, to the pressure and power of Communist China.

A ring of military bases, our Seventh Fleet and 1,200,000 men in our military forces have been ranged around China to isolate and contain the Communist threat.

Year after year the Congress expresses its view upon another aspect of containment—that of China's participation in world trade—by amendments offered to many bills to bar trade of the United States with third countries, which trade with North Vietnam and with China. Only last year, the Administration recommended and the Congress authorized and appropriated funds for the deployment of a so-called "thin" ABM system for protection against the nuclear weapons capability of Communist China. It represented the position of many in the Executive Branch and in the Congress that Communist China's development of nuclear weapons is a threat to the countries of Asia and to the United States, from considered purpose or irrational action.

Communist China's public statements, its propaganda and behavior toward the United States support the dominant belief that it is implacably hostile and that it would not respond to our initiatives for better relationships.

Nevertheless the judgment of many scholars and of those who know China and Asia better than the vast majority of our peo-

ple, that the United States should seek better relationships, and even the modification of present policy, has made an educational impact upon the Congress. And the hearings held by the Senate Foreign Relations Committee under the leadership of Senator Fulbright in 1966, in which many eminent scholars testified, was of great educational value.

Perhaps greater than any other factor, the experience of the Vietnam War has brought into question and debate the policy of containment. We have learned that our country, possessing the greatest military power in the world, could not use its full power and, in fact, did not want to use it. From a moral viewpoint, it could not destroy the countries of North and South Vietnam and, as a responsible nation, it had to take into account the possible intervention of Communist China and perhaps the Soviet Union, and a military engagement which could lead to nuclear war. We have also learned much about the appeal and strength of nationalism, and that it can be directed against the United States by friend or foe, however good our motives may be.

These issues hold particular importance at the beginning of a new Administration under President Nixon. The Vietnam War, negotiations, and our problems and policy in Asia have fallen into the lap of the new Administration. It has the benefit of the experience of past Administrations. It has the freedom and flexibility to consider alternatives and to take initiatives to determine if improvements in policy can be made.

The statement of the spokesman for the Ministry of Foreign Affairs on November 26, 1968, that "the two sides might as well meet on February 20, next year. By that time, the new United States President will have been in office for a month, and the United States side will probably be able to make up its mind", provides an opportunity to the Administration, which I am sure it will use, to search out the possibilities for substantive talks with the Communist Chinese.

President Nixon was criticized during the recent campaign for not discussing in depth and detail his position upon major aspects of our foreign policy. But from hindsight it appears to me that it was an advantage that he did not do so. For without commitments, he has freedom to review our policies and to determine what short-term and long-range improvements should be made.

I think it would be helpful to quote some of the statements made by President Nixon during the campaign:

"Any American policy toward Asia must come urgently to grips with the reality of China. This does not mean, as many would simplistically have it, rushing to grant recognition to Peking, to admit to the United Nations and to ply it with offers of trade—all of which would serve to confirm its rulers in their present course. It does mean recognizing the present and potential danger from Communist China, and taking measures designed to meet that danger. It also means distinguishing carefully between long-range and short-range policies, and fashioning short-range programs so as to advance our long-range goals.

"Taking the long view, we simply cannot afford to leave China forever outside the family of nations, there to nurture its fantasies, cherish its hates and threaten its neighbors. There is no place on this small planet for a billion of its potentially most able people to live in angry isolation. But we could go disastrously wrong if, in pursuing this long-range goal, we failed in the short range to read the lessons of history.

"For the short run, then, this means a policy of firm restraint, of no reward, of a creative counterpressure designed to persuade Peking that its interests can be served only by accepting the basic rules of international civility. For the long run, it means pulling China back into the world community—but as a great and progressing nation, not as the epicenter of world revolution.

"The dialogue with Communist China must come, I think, during the two terms of the next President. I do not believe we should recognize Communist China now or admit it to the United Nations, because that would be in effect putting the seal of approval on Communist China's present very aggressive course against India and against our forces of course in Vietnam and against all of its neighbors." I call attention to the sentence, "The dialogue with Communist China must come, I think, during the two terms of the next President".

It has been stressed by scholars that China's foreign policy has been basically defensive; that its invasion of India was to assert its legitimate boundary claim and to discredit a rival power in Asia; that Tibet is a part of greater China (and I do not believe these claims are questioned by the Republic of China); that its assistance to North Vietnam is directed against the United States presence; that its activities in neighboring countries are in reaction to the threat of encirclement by America and hostile pro-American countries, and indeed the USSR. If these claims are justifiable from the Chinese point of view, nevertheless their activities are militant expressions of policy that clash and offend the interests of the United States and other countries. They make change in American policy toward Communist China, or support by the Congress extremely difficult.

Taiwan is the major source of difficulty. Matsu and Quemoy remain a potential irritant and danger to Communist Chinese-American relations. It can be expected that from time to time military action centering on these offshore islands will be used by both mainland and Nationalist China to secure the militant support of their peoples. We can expect also that Peking with its view of its "socialist" mission and for domestic purposes, including the strengthening of its internal controls, will continue to support wars of liberation, and subversion of the governments of the countries on its borders.

The proposals for a new China policy that have been made in past years by experts on China, including some of the distinguished scholars attending this conference, generally suggest the same changes. They include the relaxation of the United States embargo on trade with China, except for strategic items, and that trade between other countries and China should be expanded; the free movement of journalists, scholars and scientists, and cultural exchanges, would further understanding between the two countries. Some urge the offer of recognition by the United States, and the admission of Communist China to the United Nations, even at the expense of the Republic of China.

It seems to me that there is at present no workable suggestion as to how the question of Taiwan can be resolved unless by agreement between the two countries. And I am not so certain that Communist China would be admitted to the United Nations if the expulsion of Taiwan is required, even if the United States should reduce its opposition and pressure against its admission.

At the recent session of the General Assembly to which I was a delegate, it appeared to me that an increasing number of countries look upon Taiwan as an independent country, without reference to the mainland of China, peopled by a new generation, and would support its continuing membership in the United Nations.

Many experts have stated their doubts that Communist China would accept an American initiative toward mutual trade, the exchange of newspapermen and scholars, recognition, and I incline to their views. I believe it is correct that in the long series of talks held with Communist Chinese representatives at Warsaw, they have refused to discuss any "small steps" until the question of Taiwan is settled.

It is natural that China wishes to preserve and strengthen its national identity, and because of its geographical position, size, population, and cultural and political history, to be considered a great power with influence among the nations of Asia. We must recognize this fact and that Communist China fears a bipolar world dominated by the United States and the Soviet Union. With this in view, I believe there are changes in policy which the United States can appropriately consider and make.

First, as to trade. While I doubt that a change in our trade policy toward China would result in any immediate American trade with China, and if so, only minimal, it would encourage the expansion of China's trade with other countries. We should not resist such an expansion of trade, and similarly we should not discourage recognition of Communist China, and the establishment of diplomatic relations by other countries, particularly Asian countries if they so desire. I believe this action on our part would have the positive effect on improving our relations with allies and neutrals and of promoting their economic well-being.

The very complexities of commercial, diplomatic and cultural associations that Communist China would be required to understand and undertake with other countries would cause it to be more aware of the interests of such countries, of the nature of world problems, and as some believe, would tend to make it more conservative and less hostile in the conduct of its foreign affairs.

If the war in Vietnam can be settled, the experiment of a withdrawal of the Seventh Fleet from the Quemoy Straits could be tried to find out if it would be followed by any change in the attitude of the Communist Chinese towards the United States and Taiwan. It would represent a lessening of the containment policy of our country.

A most important indication of our future policy toward Communist China may be found in the nature of the proceedings and the substance of a Vietnam settlement. I do not urge any change in the parties to the negotiations if it would obstruct or delay a settlement of this tragic war.

But the beginning of a new approach in the Far East and with Communist China could be the Vietnam settlement. I had urged, prior to the commencement of the Paris negotiations, that efforts toward reconvening the Geneva Conference be pressed, believing that the participation of the United States and Communist China particularly, would provide a framework for the settlement of the problems of the Southeast Asian area as well as Vietnam. If Communist China should insist on participation, supported by North Vietnam, these issues might be considered in two stages. The first would involve the end of the fighting between North Vietnam and the Viet Cong, and the United States and South Vietnam. The second stage would concern a peace settlement for all of Southeast Asia. I doubt that a lasting settlement can be secured without the participation, or at least the acceptance of Communist China. But as I have said above, our first goal is the end of the fighting.

A settlement leading to an independent Vietnam, determined by the people of Vietnam, and to the security of Laos, Cambodia and Thailand—independent of the United States and Communist China and with economic and diplomatic relations with both—would provide evidence of the understanding of both the United States and China of their interests and could lead to a betterment of relations.

We do have important security interests, economic ties and diplomatic relations in Asia which we want to maintain—with

Japan, a major economic power in the world, and with the Philippines, Australia and New Zealand. Leaders of these countries such as President Marcos and Foreign Minister Romulo of the Philippines, and Lee Kuan Yew of Singapore, have begun to suggest the betterment of relationships with Communist China, and I believe this to be in their interest and our long-term interest.

While there are few positive evidences, the need for an examination of our policy toward Communist China and in Asia and for necessary change is recognized by an increasing number in the Congress and by some of its most influential members.

Senator Fulbright has spoken for himself in this conference in his well-reasoned paper.

The Majority Leader, Senator Mike Mansfield, has long been a student of Asian affairs. I quote one paragraph from a speech he made last year that I believe describes the growing sense that a change in policy must be considered.

"I urge you to think for yourselves about China. I urge you to approach, with a new objectivity, that vast nation, with its great population of industrious and intelligent people. Bear in mind that the peace of Asia and the world will depend on China as much as it does on this nation, the Soviet Union, or any other, not because China is Communist but because China is China—among the largest countries in the world and the most populous."

Senator Richard B. Russell, formerly Chairman of the Armed Services Committee and now Chairman of the Senate Appropriations Committee, said on December 31, 1968, that the United States should have diplomatic contacts with Communist China. He stated:

"But I think it would be a step for the welfare of this country and the world if we could have some kind of intercourse or exchange with them on some kind of level, even if it was just a minister to China and they had one here."

Senator Russell's important statement recognized the necessity of bringing before the Congress and the people the full nature of the issues that face us concerning China.

Much more needs to be done in the way of education and discussion about China before the people of the United States and their elected representatives will support policies which should be put into effect. The Congress through hearings can do much to educate itself and the public. Much valuable work has been done by individual scholars. These efforts are, however, only a beginning. I hope very much that the dialogue suggested by President Nixon will begin in the first four years of his administration. But in the meantime, the cautious and tentative, almost imperceptible efforts that have been made toward a better relationship must be continued. I hope very much that this meeting of interested Japanese and Americans will be a helpful step.

CUT IN EDUCATIONAL OPPORTUNITY GRANTS DEPLORED

Mr. HART. Mr. President, the $16 million cut in funds for the educational opportunity grants program is one that concerns me very deeply. This is the program under which students from low-income families can be helped to acquire a college education.

Many colleges and universities in Michigan have written to me, deploring this cut which will hit the freshman class of this coming September and reduce it from the current year's 145,000 to some 31,000. I intend to seek an opportunity to restore this $16 million cut in a supplemental appropriation.

The Michigan Daily, of Ann Arbor, the always exciting daily edited by students of the University of Michigan, carries an excellent article on this subject in its January 26, 1969, issue. I ask unanimous consent that the article be printed in the RECORD.

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

AID CUT TO HIT CLASS OF 1973

(By Nadine Cohodas)

A year ago an in-state student from a low income family would have had a good chance to attend the University, even if his parents could not pay the entire cost of his education.

Through the three-year-old program of Educational Opportunity Grants (EOG), the University was able to use federal funds to assist some 400 first-year students last year.

However, Congressional cutbacks in appropriations may force the University to limit aid to help only one-fourth as many incoming students with federal money in 1969–70.

The EOG program is designed to assist students from low-income families. Any recipient is automatically entitled to renew his grant at the end of his freshman, sophomore and junior years. Thus, the decrease in available funds hits the incoming freshmen hardest.

At the end of the last Congressional session a Senate-House conference committee slashed $16 million from President Johnson's $140.6 million 1969–70 appropriation for the program.

Last year's appropriation was about $145 million, of which only $136.7 million was spent, leaving a $9 million carryover for next year.

Consequently, even with the carryover, the total amount available for the grants next year will be $3 million less than last year's expenditure.

"At a time when we have the greatest demand we have less money," says University Financial Aids Director Ronald Brown. Because much of the federal money will be used to renew scholarships of sophomores and juniors, Brown says freshmen will get the "short end of the stick."

"If Congress fails to restore the cuts," he says, "the University will find itself making initial awards to something between 86–115 students where last year 412 received initial aid."

Last year the University was allotted $389,425 from the program, which was divided among 903 students. Almost half of those were freshmen. Some 190 were also part of the Michigan Opportunity Award Program (MOA), designed to aid black students. Most MOA students are freshmen.

Because MOA students are given priority in the federal grants, no funds will be available for initial grants to non-MOA students next year. In addition, Brown explains, there will be no funds to increase the number of MOA students.

"It is unfortunate that we should have to cut back at the very time we should be trying to push forward," Brown admits. "Institutions finally are realizing the promise in programs geared to recruiting students from low-income families."

Not only will there be less money allotted next year, but 1969–70 is the first year colleges and universities in the program can use three per cent of their allotment for administrative costs.

"It is a rare university indeed that could not use the money," Brown says. This probably means another reduction in the amount available for scholarships.

On the national level, the effect of the cutback is devastating. Where grants were given to 144,600 freshmen last year, there may only be enough money to assist from 31,000–44,000 next year.

There may be a solution, however.

Brown says the Nixon administration has been informed of the possible consequences of the cutback. He also indicates that financial aid officers from several universities hope to persuade Congress to make a "deficiency appropriation" which would restore the cuts.

CONGESTION AT WASHINGTON NATIONAL AIRPORT

Mr. BYRD of Virginia. Mr. President, Washington National Airport was designed to accommodate 4 million passengers a year, but more than 10 million will use it this year. And if the recommendations of a Philadelphia consulting firm are carried out, that number could double by 1980.

Those recommendations are part of a new master plan report prepared for the Federal Aviation Administration by Vincent G. Kling and Associates.

For their fee of $297,000, the authors have come up with four alternative plans for doubling National's capacity. They range in cost to the Federal Government from $97 million to $152 million, with the authors strongly favoring the more expensive version.

No one who has used National Airport needs to be told that its present terminal facilities could stand improvement. But facelifting is one thing; rebuilding and expanding the facility as the Kling report recommends is quite another.

Still, it is clear that something must be done to relieve congestion at National. Air traffic there already constitutes a serious potential safety hazard and, as airline business triples in the next 5 years, this will increase. So will the noise and pollution caused by jet taffic over northern Virginia and the District.

But the fact is that Congress long ago acted to meet this growing crisis when it appropriated $110 million for the construction of Dulles International Airport. That facility was built with one purpose in mind—to provide for the day when National could no longer safely and conveniently accommodate the bulk of Washington's airport traffic. That day is clearly upon us.

For no matter what amount is spent in modernizing National's terminal facilities, there is no way to expand its air space and that is already alarmingly full.

The solution is not to expand National but to stimulate the better use of Dulles Airport, and I call upon the Federal Aviation Administration to concentrate its efforts in this direction.

ADDITIONS TO NATIONAL PARKS IN UTAH

Mr. MOSS. Mr. President, on the last day that he held office, President Johnson issued an Executive proclamation adding 49,000 acres of land to the Arches National Monument, just north of Moab, Utah; and some 215,000 acres of land to the Capitol Reef National Monument, which lies between Richfield and Hanksville, Utah. At the same time, President Johnson recommended that these two expanded national monuments be considered for the status of national parks.

Consequently, I have introduced two bills to convert these two great national monuments into national parks, and the chairman of the Subcommittee on Parks and Recreation of the Committee on Interior and Insular Affairs, the Senator from Nevada (Mr. BIBLE), has agreed to early hearings on my bills. In my State of Utah there has been some concern expressed because of the addition of large amounts of public domain land to the national parks and the impact that this would have upon grazing and mining in these areas. On the other hand, many of our citizens have welcomed these additions to the national monuments because of the beautiful scenic areas which are added and will now be preserved as part of our national heritage. The hearings will bring out all of the arguments—pro and con—on this action.

The Ogden Standard-Examiner, a great daily newspaper published in Ogden, Utah, has printed an editorial on this subject entitled "Utah's National Parks May Grow." I believe that this is a thoughtful and well reasoned editorial; therefore, I ask unanimous consent that it be printed in the RECORD.

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

UTAH'S NATIONAL PARKS MAY GROW

The last-hour action by former President Lyndon B. Johnson in proclaiming expansion of the Arches and Capitol Reef National Monuments should be welcomed by most Utahans as a move that could gain our state two more national parks.

Mr. Johnson has ordered the Arches National Monument, just north of Moab, increased by 49,000 acres and Capitol Reef National Monument, between Richfield and Hanksville, enlarged by 215,000 acres.

The expansions would bring Arches to a total of 83,010 acres and Capitol Reef to 254,172 acres.

With these changes, both monuments could now become eligible for national park status, as recommended in legislation already supported by members of the Utah congressional delegation from both political parties.

Utah is the home of Canyonlands, Bryce Canyon and Zion National Parks. If Capitol Reef and Arches were upgraded, we would have five. There are also proposals pending to make Cedar Breaks National Monument and Antelope Island into national parks—so, conceivably, our state could eventually have seven of these valuable recreation attractions. In addition, we have a network of national monuments, recreation areas and historic sites.

We grant that Mr. Johnson acted without consulting Utah authorities in proclaiming the expansion of the two Southern Utah monuments. As a result, we can expect to see signs of hurt feelings.

It is also characteristic of Utah that opposition to expansion of parks and monuments is always voiced by mining and livestock interests.

If hearings are conducted on the LBJ orders—and these may be forced by the opponents—we doubt that much evidence can be found to prove that valuable natural resources are being "locked up" by the changes in boundaries.

Some quarters are claiming that oil shales may be found in the expansion areas. May we point out that there are millions of tons of shales in other portions of Utah, Colorado and Wyoming where they are much closer to the surface and easier to mine. However, when bids for development of Colorado shales were opened recently, little enthusiasm was found among priviate enterprises who might attempt the production of petroleum from them.

Uranium? The government recently asked producers to slow down in their mining activities, so much uranium is already available that the market is glutted.

There are possibilities of oil being trapped in the Waterpocket Fold area of Capitol Reef Monument. However, its production—should the oil actually be there—would be so expensive and so ruinous to the natural terrain that we doubt commercial development would ever prove feasible.

There is some sheep grazing land in the expansion area at Arches National Monument. But it is poor grazing country and the revenue derived from it should not even be a fraction of what an expanded monument—or an Arches National Park—would produce in the form of new profits from an expanded tourist industry.

It is uniquely attractive country that is involved. Its maximum benefit to the people of Utah—and the nation—is in its recreational benefits, not in the exploitation of its questionable mineral resources or meager grazing use.

TRUTH AND CONFUSION IN LENDING

Mr. SPARKMAN. Mr. President, the January 1969 issue of the American Bar Association Journal contains an excellent article entitled "Truth and Confusion in Lending," by Mr. Nathaniel E. Butler. Mr. Butler is the educational director of the National Conference of Commissioners on Uniform State Laws. His article is a comprehensive and most interesting paper on the Federal Truth-in-Lending Act and the proposed Uniform Consumer Credit Code. The article will be a helpful reference to anyone having need for information about the Truth-in-Lending Act or the proposed Consumer Credit Code. Accordingly, I ask unanimous consent that the article be printed in the body of the RECORD.

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

TRUTH AND CONFUSION IN LENDING

(By Nathaniel E. Butler)

(NOTE.—On July 1, when the Federal Truth in Lending Act goes into force, there will be a bewildering and divergent array of federal and state law governing consumer credit transactions. The new Uniform Consumer Credit Code is designed to secure for any state enacting it exemption from the federal act, and it provides a modern, comprehensive and fair plan for regulating consumer credit in the interests of both consumers and creditors.)

On May 29, 1968, President Johnson signed into law the Federal Consumer Protection Act (Public Law 90–321). The first of the five titles[1] of this act, Title I, which is formally entitled the Truth in Lending Act, substantially revolutionizes the way creditors are required to disclose the terms of a consumer transaction and the costs the consumer must pay. It takes effect on July 1, 1969, and marks the first step by the Federal Government into the consumer credit field.

There is today no void in consumer credit laws in the states, but rather there are many laws in each state regulating consumer credit. Many of these require disclosure of the terms of the transaction, and the disclosures required by them are different from the disclosures required by the new federal act. As a consequence, each of these state laws must be reviewed in the light of the Federal Truth in Lending Act.

This article will point out the highlights of the federal law and its effect on existing state law. The Uniform Consumer Credit Code, which was drafted and promulgated by the National Conference of Commissioners on Uniform State Laws and was approved by the American Bar Association last August, is recommended as a vehicle for remedying some of the substantive shortcomings of existing state law. At the same time the code will solve the problems brought about by the enactment of the Federal Truth in Lending Act and preserve the realm of consumer credit regulation for the states.

WHAT THE FEDERAL TRUTH-IN-LENDING ACT DOES

The Federal Truth in Lending Act requires disclosure of the terms of a consumer credit transaction and regulates advertising. Consumer credit includes all credit extended to an individual for personal, family, household or agricultural purposes. Although treating them slightly differently, the act covers loan credit and credit extended by sellers, real estate credit and chattel credit, retail revolving credit, and bank and other credit card arrangements. Virtually everyone who extends consumer credit is subject to the disclosure requirements, although governmental bodies are exempt from the penalties contained in the act.

Basically, in a credit sale of a chattel the seller is required to set forth: (1) the cash price; (2) the down payment itemized as to cash and trade-in; (3) the unpaid balance of the cash price; (4) other charges that may be included in the cash price and are not part of the finance charge, such as official fees, taxes imposed on the customer, etc.; (5) the unpaid balance; (6) any prepaid finance charge or required deposit balances; (7) the amount financed; (8) the total finance charge; (9) the time sale price; (10) the time balance; and (11) the annual percentage rate of finance charge. In addition, balloon final payments, if any, must be disclosed, default or delinquency charges payable in the event of late payment must be disclosed, a description of any security interest held or acquired by the seller must be given and a description of any penalty charges for prepayment and the method of computing the prepayment rebate must be disclosed. The dollar amount of the finance charge is not required to be disclosed if the credit is secured by an interest in a dwelling.

Similar disclosure is required in the case of loans and, under somewhat different mechanical requirements, in the case of revolving sale and loan accounts.

The percentage rate disclosed must be computed according to what is known as the actuarial method. This is the method traditionally employed in first mortgage real estate financing, in which payments are applied first to accrued interest and then to the reduction of principal. Although common in real estate transactions, the annual actuarial rate represents a departure from existing practice in most chattel financing, in which per cent per month, add-on, discount or the like has been used.

The finance charge, which must be disclosed as a rate and in most cases as a dollar amount, of course, includes interest in the case of a loan and the time price differential in the case of a sale. In addition, the finance charge includes fees and charges sometimes thought to be distinct from interest and time price differential, e.g., points, loan fees, finder's fees, carrying charges, and credit investigation fees are all within the finance

[1] Title I (Truth in Lending Act) requires disclosure of the terms of a consumer credit transaction and regulates credit advertising; Title II makes extortionate extensions of credit illegal; Title III regulates garnishment; Title IV establishes the National Commission on Consumer Finance; and Title V contains general provisions.

charge. Charges for credit life, health and accident insurance may be excluded from the finance charge only if (1) the insurance is not a factor in the granting of the credit and the debtor is so told and (2) the debtor gives affirmative written indication of his desire to have the insurance after the cost of it has been disclosed to him. Casualty and liability insurance may be excluded from the finance charge only if the debtor is told in writing the cost of the insurance and that he may choose the agent through which the insurance is to be obtained.

The items that may be excluded from the finance charge are very limited. Certain insurance charges as explained above, official fees, taxes imposed upon the customer, and license, certificate of title and registration fees may be excluded. Other charges "not for credit" may be excluded if approval from the Federal Reserve Board is obtained. In the case of credit secured by real property, fees for title examination or insurance, preparation of a deed, escrows, notaries, appraisals and credit reports may be excluded from the finance charge if they are bona fide and reasonable in amount.

The disclosure requirements of the Federal Truth in Lending Act are designed to facilitate comparing the costs of alternative credit sources. The theory of the disclosure requirements is that the buyer or borrower will be able to shop for credit just as he shops for other commodities. The dollar cost of having goods or money immediately rather than waiting will be clear to him. The requirement that all creditors state a rate in the same manner (in terms of an annual percentage) will permit the consumer to make meaningful comparisons, choose between alternative sources of credit and get the best deal. Looking at the dollar cost and the rate, the consumer might decide to use savings rather than to incur new debt.

COEXISTENCE WITH STATE CREDIT LAWS

The Federal Truth in Lending Act has two sections directly relevant to its effect on state disclosure laws. Section 111(a) provides that the act does not "annul, alter, or affect, or exempt any creditor from complying with, the laws of any State relating to the disclosure of information in connection with credit transactions, except to the extent those laws are inconsistent with the provisions of this title or regulations thereunder, and then only to the extent of the inconsistency".

Whether a particular state disclosure requirement is "inconsistent" with the federal requirement, within the meaning of Section 111(a), is extremely difficult to determine. Although most state credit laws require that the interest, time price differential or credit service charge be disclosed, few, if any, define it in the encompassing way that the federal law does. Hence, one could come up with a different dollar amount of finance charge under the federal law from that under the state statute. A few states have enacted annual percentage rate disclosure laws that require a different mathematical formula for computing the rate. Hence, one gets a different rate under each law. Some state laws go beyond the federal disclosure requirements, for instance, to require that the dollar amount of the finance charge be disclosed in some or all transactions secured by real estate. Would this be inconsistent?

Looked at one by one, these problems appear simpler than they may be. State disclosure laws also have a scheme, and that scheme may be broader or narrower, better or worse than the disclosure scheme of the federal law. Nevertheless, it is a scheme. Selectively extracting one element or another from a state disclosure law throws the state scheme out of queue and frustrates the whole purpose of the state law.

On the other hand, wholesale elimination of state disclosure provisions may not be the solution, since under Section 111(a) they are affected "only to the extent of the inconsistency".

Clearly, the existing situation—with both state credit disclosure laws and the Federal Truth in Lending Act—is unsatisfactory. Under the "inconsistency" test of Section 111(a), there is a strong likelihood of a creditor's having to disclose under two laws, and there is little likelihood of this being clarified substantially by cases in the near future. The Federal Reserve Board may attempt to clarify the situation by regulation, but the extent to which it can be done by regulation is doubtful. Both the creditor and debtor are disadvantaged. The creditor is burdened with complying with two laws requiring similar but divergent disclosures, and the debtor is confused.

The other section dealing with the interrelationship of state and federal law, Section 123, gives the states an opportunity to solve the double disclosure problem and keep jurisdiction in this area. The Federal Reserve Board is directed to exempt from the disclosure requirements of the federal act "any class of credit transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed by [the federal act], and that there is adequate provision for enforcement."

Few if any existing state laws are adequate to support an exemption ruling under this statute. Certainly, the common small loan or installment sales laws are not.

UNIFORM CONSUMERS CREDIT CODE'S PROVISIONS

The Uniform Consumer Credit Code is designed and intended to have disclosure requirements which meet the "substantially similar" test of Section 123 of the Federal Truth in Lending Act so that any state enacting the code will be exempt from the disclosure requirements of the federal law as to the transactions covered by the code. Since the code requires substantially similar or more stringent disclosure, all of the consumer protection aspects of disclosure contained in the federal law are embodied in it as well. Therefore, the major difference between being under the federal act or the code, so far as disclosure goes, is that the administrator will be a state official rather than one of the nine federal agencies that will administer the Federal Truth in Lending Act.

The code addresses the hodge-podge of laws regulating consumer credit in each state today and replaces them with one comprehensive code. It supplants existing usury laws and the multitude of exceptions to them that has been created by the courts and legislatures—small loans laws, installment loan laws, industrial loan laws, installment sales laws, insurance premium financing laws, etc. Generally, these existing laws are limited to consumer transactions, but occasionally they have broader application. Not infrequently they provide different ceilings on rates that can be charged and express the rate ceilings differently (add-on, discount, per cent per month, etc.). Often these laws treat substantially similar aspects of different credit transactions differently, although no reason for the difference in treatment exists.

While the Federal Consumer Credit Protection Act, which includes the Truth in Lending Act as Title I, does not purport to be a comprehensive consumer credit law, the Uniform Consumer Credit Code is. It restructures all laws limiting maximum charges on the cost of money or credit, regulates the substance of consumer credit transactions and brings substantially all consumer credit under one comprehensive code. In the area of maximum charges and rate ceilings, it imposes a single and standard set of maximum charges on substantially all types of consumer credit and, except in the case of extortionate charges, frees substantially all types of business credit from any maximum charge or rate ceiling. It puts all creditors extending consumer credit on a substantially equal footing so far as maximum charges and control of practices are concerned. It stimulates competition by eliminating artificial barriers to entry into the credit granting business and by requiring disclosure of the cost of credit. While the code sets maximum ceilings on rates that may be charged in consumer transactions, it relies on competition to fix actual effective rates. It restricts certain practices of creditors that have been shown to be particularly subject to abuse, and it has broad provisions to eliminate unconscionable conduct.

TO WHAT TRANSACTIONS DOES THE CODE APPLY?

Generally, the code applies to consumer credit transactions and excludes business transactions. The basic test is the kind of debtor involved. If the debtor is an individual, some or all of the provisions of the code apply. If the debtor is an organization (a corporation, partnership, trust, governmental body or the like), with one minor exception, regulatory and maximum rate provisions of the code do not apply. The nonapplication of the code to organizations eliminates the major portion of all business credit from regulatory coverage.

If an individual debtor (sometimes called a sole proprietor) seeks not in excess of $25,000 of credit for a business purpose, the transaction will be covered only by the provisions of the code relating to maximum rates and charges that can be made. In other words, the sole proprietor of a corner grocery is given maximum rate protection under the code in transactions up to $25,000, but otherwise the transaction is not covered by the code.

The major concern of the code is with consumer credit, and except for the provisions on rates and maximum charges having limited applicability to nonconsumer transactions, all of the code's provisions apply only to consumer credit. Consumer credit includes and is limited to credit extended for the personal, family, household or agricultural purpose of the debtor.

Credit extended for agricultural purposes is included in consumer credit, but it is excluded from a number of the substantive provisions found to be unsuited to the particular characteristics of farm financing. Of course, if the debtor is not an individual, regulatory provisions of the code do not apply.

Credit sales of homes and home mortgages entered into for a consumer purpose are covered by the maximum rate and charge limitations as well as the disclosure requirements of the code. Transactions in which the rate of credit service or loan finance charge exceeds 10 per cent, calculated as prescribed in the code, are subject to all of the substantive provisions of the code.

HELPING THE CONSUMER DEAL WITH THE CREDITOR

The code takes three basic approaches to the problem of better enabling the consumer to deal with the professional creditor. First, it requires full disclosure of the cost of credit to the consumer prior to or at the time the transaction is entered into. Second, it makes illegal or severely limits certain specific practices of creditors that have been shown to be subject to abuse. Finally, it has broad provisions for attacking and eliminating unconscionable conduct.

The first approach is the requirement of complete disclosure of the terms of the credit transaction, including disclosure of the cost to the debtor both in dollar amounts and in terms of an annual percentage rate. The disclosure provisions are substantially identical to the federal law's provisions discussed above.

The second approach is to prohibit or greatly limit certain kinds of agreements and practices. In deciding what practices to prohibit or limit, the Commissioners on Uniform

State Laws recognized that unless there were very real and corresponding benefits to the consumer, restrictions on the rights of creditors could, in fact, hurt consumers because the restrictions might result in higher costs and consequently higher rates throughout the consumer credit market. With this process of evaluating and balancing in mind, the commissioners sought only to restrict rights and practices in which evidence of serious abuse of consumers was strong.

Among the specific restrictions the code imposes is the prohibition of negotiable promissory notes in sales credit transactions. Closely related to this is the treatment of the buyer's waiving as to an assignee of the consumer's contract any defenses he might have against the seller. The code offers alternative sections, either of which might be enacted. The first prohibits and renders noneffective the buyer's waiving of his defenses. The second requires the buyer promptly to inform the assignee of any defenses that arise within three months of the notice of assignment, and if he fails to do so, the assignee is freed from defenses arising during the three-month period. Under the present law of most states, once the contract is assigned, the buyer must pay the finance company and try to seek his remedy from the seller. The theory of the code's provision is that the financing institution is in a better position to guard against the seller's pushing shoddy and substandard goods or services than is the buyer, who very likely has only a single isolated transaction with the seller.

Another practice the code prohibits in sales credit transactions is the seeking of a deficiency judgment after goods have been repossessed if the original cash price of the goods was less than $1,000. In effect, when the cash price is less than $1,000, the code provides that the creditor must either elect to sue on the contract or repossess the goods; he may not do both. The theory of this section is that in transactions in which the cash price is under $1,000, the right to seek a deficiency after repossession is worth little to the legitimate creditor, but it can be used abusively by the unscrupulous creditor.

The code eliminates in sales credit the practice of the seller's taking a security interest in a house full of furniture to secure the payment of the price of a single refrigerator or television set. Although the code does permit taking a security interest in more than the goods sold when debts arising from other sales are consolidated, it requires payments to be allocated so that the goods are freed from the security interest on a first-in, first-out basis.

The code regulates balloon payments by permitting the debtor to refinance the balloon on the original terms, thus avoiding a surprise that might force the debtor into default. It also prohibits irrevocable assignments of earnings, garnishment proceedings prior to judgment, and authorizations to third persons to confess judgment in consumer credit transactions. It sets limits on charges which can be made on default, attorney's fees which can be collected from debtors, and the amount of a debtor's earnings subject to garnishment. It limits small loans to twenty-five months, or thirty-seven months when the annual rate of loan finance charge exceeds 10 per cent. It gives buyers three days to cancel home solicitation sales and prohibits referral sales. It includes provisions on credit life insurance and credit accident and health insurance similar to those now in force in states that effectively regulate this type of insurance.

The third approach of the code toward eliminating harmful practices and enabling consumers to deal more effectively with creditors is contained in the provisions that permit courts in proceedings commenced by the state administrator to declare any agreement or a part of an agreement unconscionable and unenforceable, either in whole or in part. The court is empowered to order the enforcement of the agreement in such a way as to avoid any unconscionable result. Debtors themselves and the administrator may bring proceedings to recover excess charges, the administrator himself may order creditors to cease violating the code, and the administrator may bring court proceedings to obtain injunctions against violations of the code and against unconscionable conduct. Varying special civil and criminal penalties are provided for different kinds of violations.

Studies have shown that the major part of overreaching and abuse stems from a relatively small percentage of creditors. In total effect, the code sets standards of conduct for all creditors participating in consumer credit and provides strong and effective remedies against creditors' committing serious abuses without impairing the rights of legitimate creditors and without seriously arising the general cost of credit to consumers.

RATE PROVISIONS FAVOR PRINCIPLE OF COMPETITION

The rates in the code are based on the underlying principle that legislation should not attempt to fix rates in the sense that public utility commissions fix rates for public utilities, but rather that the economic forces of free enterprise and supply and demand should set rates through improved competition within maximum ceilings prescribed for consumer credit. In consumer credit, ceilings are imposed in part because they have been used frequently in the past and in part because consumers generally are considered not to have equal bargaining power with creditors. On the other hand, with two narrow exceptions, no ceilings are imposed for business credit, and any residual ceilings still applicable to business credit under general usuary statutes are removed.

In deciding what the rate maximums should be, the commissioners took into account that raising or lowering maximum rates has the inevitable effect of increasing or decreasing the size of the consumer credit market. High maximums permit more persons to obtain credit from legitimate sources; low maximums decrease the number of persons who may obtain credit. The maximum ceilings provided in the code are designed to permit most credit-worthy consumers to have access to the consumer credit market.

The basic maximum rate in the code is 18 per cent per annum. There are higher graduated rates where the amount of the credit is small. Thirty-six per cent per annum is permitted on the amount of the unpaid balance up to $300, 21 percent on the amount from $300 to $1,000 and 15 per cent on the amount over $1,000, with the composite actual rate under these graduated rates leveling off at 18 percent. In order to charge rates in excess of 18 per cent, a lender (but not a seller) must either be licensed or a supervised financial organization, e.g., a bank, credit union or the like.

On revolving charge accounts in sale credit, the maximum permitted rate is 2 per cent per month (24 per cent per year) on the amount outstanding up to $500, and 1½ per cent per month (18 per cent per year) on the amount in excess of $500.

LICENSING, FEES AND ADMINISTRATION PROVISIONS

Each creditor who is regularly in the business of granting consumer credit is required to notify the state administrator that he is so engaged. In addition, he is required to pay an annual fee based on the amount of the consumer credit obligations owed to him. This fee is designed to defray all or part of the cost of administering the act.

In order to make loans at rates in excess of 18 per cent, a lender must first obtain a license from the administrator. The administrator is directed to investigate the applicant and grant the license only if he finds that the financial responsibility, character and fitness of the applicant are such as to warrant belief that the business will be conducted fairly.

Banks and other institutions supervised by other governmental agencies are not subject to the licensing requirement.

The administrator has broad powers to investigate, issue orders and go to court to obtain compliance by creditors with the act. His actions, however, are subject to notice, fair hearing and other due process requirements. Among his other powers, the administrator is authorized to seek an injunction against unconscionable agreements or conduct.

EFFECT OF CODE ON POWERS OF ORGANIZATIONS

The code prescribes maximum charges for all creditors extending consumer credit and displaces existing limitations on the powers of creditors based on maximum charges.

In the case of sellers of goods or services, small loan companies, licensed lenders, consumer and sales finance companies, industrial banks and loan companies and commerical banks and trust companies, the code displaces existing limitations on their powers based solely on amount or duration of credit.

Except as to maximum charges, the code does not displace limitations on powers of credit unions, savings banks, savings and loan associations, or other thrift institutions. Except as to maximum charges, the code does not displace limitations on powers either of commercial banks or thrift institutions with respect to the amount of a loan to a single borrower, the ratio of a loan to the value of collateral, the duration of a loan secured by an interest in land or other similar restrictions designed to protect deposits.

HOW THE CODE FITS WITH THE UNIFORM COMMERCIAL CODE

The Uniform Commercial Code provides that the rules it sets forth are subject to regulatory legislation, particularly in consumer transactions. Thus, the Consumer Credit Code will supplement the Commercial Code. The Commercial Code sets the background, and its rules will continue to apply to consumer transactions, except where the Consumer Credit Code provides different rules for consumer credit transactions.

CODE OFFERS SOLUTION TO STATE-FEDERAL PUZZLE

Next July 1 creditors will be complying with the disclosure requirements of the Federal Truth in Lending Act. If state legislatures do nothing, creditors and consumers may be faced with the perplexing and divergent provisions of two disclosure laws, one state and one federal. The Uniform Consumer Credit Code is designed to solve the problem of divergent state and federal disclosure laws. By requiring disclosure substantially similar to or more stringent than the federal law, it is intended to secure for any state enacting it exemption from the disclosure provisions of the federal act.

The Uniform Consumer Credit Code goes far beyond disclosure. It is a comprehensive and well-balanced consumer protection law. It offers substantial safeguards to consumers through its provisions regulating practices and agreements and its provisions on administration and unconscionability. The disclosure provisions and the elimination of artificial barriers to entry into the credit granting business will stimulate competition. The code frees substantially all business credit from archaic usury laws and sets rate ceilings for consumer credit under which creditors can compete for the consumers' business.

THE "PUEBLO" HEARING

Mr. ALLEN. Mr. President, the crew of the *Pueblo* has been in the minds and thoughts and prayers of the American people for the last year.

An editorial entitled "The *Pueblo*

Hearing," published in the January 27, 1969, issue of the Birmingham News, raises some of the questions and suggests some of the thoughts that are in the mind of the American people with regard to Commander Bucher and the crew of the *Pueblo*.

I ask unanimous consent that the editorial be printed in the RECORD.

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

THE "PUEBLO" HEARING

The ordeal Cmdr. Lloyd Bucher is undergoing at San Diego must be in some respects even more trying than the one he and the other members of the *Pueblo* crew underwent during 11 months of North Korean imprisonment and torture.

Then his tormentors were the enemy. Now he faces the torment of doubt. Not only the naval officers conducting the inquiry and his fellow countrymen, but Cmdr. Bucher himself, we are certain, have asked themselves over and over whether the *Pueblo's* skipper carried out his command properly. They have asked themselves what he might have done differently—and, those who are honest, have asked what they might have done under similar circumstances.

We daresay neither the commander nor his countrymen have come up with totally satisfactory answers.

There is no question of the human reaction of Americans to Cmdr. Bucher's testimony. It is equally divided between great sympathy for the captain and his men, and seething outrage at their treatment by the animals who held them captive.

But equally there can be no question but that Americans are deeply disturbed by many aspects of this whole affair.

The actions and decisions of Cmdr. Bucher are immediately at issue in the San Diego inquiry. But the questions raised go far beyond him. They reach to the highest levels of government and of military command.

Why was the *Pueblo* not equipped with devices to destroy secret, sensitive material—or, if that failed, to scuttle the ship as a last resort before an enemy could board and capture her?

Why was no provision made for air or sea protection for the ship in the event it encountered hostile action? Certainly no one could have been completely surprised when the North Koreans made their bold gamble. They had been more and more aggressive in the preceding months, stepping up their incursions into South Korea (even including an attempt to assassinate its president) and engaging in other provocations.

Neither can it be said that there was no precedent. The communications ship *Liberty*, engaged in a similar mission off the coast of Africa during the Six Day War in June, 1967, was attacked and heavily damaged by Israeli jets. It, too, got no assistance, although U.S. carrier-based interceptors were only minutes away.

Although the Israelis apologized that the attack was a case of mistaken identity and although the *Liberty* eventually made port safely, the lesson should have been clear that no ship engaged in intelligence operations in sensitive areas can be assumed to be safe from potential danger. Apparently that never occurred to the Navy when the *Pueblo* embarked on its mission off the coast of North Korea.

Questions remain to be answered in the case of Cmdr. Bucher. They are agonizing questions, and answers will not come easily or unanimously.

But let the Navy be on notice that the American public is not going to permit use of Capt. Bucher as a scapegoat to get the higher-ups in the defense establishment—military and civilian alike—off an uncomfortable hook.

The commander has indicated that he is prepared to state his case and accept his country's verdict on his performance. Let that performance be judged fairly and honestly.

But there are other feet which must be held to the fire before this case is closed. Let their owners, too, be prepared to answer searching questions.

COMMUNIST TERROR IN SOUTH KOREA

Mr. DODD. Mr. President, while the American press has focused on events like the capture of the *Pueblo* and the attempt on the life of President Park, of South Korea, by a group of North Korean commandos, it has said very little about the murderous terror practices by the Communist marauders from the north against the South Korean civilian population.

Atrocity stories are always unpleasant. But I think it is important that the full facts be made available to the American public so that they will have a better understanding of the nature of the enemy we are up against.

For this reason I invite the attention of Senators to an article and an editorial published in the Korea Herald of Sunday, December 15, 1968. The article describes some of the atrocities perpetrated against South Korean civilians by terrorists who had infiltrated from North Korea. Among other things, it tells the story of the coldblooded murder of a mother and three young children, aged 10, 7, and 4, whom the Communists considered uncooperative. After compelling the mother to cook food for them, the Communists took the family to a rubbish heap and brutally murdered them. When the oldest child, a 10-year-old boy, said that he did not like Communists, they tore his mouth apart.

The paper reproduces a photograph of the mutilated bodies of the South Korean mother and her three children.

The incredible savagery which the North Korean Communists have practiced against South Korean civilians and prisoners was recently attested to by Comdr. Lloyd M. Bucher in his testimony before the naval court of inquiry. Commander Bucher told the court that, in their efforts to break his resistance, his North Korean captors showed him a South Korean prisoner who was strapped to the wall after having been mercilessly tortured. Let me quote one paragraph from Commander Bucher's testimony:

> He was alive. But he had been through a terrible ordeal. He had a compound fracture of the arm and the bone was sticking out. He had completely bitten through his lower lip. . . . It was hanging down. His right eye had been put out. His head was hanging down and a black substance from the put-out eye was dripping down.

The barbarism of the North Korean Communists is no isolated phenomenon. The pattern, indeed, is identical in Vietnam and in China and in every other country where the Communists have either seized power or sought to seize power. This is something which we must keep in mind in the current negotiations in Paris.

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

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

RED ATROCITIES

Red atrocities are assuming more and more heinous aspects these days. It was something more than a month ago that a big group of armed north Korean Communist intruders were guilty of the cold-blooded killing of innocent villagers, young and old, men and women, at Uljin. At first it was estimated that the Red infiltrators numbered 30 or so. Later the estimate doubled and then tripled. Thanks to timely and efficient mopping-up operations by the military, the police and the Homeland Reserve Forces, most of the Communist bandits have been shot and five have been captured alive. A handful of fleeing murderers are still hiding in mountains, trying to grab every chance to murder innocent villagers indiscriminately in their futile attempts to sow seeds of insecurity among the people.

Uljin citizens have proved brave and thoroughly anti-Communist by tipping off the police and other authorities concerned on the Red infiltration at the right times. It is especially noteworthy that their positive and timely cooperation was extended in very dangerous circumstances. Citizens elsewhere have proven as brave and as anti-Communist. Even a little tot risked his life to denounce Red atrocities. The Red intruders tore the boy's mouth apart when they heard him pledge his loyalty to the Republic of Korea, saying he would in no circumstances be cheated by the Communists. The villagers' resistance cost them many lives. Close to a score of them were shot, stoned and stabbed to death with bayonets. Only last Monday, a band of escaping Red infiltrators broke into a farm house near Kangnung, Kangwondo, and killed four of seven-member family. The 56-year-old mother of the head of the family was lucky enough to be away from home on a visit.

Since the abortive Jan. 21 Communist commando foray into Seoul, our counterinfiltration posture has been much improved. It is encouraging, that a modern helicopter unit has recently been activated to make the anti-Communist mopping-up operations more effective. Helicopters have played a significant part in rounding up fleeing Red agents since last January. It is with this fact in mind that we wholeheartedly welcome the birth of the helicopter unit.

Equally encouraging to learn is the fact that the ROK–U.S. joint defense posture is in far better shape than ever, with still better prospects for the months and years to come. We are gratified to learn that a substantial amount of U.S. military assistance has been extended to our armed forces since the visit last April by presidential envoy Cyrus Vance to Korea and the subsequent summit talks between President Chung Hee Park and President Lyndon B. Johnson. U.S. assistance, needless to say, plays a decisive part not only in the overall national defense against the north Korean Communists but also in antiguerrilla operations. The United States never once failed to prove itself equal to the commitments it solemnly made to the Republic of Korea. We have no doubt at all that the military partnership between the United States and the Republic of Korea will continue to improve as time goes on.

RED MARAUDERS SLAUGHTER TOTS

A group of north Korean armed intruders tore apart the mouth of a 10-year-old boy when he said, "I don't like the Communists."

The cold-blooded Communists then killed with rocks and bayonets the boy, his mother, younger brother and sister.

The murdered were identified as Mrs. Daehwa Chu, 33, her sons, Sung-bok, 10, Song-su, 7, and daughter Sung-nyo, 4.

The innocent victims were about to go to bed when about five north Korean armed marauders broke into their house in Pyongchanggun, Kangwon-do, on the night of Dec. 9.

Pointing their rifles at the forehead of Mrs. Chu, the intruders ordered her to cook rice for them.

When Mrs. Chu replied that she did not have rice to cook, they told her to cook corn, according to an eyewitness story given by Sung-won, 15, the eldest son of Mrs. Chu. The eldest son was also stoned but escaped death. Mrs. Chu's husband was away from home when his family was massacred.

After the intruders ate corn cooked by Mrs. Chu, the Communists then began propagandizing about north Korea. At this point, Mrs. Chu's second son told the intruders, "I don't like the Communists."

Then, the Communists took Mrs. Chu's family to a rubbish heap about 10m from their house and killed them with rocks and bayonets.

The Communists dumped the mutilated bodies on the heap and made away with a few chickens and some rice and corn.

This was one of the many atrocities committed by the north Korean intruders against innocent and peaceful villagers on the East Coast of Korea.

It was on Nov. 2 that a large group of north Korean marauders, estimated at around 90, landed on the East Coast in Kangwon-do to sow the seeds of terror among the people of free Korea as part of north Korea's scheme to communize the whole Korean peninsula by force.

Thanks to timely and efficient sweeping operations by the military, police and Homeland Reserve Forces, most of the Communist bandits have been shot and several have been captured alive.

A handful of fleeing murderers are still hiding in mountains, trying to grab every chance to murder innocent villagers indiscriminately in their futile attempt to set up bases for guerrilla warfare.

The infiltration of about 90 North Korean armed bandits into the Republic of Korea was the second attempt this year to send large groups of thoroughly trained North Korean regular army officers for dreadful missions in the south.

As confessed by the captured North Korean intruders, their goals included such vicious missions as assassination, destruction of government offices and other important facilities, and the organization of the local populace to work for them once guerrilla bases had been set up.

All of these are in clear and evident violation of the Armistice Agreement with the United Nations Command.

In the first attempt this year, a command unit of 31 men in January came across the Demilitarized Zone through the section guarded by the Second U.S. Infantry Division.

The group managed to get into the capital city of Seoul, and was only 500m from the presidential residence at 10 p.m. Jan. 21, when they were intercepted by police.

One of the 31, Sin-jo Kim, was captured during the ensuing manhunt by combined forces of the military and police. Kim told the press that the assassination of the President of the Republic of Korea was their prime mission.

The two cases of infiltration of groups of regular army officers trained in guerrilla warfare proved that the northern puppet regime's policy towards the Republic of Korea has become even more belligerent than before.

The Communist north Korean premier, Il-sung Kim, is deliberately calculating that such a series of maneuvers his regime will upset and obstruct the political stability and economic progress of the Republic of Korea, and will apply braking pressure on Korea in her assistance to the Republic of Vietnam.

Some of the atrocious acts committed by North Korean armed intruders who came ashore on the East Coast of Korea on Nov. 2 will be described here.

VILLAGER SLAIN

On Nov. 2, an estimated 30 armed north Korean intruders, who entered a village in Puk-myon, Kyongsang Pukto, killed a visitor to the village by smashing in his head with stones and bayonetting him in the chest, abdomen and neck—at five different points.

The savage act was committed in the presence of all villagers apparently as a means of threatening them into supporting the Communist cause. Immediately after the murder, the Communist agents forced the villagers, which they brought together in a house at gun point, to sign up for membership in the Communist Labor Party.

The murdered civilian, identified as Byongdu Chon, was a visitor to the village. During the seven hours of atrocities, the infiltrators distributed a four-page pamphlet entitled the "Revolutionary Pledge" and ordered the villagers to recite it.

They also distributed counterfeit 100 won Bank of Korea notes, ordering them to use the money in places far from the village. It is presumed that the distribution of the bogus money was apparently aimed not only at soliciting cooperation from the villagers but also at disrupting the economic order in this country.

But the death-defying villagers, as it was discovered later, reported the barbarous acts by the north Koreans to a nearby police box as promptly as they could. The report prompted ROK task forces to stage a giant manhunt for the escaping marauders.

The villagers, in reporting the incident to the police, used a secret message, written on a small piece of paper. They delivered the message by a three-man relay to the police box which was almost 10km away. In so doing, the brave villagers had to hide the message in their socks and in a bundle of rice straw.

MAILMAN

In their attack on the mountainous village, the Communist marauders took a mailman named Tae-hi Kang away with them. Later the mailman was found stabbed to death in a nearby valley on Nov. 14.

The mutilated body of the 39-year-old mailman was covered with a layer of rocks. The Communists apparently used "bayonets and stones" in killing him, said his brother-in-law, who discovered the body.

Kang's body was found close to his mail bag and cap. But the bag, supposed to contain 40 pieces of undelivered mail, was empty. Investigators presumed that the Communist took the letters away.

The scene of the atrocity was about 100 km away from the spot where another civilian from the village of Pukmyon was murdered by the armed agents.

FARMER

Also on Nov. 14, ROK task forces sweeping the eastern coastal mountains stumbled upon the three bodies of a farmer and his family in the operation area near Samchok, Kangwon-do.

The dead were identified as Chan-sok Choe, a 80-year-old fire-farmer; his daughter-in-law Myong-sul Sim, 52; and his grandson Dong-hak, 15.

They were stabbed and beaten with stones by a band of escaping Communist north Korean agents who were intercepted along the East Coast.

The bodies were found near their home in the mountain area.

TWO LITTLE GIRLS

A group of some 20 Communist agents broke into an isolated farmer's house in Pyongchang-gun, Dec. 20. The farmer was identified as Won-sik Ko, 36.

The bandits bayonetted and clubbed to death Ko's family of six. Ko, who was away from home, at the time escaped the massacre.

Slaughtered by the marauders were Ko's father Yong-nin Ko, 62, mother Hak-yo, 60, wife, Ae-gi, 21; daughters, Sang-ok, 5, and Sang-gum, 3.

The Communist bandits dumped the bodies of two daughters into a nearby ditch, stripping them of clothes.

FAMILY MASSACRED

Five days later, on Nov. 25 another group of seven armed Communist agents entered the farm house of Pong-tae U, 26, in Yongwol-gun, killing four members of the farmer's family and injuring two others.

The bandits strafed with their submachine guns U's mother, Mrs. Ok-sun U, 50, his brother, Sang-gyu, 14, and his daughter, Yong-a, 3.

The Marauders kicked and trampled his wife Pun-nam, 22, and a baby she was holding in her arms, critically injuring them.

A REMEMBRANCE OF FRANKLIN DELANO ROOSEVELT

Mr. MONTOYA. Mr. President, as history rushes past us, we are often too involved in daily rigors to reflect upon the past. Yet it is that past that shapes our present and influences our future. Yesterday was the anniversary of the birthday of Franklin Delano Roosevelt, President of the United States. He was born on January 30, 1882, and died in the midst of the rush to a victory he was instrumental in shaping. He was a war casualty, who, after triumphing in peace, sought to insure that peace after deadly conflict at last ended.

I remember vividly the state of our Republic when Franklin Delano Roosevelt shot a thrill of hope through a despairing nation. Millions were hungry. Tens of millions were unemployed. Those palls of smoke over America's industrial cities were almost completely dissipated. Hunger stalked our American land. Fear stood beside the head of every household. Want was an ever-present companion. Violence then, as now, reared its head as an increasingly desperate country thrashed about for solutions.

Franklin Delano Roosevelt provided them. Men went to work. Experiments, not all successful, were tried. Public works projects came to the fore. The land revived. Chimneys smoked. The wolf was driven from our national door. America had room to breathe again.

Unions had the right to organize. Men had the right assured them to go on strike. Social security, real in Europe, opposed at home, became tangible instead of a hoped-for dream. Unemployment insurance and a hundred other reforms were institutionalized under the inspired leadership of Franklin Delano Roosevelt.

Compare it with the solution evolved by another national leader in another stricken nation. F. D. R. built for peace while Hitler prepared for war. F. D. R. led toward tomorrow as Hitler looked to yesterday. F. D. R. advanced human dignity as Hitler advocated human slavery.

Memories are short and pain fades under the mind's desire to suppress harsh

times. But the reforms that remade American society today are the cornerstones of our strength. They provided foundations upon which we have built.

When I studied here in this city for a law degree, I had the opportunity once to go to the White House as an employee. There for a moment I met Franklin Delano Roosevelt, and the memory is as green in my mind as the small plot in front of the National Archives is in spring.

It warms my heart to know that millions upon millions of those Americans he loved so dearly live in greater dignity and freedom because of what he accomplished. Small men have sought to diminish his stature. Their failure is as great as their motives were small. Franklin Delano Roosevelt grows in America's memories as our historical perspective deepens. He is remembered and revered. He shall never be forgotten or lessened in the esteem of those of his fellow countrymen who love his memory so much.

"ODE TO ALABAMA"—POEM IN HONOR OF ALABAMA'S SESQUICENTENNIAL YEAR

Mr. SPARKMAN. Mr. President, this is the State of Alabama's Sesquicentennial Year, and a great many special events are planned. In honor of the State, the Alabama Sunday magazine recently published a poem honoring the State of Alabama and its people. The poem was written by my friend, J. Mitchell Pilcher, of Montgomery, Ala. The poem follows:

ODE TO ALABAMA

When Alabama called her own,
Were our staunch patriots dismayed?
For Freedom, when they stood as one,
Were ever nobler ranks arrayed?

It was small wonder that the foe,
Broken, fell back before her might.
Against God's will what storms can blow,
What tyrant's power can conquer right?

Henceforth, Alabamians inspire
Nations and people to be free—
For Freedom's longing is the fire.
That lights our land with Loyalty!

TV STATEMENTS BY SENATOR BYRD OF WEST VIRGINIA ON CRIME, SURTAX, AND "PUEBLO" INQUIRY, JANUARY 29, 1969

Mr. BYRD of West Virginia. Mr. President, on January 29, 1969, I made statements for television regarding the Nixon administration and crime, the surtax, and the *Pueblo* inquiry.

I ask unanimous consent that the transcript of these statements be printed in the RECORD.

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

NIXON ADMINISTRATION

I hope that Mr. Nixon has read the mood of the people correctly. The country has had enough radical social programs to last it for some time to come. The people are tired of having every aspect of their lives directed from Washington. They are tired of paying more and more taxes and seeing more and more government waste. And they are completely fed up with crime, demonstrations, violence, and college insurrections. It is time to let the militant types, the black power revolutionaries, and the hoodlums and punks know that they are not going to get away with destroying the country. I think Mr. Nixon feels about the same way, and it is becoming increasingly clear that he intends to crack down on the criminals. And, if he does, I am all for it, because that is what I have been advocating for a long time.

BYRD FAVORS DROPPING SURTAX

For the average American family inflation is of growing concern. The average family is caught in a squeeze between rising prices, high interest rates, high federal, state, and local taxes, and a resultant decrease in purchasing power. The 10 percent surtax, which I voted against, has not had the effect it should have had because the federal government, at the same time it was raising taxes, has continued to fund huge new programs and projects, some of which are of doubtful value. The new administration will have an opportunity to review all spending programs, and hopefully it will recommend reductions in some outlays. I think some reductions could be made in the new budget and, as of now, I definitely favor dropping the 10 percent surtax this year.

THE "PUEBLO" CASE

The Pueblo incident was a sorry chapter in our naval history. But whatever one may think of Commander Bucher's surrender of his ship, and his admission of spying, one can hardly escape the feeling that higher echelons in the Defense Department should have to bear a large part of the responsibility for what happened. Of course, all the facts are not in. But certainly the Pueblo was ill-equipped to defend itself, and there is considerable doubt as to the necessity and the wisdom of the mission it was on. I think that the commanding officers for such missions in the future should be carefully screened and briefed, a destruct capability should be provided for sensitive equipment, and air defense should be in close communication and certainly near enough to render effective assistance. And, moreover, I believe that we should try to develop an intelligence-gathering technology which would render unnecessary dangerous naval missions of this type.

HUNGER IN AMERICA

Mr. McGOVERN. Mr. President, last year the Citizens' Board of Inquiry published a dramatic and generally excellent report entitled "Hunger, U.S.A." At about the same time, CBS sponsored a television documentary which focused the attention of the Nation on hunger and malnutrition in this country. Another excellent report by several women's groups on the national school lunch program made a further contribution to our understanding of food problems affecting our schoolchildren.

Investigations in Mississippi and hearings in Washington by the Senate subcommittee under the direction of former Senator Clark of Pennsylvania, and including the vigorous efforts of the late Senator Robert Kennedy, served to alert Congress, the administration, and the Nation to the seriousness of hunger problems in this country.

These reports, of course, were not without challenge from other groups, and a series of countercharges quickly developed.

Given this situation, I submitted a resolution to create a Select Committee on Nutrition and Related Human Needs. That committee was unanimously authorized by the Senate on July 30, and hearings are now going forward.

In the course of my preparation for these hearings, I have read a number of articles, studies, and reports on the problem of hunger. No one item has been more helpful than the excellent article by Elizabeth B. Drew, which was published in the Atlantic for December 1968. Mrs. Drew is the Atlantic's Washington editor and one of the really fine journalists in America today. Her article is a superb summary of the overall problem of hunger in the United States and some of its causes, and is an indication of the direction we should move to put an end to hunger. I strongly recommend the article to every Member of Congress and to interested citizens.

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

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

GOING HUNGRY IN AMERICA: GOVERNMENT'S FAILURE

(By Elizabeth B. Drew)

("I don't know, Orville," said Senator Robert Kennedy to the Secretary of Agriculture, "I'd just get the food down there. I can't believe that in this country we can't get some food down there." Others too will find it difficult to believe the facts revealed here about the failure of the Congress and the federal government to assure that millions of people in the richest, most bounteous land in the world are saved from malnutrition or starvation. This is the latest in a continuing observation of how government works—or doesn't.—By the Atlantic's Washington editor.)

From time to time during the past few years, there has come to public attention the jarring news that a great many Americans do not get enough to eat because they are too poor. The words "starvation," "hunger," and "malnutrition" have all been used to describe the phenomenon. Each of these conditions is difficult to isolate, or even describe, or to separate from related diseases, because there has been little scientific or official interest in the problem. Yet it is generally agreed, even among government circles, that, at a minimum, ten million Americans are malnourished, and some of these are chronically hungry, even starving, because they are poor.

In 1967, a group of doctors, including Robert Coles of Harvard University, Joseph Brenner of MIT, Alan Mermann and Milton J. E. Senn of Yale, and private practitioners from Yazoo City, Mississippi, and Charlotte, North Carolina, took a foundation-sponsored trip to Mississippi to investigate the problem and returned to tell the Senate Subcommittee on Poverty what they had seen:

"In Delta counties . . . we saw children whose nutritional and medical condition we can only describe as shocking—even to a group of physicians whose work involves daily confrontation with disease and suffering: In child after child we saw: evidence of vitamin and mineral deficiencies; serious untreated skin infestation and ulcerations; eye and ear diseases, also unattended bone diseases secondary to poor food intake; the prevalence of bacterial and parasitic disease, as well as severe anemia . . . in boys and girls in every county we visited, obvious evidence of severe malnutrition, with injury to the body's tissues—its muscles, bones, and skin as well as an associated psychological state of fatigue, listlessness, and exhaustion. . . . We saw children who don't get to drink milk, don't get to eat fruit, green vegetables, or meat. They live on starches—grits, bread, Kool Aid. . . . In sum, we saw children who are hungry and who are sick—

children for whom hunger is a daily fact of life and sickness, in many forms, an inevitability. We do not want to quibble over words, but "malnutrition" is not quite what we found. . . . They are suffering from hunger and disease and directly or indirectly they are dying from them—which is exactly what "starvation" means.

There is developing, moreover, a disturbing body of scientific information that indicates a connection between malnutrition in children, in particular insufficient protein, and brain damage. Seventy-five percent of the mental retardation in this country is estimated to occur in areas of urban and rural poverty.

The situation in the Mississippi Delta has been particularly acute because of unemployment as a result of mechanization, and among other things, other government programs: controlled planting, and a new one-dollar-an-hour minimum wage, which led many plantation owners to lay workers off rather than pay it. Mississippi's welfare program pays an average of $50 a month to a family with four children, but payments are made only if the wage earner is old or disabled or blind or has left his family. Thus there are thousands of families in the Delta with no jobs and no income.

There are two basic government programs which are intended to improve the diet of the poor—the sale of food stamps and the distribution of food. The local county chooses one or the other—or neither. Government officials point out that for some time every county in Mississippi has had one of the programs. In response to the reports that people still were not getting enough to eat, the Secretary of Agriculture said to the same Senate subcommittee: "They got some food because they were obviously walking around. I don't know where they got it."

For some time, in fact, it has been known within the government that the food programs had serious shortcomings, in the number of people being reached and in the form of the assistance. In addition, over the past year and a half or so, domestic hunger has been the subject of a great deal of publicity. A solution would not be all that expensive: government studies have indicated that adequate food distribution for everyone who needed it would cost between $1.5 billion and $2 billion more than the roughly half billion being spent on stamps and commodities now. (No one has calculated, in terms of illness and wasted and dependent lives, what it costs not to provide everyone with an adequate diet.) There were also short-range and less expensive actions that could have been taken to alleviate the mot severe distress. While it would be inaccurate to say that nothing was done, the response was slow, piecemeal, and, it often seemed, reluctant. More thorough responses, including a national commitment to see that no one was denied an adequate diet because of low income, were considered, and at several points they were almost made. Because of the impact on the lives, every day, of several million people, the reasons why they were not are worth exploring.

The food programs are run by the Department of Agriculture because they were begun not so much to help the poor as to dispose of embarrassing agricultural surpluses. Food packages are distributed once a month to the poor who live in counties which happen to want the distribution and are willing to pay for it. (Only recently, the federal government began to pay for the packages in a few of the poorest counties.) "But," Orville Freeman, the Secretary of Agriculture, has testified to Congress, "that doesn't mean that every person gets it, because a poor person who lives miles away from the distributing point where 100 pounds of food is made available for a month may very well (a) not even know about the distribution; (b) not be able to get there; and (c) not be able to carry it away." (One congressman replied: "I know dead soldiers who didn't miss out because they lived 10 miles from a recruiting office.")

The commodity packages have only recently approximated what even the Agriculture Department considers a "minimum adequate" diet, but the cheerful assumption is made that they are a "supplement" to a family's food supply. The commodity package has been periodically expanded, to the point where last summer, under public pressure, the Department announced that it would now contain some twenty-two items. The list is theoretical, however; whether the various items actually end up in the package depends on whether they are in sufficient supply and whether the local community elects to include them. It takes tolerance for tedium and some culinary ingenuity to make edible meals of the surplus packages, which until last summer consisted mainly of such things as flour, cornmeal, rice, dried peas, dried beans, bulgur. Formerly they contained thirty ounces of meat for each person for an entire month; now the packages are supposed to contain more meat, dried eggs, evaporated milk, canned chicken, canned vegetables, and some others. The wrapping is to be prettier, and recipes are to be supplied, although many of the recipients can't read.

The food stamp program, in which participants buy stamps which are worth more than the purchase price and use them to buy groceries, is preferred by just about everyone, including the local grocers. Long part of the Democrats' agenda, food stamps were started on a pilot basis in 1961, and were finally authorized by Congress three years later. The stamps are actually a form of income supplement, but that is not the sort of thing that is said out loud, and thus a great emphasis is always placed on how this, too, is to supplement a family's "normal" expenditure for food. It is difficult to divine just what was in the minds of the federal officials who worked out the details of how the food stamp program should work. Each month, a family may purchase a given amount's worth of stamps, depending on their income, in exchange for a given amount of bonus. Somehow, although people in general pay about 18 percent of their income for food, the poor, under the food stamp plan, are sometimes required to pay as much as 35 to 50 percent in order to obtain any stamps at all. If they cannot afford that because of the other demands on their income, or if they do not happen to have enough cash on hand on the day that the stamps are sold, they get no help at all. For example, after eight counties in Mississippi switched from commodity distribution to food stamps, some 32,000 fewer people were receiving food aid one year later. In Arkansas, of the 54,531 households on welfare in counties with the food stamp program, only 9700 buy the stamps. This is not peculiar to these states; while some 6 million people are estimated to be receiving either commodities or food stamps now—roughly 3 million under each program—it is seldom mentioned that six years ago even more people were being helped, albeit the great part by the inferior commodities program.

Another quirk is that the bonuses go up as the income goes up, so that the higher-income poor end up with more food than those at the bottom of the scale. The Agriculture Department explains that this is because it would not be wise to give those who are accustomed to being worst off too much too soon. In order to be certified as eligible for the program, families must run the gauntlet of the welfare agencies, many of which are not known for their sympathy toward Negroes. The food programs are sometimes used as an instrument of control: people who participate in civil rights activities or who are needed when it is time for the crops to be picked find that the programs are suddenly unavailable. In many areas, food prices go up on the day the stamps are issued.

When the uproar over these failings developed in 1967, the Agriculture Department made a study of the situation in Washington County Mississippi. It found, among other things, that more than half of those qualified to receive food stamps were not doing so. The investigators were not, however, greatly perturbed. "In general," they reported, "the study indicates that low-income households in this Mississippi Delta county accommodate themselves to a diet which low-income families elsewhere would reject. . . . It may be that low-income families place less value on food than we think."

The Department of Agriculture should not, in all fairness, be expected to demonstrate dazzling expertise in the needs and lifestyles of the poor. Its essential mission is to nurture the agricultural economy; the poor are somebody else's department. The typical employee in Agriculture has been there a long, long time. He may have come in with Henry Wallace, or he may have been a dirt farmer who was down and out during the Depression, got a government job measuring acreage, moved up through the ranks, and was promoted to Washington when he was in his fifties.

Nobody envies Orville Freeman his job; frequently described as "the worst one in town." Freeman's own official biography says it all: "He has been shot at not only by Congressmen, rural and urban, but also by consumers protesting food prices, farmers protesting farm prices, and dissidents of all job descriptions and all colors protesting food programs and poverty." Freeman is a liberal out of the Democratic-Farmer-Labor movement, where he was a three-term boy-wonder governor. From the time that John F. Kennedy appointed him in 1961, Freeman has probably stirred up less than the traditional amount of controversy for Secretaries of Agriculture. "The Administration wanted him to cultivate the farmers, not the poor or the civil rights crowd," said one of his associates. "His tendency, in the earlier years, when the subject of hungry people came up, was to look embarrassed and change the subject." When it could no longer be ignored, Freeman behaved like a man in a trap. Moreover, he could, and frequently did, claim with justification that during his tenure, through initiating food stamps and expanding food packages, an unprecedented amount had been done toward feeding the poor. His injured pride and his combative nature served to deepen his troubles.

Jamie Whitten, a fifty-eight-year-old congressman from Charleston, Mississippi, chairman of the subcommittee which provides funds for the Agriculture Department's programs and one of the most powerful members of the House of Representatives, does not believe that anybody in this country is unavoidably hungry, "except," he says, "when there has been parental neglect through drunkenness or mental illness. You're dealing with people who for some reason or other are in a condition of poverty. If they had the training and foresight of other people, they wouldn't be in poverty."

Whitten has installed a number of employees at the Agriculture Department, and there is little that Orville Freeman does that Jamie Whitten doesn't know about. Whitten expects Freeman to consult him before he makes any policy move, and Freeman has decided it is the better part of wisdom to do just that. The congressman is a skilled legislator, however, and knows better than to stand intransigently against the majority opinion of the House. He hasn't often, in fact, made significant cuts in the food stamp program's funds once the House has approved the program. Neither, if he doesn't like what

Freeman is doing, is he likely to cut into crop-support funds of such importance to the farm bloc. Whitten had denied money for work in the general area of rural poverty; Freeman is also anxious not to annoy Whitten to the point where he might cut funds which the Department lends to rural areas to build ski slides and golf courses that Freeman feels are important community programs. After a while, the relationship between a Cabinet officer and his House appropriations subcommittee chairman blurs beyond a rational if-I-do-this-he-will-do-that situation. "He simply becomes part of your thinking," says one former Cabinet officer. "He is an automatic part of all your decisions."

The House Agriculture Committee, which sets the policies for which Whitten's group then provides the money, is, to state it gently, disinterested in the poor. The committee's concerns are sheep scrapie and hog cholera and agricultural subsidies. The members of most committees see to it that the benefits of programs they preside over reach their constituents in full measure, but it is no accident that the home districts of a number of the Agriculture Committee members do not have food stamp programs. "These programs are not desired by the power structures back home," says one close observer, "and that's what elects them. The recipients of these programs don't vote."

The situation is similar in the Senate. In all cases, the Agriculture committees are almost entirely populated by representatives of Southern and Midwestern farm districts, with, in a Democratic Congress, the representatives of Southern landholders in charge. Senator James O. Eastland, for example, is the third-ranking member of the Senate Agriculture Committee and its most important determiner of cotton policy. Last year, the Eastland family plantations in Sunflower County, Mississippi, received $211,364 in subsidies. Despite the slipping popularity of the farm programs, and the increasing urban and suburban orientation of Congress, these men have enough seniority, and serve on enough other important committees, to make their influence felt. To the extent that the Agriculture Department budget is under attack, they try to keep the budget down by curbing the Department's noncrop programs. "Freeman decided as a matter of policy," says one of his former colleagues, "that he was not going to antagonize these men. He checked out appointments with them and went to enormous lengths to cultivate them socially. When the food issue came up and he got caught in his conspiracy with the Southerners on the Hill, his instinctive reaction was to deny that anything was wrong. After all, he was relying on memos from his staff, and they were defending themselves, too."

In April, 1967, the Senate Labor and Public Welfare Committee's Subcommittee on Employment, Manpower, and Poverty went to Mississippi. The subcommittee, headed by Senator Joseph S. Clark of Pennsylvania, was making a nationwide study of the poverty program, and since Senator Robert Kennedy was a member of the group, wherever it went, the press went too. At a hearing in Jackson, Mississippi, Marian Wright, an attractive, soft-spoken attorney for the NAACP's Legal Defense Fund, Incorporated, who had been working in Mississippi, talked about welfare, poverty, and the situation in the Delta. "They are starving," she concluded. "They are starving, and those who can get the bus fare to go north are trying to go north. But there is absolutely nothing for them to do. There is nowhere to go, and somebody must begin to respond to them."

Kennedy and Clark said they would take it to the Department of Agriculture when they returned to Washington. Senator George Murphy went them one better and said that the group should "notify the President of the United States that there is an emergency situation, and send investigators and help in immediately." On the following day, Clark and Kennedy toured the Delta. The cameras were not there when Robert Kennedy sat on the floor in one particularly fetid shack watching a listless child toy with a plate of rice, feeling the child's body, trying to get the child to respond, and trying to comprehend. Until then, the senators really had not known how bad, it was.

After they returned to Washington, all nine members of the subcommittee signed a letter to the President describing the situation as "shocking" and constituting an "emergency," and calling for specific Administration action. The White House, after trying not to receive it at all, bucked the letter to the Office of Economic Opportunity, which runs the poverty program, and OEO responded with a press release, its outlines dictated by the White House. The release said there was poverty in each of the senators' home states, too; that the crisis of poverty had been greater before Lyndon Johnson took office; that the Administration had started a lot of programs in Mississippi; that the Congress had cut funds for the poverty program; that "every recommendation in the letter by the Senators has the hearty concurrence of the administration," but there were some legal problems; and "we already know what needs to be done."

The senators' concern and the attendant publicity might, of course, have been seen by the White House as an opportunity to make major moves to correct the problem, just as it had made it a point to get out in front on any number of issues, such as auto safety or home ownership for the poor, raised in Congress. But this time the President was in no mood to be pushed. Neither he nor Freeman believed that the problem was as serious as Clark and Kennedy said, and both saw "politics" in the whole affair. (Department officials say that Clark and Kennedy were taken on a "pre-arranged" tour by "professionals.") The President knew that neither senator had influence with, in fact they had highly angered, the Agriculture establishment on Capitol Hill, and to the White House these were important people not to anger. When he did move, and it was not doubted that he would, it would be at a time and in a manner of his choosing.

The problem of malnutrition had, like most conceivable domestic problems, been put before a secret interagency task force by the White House the year before, as part of the preparations for the Administration's 1967 legislative program. The appointment of the task force, the task force was told, reflected the White House's deep conviction that every American should have an adequate nutritional diet. The task force, headed by Agriculture Department representatives, did not, in the view of the White House, provide sufficient information on either the dimensions of the problem or possible new approaches. Neither presidential aide Joseph Califano, who had hoped to be able to propose a food program, nor his new assistant, James Gaither, was familiar enough with the complexities of the food programs to ask the right questions. Therefore nothing of any consequence was proposed. Following the senator's letter, renewed efforts within the Administration to work something out devolved into angry disputes between OEO, particularly Director Sargent Shriver, who accused Agriculture of incapacity to deal with the problem, and Agriculture, particularly Freeman, who accused OEO of trying to damage their Department and take away the programs. It was a classic bureaucratic fight over turf.

There were two basic issues between the subcommittee and the Administration: the price of the food stamps, and the Secretary's authority to declare an emergency in the Delta and send in extra food. After several months of subcommittee pressure and after prodding by the White House and harassment by Shriver, the Agriculture Department did lower the price of food stamps for those with an income of less than $20 a month to 50 cents per person a month, with a maximum of $3 per family. (This buys $72 worth of food for a family of six, about half what the Department estimates such a family needs.) It also decided to charge all families only half the price in the first month. Prices could not be lowered generally until there was substantially more money for the program, a decision the President would have to make.

The Department resisted the argument that there were people with no income at all who should be charged nothing for their food stamps. For one thing, the Department thought that this was a problem in a small number of cases, and therefore not worthy of great concern. For another, the Secretary believed, as he told congressional committees on several occasions, that the poor could not be trusted with free stamps. "If you proceed, then, to have free stamps," he said, "and you give free stamps to everybody who wants them, what will happen to those stamps? Those stamps, I am afraid, in many cases will be bootlegged. That is what happened back in the 1940s and the 1930s, with the food stamp program. That destroyed the program. The food stamp program was discredited because those stamps became common currency for all kinds of things, from a wild party, to a beer party, to legitimate uses, to buy shoes." Another view of what ended the earlier program was the almost full employment during World War II.

The senators and others argued that the Secretary should have invoked his emergency power to send extra food to the Delta, using money from a special multipurpose fund (known as Section 32 for its place in an agriculture law), as he had used it to begin the food stamp programs and expand the commodity packages. The Department argued that it didn't really have the power (despite the precedents), that the money really hadn't been budgeted, that it would be bad precedent and administratively inefficient to distribute free food where there were already food stamps; and there was also that danger that if there were two programs the people might start bootlegging. There was also the problem that the Agriculture committees frown on such use of the money.

As the arguments tumbled forth at one private meeting, Kennedy looked at Freeman and shook his head. "I don't know, Orville," he said, "I'd just get the food down there. I can't believe that in this country we can't get some food down there."

Oddly, the one senator who took matters in his own hands and introduced a bill was John Stennis of Mississippi. The Stennis bill would have provided money for emergency food and medical programs, and required a government study of the true extent of malnutrition. (The government had made almost no studies of malnutrition in the United States; the Public Health Service had not seen that to be its concern. The Pentagon, wanting to know about the connection between malnutrition and defense preparedness of foreign countries, had sponsored several studies of nutrition overseas, and there were minor studies of the eating habits of Eskimoes and Indian tribes in the United States.)

The Stennis bill went through the Senate quickly. But his shrewd move to cut off talk about his state was not appreciated by the House Agriculture Committee, which let the bill die. Through other congressional routes, OEO was given $10 million in emergency food money and the Department of Health, Education, and Welfare was ordered to study the extent of malnutrition.

In September of 1967, in the only public statement on the issue he was to make for a

long time, President Johnson said that "we want no American in this country to go hungry. We believe that we have the knowledge, the compassion, and the resources to banish hunger and to do away with malnutrition if we only apply those resources and those energies." He ordered the Department of Agriculture to see to it that, one way or the other, every one of the thousand poorest counties in the nation had a food program. The Department said that there were 331 of those counties that did not, and, to give it a little of the old pizzazz, it embarked on "Project 331." As it turned out, it was a full year before each of the 331 was said to have a program, for the Department remained highly reluctant to fly in the face of tradition by using federal money and federal personnel to establish a program if the counties resisted. It was also concerned about what it felt was a bad precedent of having the federal government pay the full costs. In May of the following year, with the Poor People's Campaign beating at his door, Freeman finally announced that this would be done.

Extending the programs to more counties had nothing to do with improving matters for recipients, as in Mississippi. Since greater amounts of money were not committed, it also meant that other less poor counties that were on the waiting list for the food stamp program would have to continue to wait. Finally, sometime after Project 331 was under way it was discovered that Agriculture defined a "poorest" country as one with the lowest average income, rather than one with the largest number of poor people. Therefore, poor people who had the misfortune of living near too many rich people were out of luck. This covered more counties at less expense, and fewer people were helped.

The President's encouraging statement may have been prompted by the fact that by the fall of 1967 the White House had set up another secret task force, which once more reflected their deep conviction, they said, that every American should have an adequate nutritional diet. The task force, now headed by representatives of the Budget Bureau, reported that for another $1.5 to $2 billion and in relatively short time the government could provide that adequate diet to every American. Now, however, and for months to come, the Administration was locked in its fight to secure a 10 percent income surtax from Congress and Congress' demand that there be sustantial cuts in government spending in return. "I don't think anyone realizes how paralyzed we became by that fight," says one Administration official. "I don't think even we realized it." With the White House feeling under particular pressure to do something about the cities (the Detroit riot had just taken place), and with their own expertise tending in that direction, Califano's staff that fall concerned itself with devising new programs for jobs and housing. Whatever the limitations of these programs in terms of delayed spending, they at least represented a commitment and an effort at new approaches, which were not made on giving the poor sufficient food. Through it all, Mr. Johnson remained unconvinced that the problem was as serious as the critics said, reluctant to take the fight to the Hill, where he had enough problems, and annoyed that no one could tell him exactly how many people were going hungry. (No one knows exactly how many unemployed or how much substandard housing there is either.)

Moreover, there was now no great public pressure on the White House to act on hunger, as there was on behalf of the cities. During all of 1967 and 1968, only a small coterie made the issue a continuing preoccupation: Miss Wright; Peter Edelman of Kennedy's staff; William Smith of Clark's staff; and Robert Choate, a young businessman of some means who took a sabbatical to become a freelance, largely behind the scenes, and highly effective crusader on the issue. Of the enormous Washington press corps, only Nick Kotz of the Des Moines *Register* saw the hunger issue as worthy of continuing coverage, whether or not it was "in the news."

Of all the lobby organizations, only a few of the more liberal labor groups found the issue to be of even intermittent concern.

The Citizens Crusade Against Poverty, an organization with United Auto Workers backing, was the closest there was to a group with a fulltime concern. Early in 1968, it had established a Citizens Board of Inquiry, which published "Hunger, U.S.A.," a stinging indictment of the food programs. Around the same time, a coalition of women's organizations published a study of the federal school lunch program which could help children of the poor secure a better meal at least while they were in school. The women's groups found that of the 18 million children receiving free or reduced-price lunches under the program, only 2 million were poor; another 4 million poor children were not being helped. The Johnson Administration had tried to get Congress to restructure this so that less would go to the middle class and more to the poor, and Congress had adamantly refused. On May 21, CBS broadcast a powerful documentary called *Hunger in America*.

Several members of Congress reacted to all of this with outrage at the idea that anyone would charge that people in their areas were going hungry. Representative W. R. Poage of Texas, chairman of the House Agriculture Committee, wrote to county health officials, the very ones who would be most culpable, and asked if they personally knew of anyone in their county who was starving or seriously hungry. No, replied most of the health officers, and if the people were hungry it was mostly because they were lazy or ignorant. A few said the food programs were inadequate, but Poage did not emphasize that in his report to his colleagues.

The response of the politicians was understandable. More puzzling, in light of his professed zeal to get more done, were Freeman's own persistent attacks on the reports. Finding factual errors in the small (they didn't mention that grandma had a pension of $82-a-month), he condemned them in the large. The CBS telecast, he said, was "a biased, one-sided dishonest presentation of a serious national problem."

As the Poor People's Campaign, under the direction of the Southern Christian Leadership Conference, prepared for its March on Washington in the spring of 1968, strategists for both the SCLC and the federal government knew that, as always in these situations, there would have to be a governmental response which would enable the Campaign's leaders to make an honorable withdrawal from the city. First Attorney General Ramsey Clark, then the President himself asked the various government agencies to draw up a list of administrative actions—which would not cost money—which could alleviate some of the difficulties of the poor. A March on Washington by a grand coalition of white, black, brown, and red poor, who would encamp in the federal city, bringing their plight to the attention of the country, had been the idea of Martin Luther King. After Dr. King was assassinated, the leadership of the SCLC under Dr. Ralph Abernathy was in disarray. Goals and tactics became difficult to resolve. Miss Wright, who had moved to Washington, was placed in charge of the Campaign's dealings with the government agencies, and worked exhaustingly for weeks for a semblance of order and progress in the demands and responses. On the advice of Miss Wright and others, the Campaign leaders decided upon hunger as the central, most dramatic issue.

Now the issue was at its highest point of public attention. Most of the government agencies did what they could to respond to the marchers' demands. Agriculture, however, remained defensive. In the end, the Agriculture response consisted of promising to get a food program into each of the thousand counties—which the President had already done nine months earlier; making more commodities available for surplus distribution; regulations to improve the school lunch program; and improved food packages for infants and expectant mothers. Some Administration officials think the poor were not grateful enough.

As it happened, the major reason this response was so paltry was that the White House was preparing one on a grander scale for the President himself to present, probably in the form of a special message to Congress. It would have revised the entire food stamp schedule and perhaps lowered the cost to the very poorest to either nothing or a token amount; it would have expanded the size of the food programs so that many more areas could receive them; and it would have carried a commitment to build the programs over time, to the point where every American had an adequate diet. The Budget Bureau squirreled away some money to go with the message. The thought was that it would be delivered around the time of "Solidarity Day," on June 19, when thousands of others were to come to Washington to join the poor in a climactic march.

A number of reasons have been offered for why the President's Solidarity Day Message was never delivered: the mail in the White House was overwhelmingly against the Poor People's Campaign, and Resurrection City was out of control; Abernathy's final speech was likely to carry a stinging denunciation of the war in Vietnam; and the House of Representatives was going to vote at last on the tax bill the following day, and any move at that point by the President to increase government spending might jeopardize the long-negotiated compromise. The most important reason, however, was that the President simply did not want to be in the position of appearing to "respond to pressure." More startling to many was that after the poor had left town and the tax bill had passed, he still declined to move. He was focusing on the budget cuts that had to be made, annoyed at Freeman for getting out in front of him on the issue, still concerned at appearing to respond to pressure, and convinced that now that some legislation was moving on the Hill, it would be unseemly for him, the President, to appear to be running to catch up.

By this time, things were most uncomfortable for Freeman, and he began to press hard at the White House for help—belatedly, in the opinion of many. His friend Vice President Humphrey tried to help. First Humphrey offered his services as a mediator with the Poor People's Campaign, but the offer was rejected by the White House. Then the Vice President of the United States tried indirect means of communicating with the President. Humphrey wrote to Mrs. Arthur Krim, wife of the President's chief money raiser: "It is just intolerable to me that there is such a problem of malnutrition and undernourishment in the United States. . . . Through it all, there are ways the President could have helped—in approving some of Orville Freeman's budget requests, in supporting legislation on the Hill, and suggesting administrative change—but he has not. The thought came that you might be the person who could say a word or two to encourage him."

On Capitol Hill, a bill to expand the food stamp program was moving forward. Originally an Administration request to make a minimal expansion of $20 million (over the $225 million already authorized), under pressure from urban liberals, who threatened to retaliate against a farm bill that was also in the mill, the bill ultimately authorized the program to grow by $90 million in the first year and more after that. After endorsing a substantial increase in the program, Freeman was reprimanded by both

Poage and the White House, but when an increase seemed probable, the White House joined in. More spending for the school lunch program was approved, and a special Senate committee was established to "study" the food problem, with a view to trying to maneuver the food programs away from Agriculture committees.

In the very last days of the congressional session, with the President about to make a routine request for additional funds for various agencies that had fallen short of funds, the machinery around the government—in the Agriculture Department, in the Budget Bureau, in his own staff—geared up once more for a presidential request for more funds for food stamps and a major statement on the issue. Instead, he simply requested the $90 million and in the closing rush Congress gave him $55 million. Wait, it was said, for his farewell messages in 1969.

The failure of the Johnson Administration to make substantial progress toward feeding the poor is viewed by many as its most serious domestic failure. It is the cause of disappointment and even anguish on the part of many people within the government. Orville Freeman, for one, professes himself satisfied: "Everything I suggested from the beginning that should be in Lyndon Johnson's program, or damn near it, I have gotten. If he had gone up to Congress with a big feeding program like a bull in a china shop he'd have been under fire, and what would he have gotten? Some newspaper accolades and plaudits in some liberal magazines and trouble with Congress."

The food issue is an unhappy example of a great deal that can go wrong in Washington. It is also an example, however, of the dangers of the latest fad of "local control." The food programs are examples of programs that are subject to local control—the local governments request, pay for, and run them—with the result that those areas which are least responsive to the needs of the poor can also deny them federally proffered food.

The problem is not nearly so insoluble as the events of the past two years would suggest. First of all, given enough money and flexibility, it is generally agreed the food stamp program is not at all a bad device. Choate, for one, suggests that in addition the program be federalized and computerized, to work as automatically and without continual harassment for the recipient as social security. He and a number of others believe that ultimately the food programs ought to be recognized as income supplements and become part of an income maintenance system. That, however, seems a long way off. When asked by the space agency, the food companies have found ingenious ways to pack meals for astronauts in Tootsie-Roll-sized bars or toothpaste-sized tubes. The Pentagon seems to have no trouble keeping the troops in the field well nourished. There are problems of tastes and habits to meet, but if the food industry were less apprehensive about change, or did less cohabiting with the farm bloc in that great combine they call "agribusiness," a lot more could be done to feed the poor efficiently and inexpensively. The food companies have lately shown more interest in exploring this field—with government subsidies, of course.

Yet so little was accomplished not because of mechanical or industrial failures, but because of what can happen to men in policy-making positions in Washington. When they stay in a difficult job too long, they can be overwhelmed by the complexity of it all, and they become overly defensive. Man's pride, particularly the pride of a man who can tell himself he has done some good, can overtake his intellectual honesty. Thus, not Southern policians, not Orville Freeman, not Lyndon Johnson can face the fact when it was pointed out that many people were hungry, that they weren't wearing any clothes. In this they reflected a national trait: it has been easier to stir sustained national concern over hunger in Bihar or Biafra than places at home for which we are more directly responsible. The problems are looked at in terms of the workings of Washington, not in terms of the problems. Decent men could sit and discuss statistical reliability and administrative neatness and the importance of good precedents while people went hungry.

The niceties of consensus politics were more important than the needs of some 10 million people. A new Congress and a new Administration ought to be able to improve on that kind of government.

THE IRAQI EXECUTIONS

Mr. HARRIS. Last Wednesday, Mr. President, the senior Senator from New York (Mr. JAVITS) presented a statement on behalf of himself and 13 other Senators, denouncing the Iraqi executions which have so stirred public indignation throughout the world.

Through inadvertence, I did not indicate to the Senator my desire to be associated with his remarks. I wish to do so at this time and ask unanimous consent that the statement be printed in the RECORD.

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

SENATORS DENOUNCE IRAQ EXECUTIONS

The show execution before a half million spectators in Baghdad today is not a single incident but the culmination of the bitter persecution of some 2,500 Iraqi Jews, the last small remnant of a once thriving community dating back to Babylon which asks now but to be left alone and live in peace with its neighbors. The concern expressed by Secretary of State Rogers and Secretary U Thant over the mass public executions of Jews and others in Iraq reflect, I believe, the abhorrence felt by the civilized world at such foul deeds. Even now the Iraqi have yet another opportunity to show some human compassion in the eyes of the civilized world by permitting the relatively few remaining Iraqi Jews to emigrate to freedom rather than to remain in a land where their freedom to work, to communicate and to move about is denied and where the very lives of those who remain are so threatened. The people of Iraq must know that the conscience of all mankind cannot be affronted by such bloody deeds with impunity for very long! The voices of anguish from within Iraq will be heard.

NOT DISCRIMINATING BECOMES NOT ENOUGH

Mr. FANNIN. Mr. President, I have had a continuing interest in the enforcement procedures of our Federal agencies in the field of equal employment opportunity. It has come to my attention that during the last week he was in office Secretary of Labor Wirtz signed an order barring from prime contracts or subcontracts a company which was found innocent by the OFCC of discriminating against either applicants or its employees, but which had failed to "actively seek" minority group job applicants. This matter is the subject of an article entitled "Not Discriminating Becomes Not Enough," published in the January 11 issue of Business Week. Mr. President, I ask unanimous consent that the article and several related items be printed at the conclusion of my remarks.

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

(See exhibits 1, 2, and 3.)

Mr. FANNIN. Mr. President, I became interested in this matter last summer when a notice of hearing regarding breach of contracts for the Allen-Bradley Co. was printed in the Federal Register. The notice stated that "the allegation on which the Director's proposed action is based are as follows" and, following a rundown of the company's place of business and so forth, the Director states:

In 1960, the City of Milwaukee had a population of 741,324, of whom 62,458 were Negro. The estimated present population of the city of Milwaukee is 776,000, of whom 87,000 are estimated to be Negro. Respondent's present workforce is approximately 6,800 of whom 32 (less than one-half of one percent) are Negro. Respondent's plant is located approximately 2 miles from the nearest Negro residential community. Public transportation is available to the door, and the facility is located near a major bus transfer point.

Mr. President, title VII, section 703 of the Civil Rights Act of 1964 states:

No employer shall be required to . . . grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

Because of this explicit language in the statute prohibiting the use of quotas or percentages in the determination of employment bias, on July 29 I wrote to the Director of the OFCC asking for clarification. The Director replied in his letter dated September 10, approximately a month and a half later, that the purpose intended in using population ratios and minority utilization figures in the notice of hearing was "to provide factual information against which specific violations will be considered. Admittedly, statistics are only rough guides to reality, but we do not believe that they can be dismissed as irrelevant and certainly can be used to raise questions which require further investigation."

Mr. President, the best legal minds in this country prohibited by law the use of statistics as a "guide to reality," as Mr. McCready poetically calls employment discrimination.

In addition, the notice included as a violation the utilization of hiring standards "including preemployment tests which have the effect of discriminating"—and I repeat—"the effect of discriminating against Negro applicants for employment because of their race or color."

Again I must refer to the Civil Rights Act of 1964, which states in section 703:

It shall not be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, etc.

I am familiar with the "rule of thumb" used by the OFCC and other Federal agencies in the area of testing. They reason that if a member of the minority fails an ability or preemployment test, the test discriminates by virtue of its effect—regardless of the employer's intent.

I have not seen Allen-Bradley's preemployment tests, and I am not in a position to comment on them. I have seen, however, the rules for "validation of employment tests by contractors and subcontractors subject to the provisions of Executive Order 11246," which according to the OFCC represents policy guidance for Government agencies and contractors in this area. I will not take the time to read this order to my colleagues except to offer this simple language for minimum validation:

For the purpose of satisfying this order, empirical evidence in support of a test's validity must be based on studies employing generally accepted procedures for determining criterion-related validity, such as those described in the American Psychological Association's "Standards for Education and Psychological Tests and Manuals." (Evidence of content or construct validity may also be appropriate where criterion-related validity is not technically feasible, but it should be accompanied by sufficient information from job analyses to demonstrate the relevance of the content in the case of job knowledge or proficiency tests or the construct in the case of trait measures.)

I am sure that contractors dealing with the Federal Government will find these guidelines a great boon in determining whether or not their tests discriminate. I might also add that the OFCC has promised to issue, and perhaps already has, specific guidelines concerning test usage.

As a result of the hearings in Milwaukee conducted by the OFCC, Allen-Bradley was cleared of the charges of discrimination against either applicants or employees, according to the article in Business Week. The panel did find, however, that it was not actively seeking minority group job applicants and thereupon suggested an "action program" designed to broaden its recruitment base. In so doing, however, the company must, as directed by the panel, "avoid any implication of quota or preferential hiring based on race." Thus, the OFCC may use quotas as its "guide to reality" but it directs the company to "avoid any implication of quota or preferential hiring."

A question also arises as to who will finance this broadened recruitment program where the employer is required to seek out additional ways of entreating minority groups to apply for employment?

Despite the panel's finding that the company has not discriminated against applicants or employees, former Labor Secretary Willard Wirtz signed an order designed to bar the Allen-Bradley Co. from prime contracts or subcontracts with the Federal Government which, according to the article, will run about $25 to $30 million a year. As the title of this article indicates—not discriminating becomes not enough.

There can be no doubt, Mr. President, that the OFCC has completely ignored the legislative guidelines established by Congress and has, in fact, flouted the law in its overzealous attempts to fulfill its mission. It is my feeling that this agency should be made to follow the legislation enacted by Congress for this very purpose or be abolished and its functions transferred to another office which can. In this connection, I am considering proposed legislation for this purpose.

EXHIBIT 1

[From Business Week, Jan. 11, 1969]

NOT DISCRIMINATING BECOMES NOT ENOUGH

(NOTE.—Federal panel in case involving Allen-Bradley Co. rules employer with government contracts must actively seek minority workers. Decision should cost millions of dollars in contracts.)

Employers charged with discriminatory hiring are going to have to do more than agree to end bias in employment; they also must try to increase the number of minority group applicants—and so increase nondiscriminatory hiring—by recruitment policies and advertising aimed at minorities.

To enforce this government policy—first laid down in an executive order in September, 1967, and made explicit in regulations adopted last year—the government is on the verge of ordering federal procurement agencies to cancel purchase contracts with the Allen-Bradley Co., Milwaukee, and bar additional orders to the company.

Such a drastic step follows formal hearings held in Milwaukee by a three-man panel which found that Allen-Bradley's "failure to take some affirmative action to broaden its recruitment base and increase the flow of minority applicants was . . . a violation of the "equal opportunity clause."

The panel warned, in effect, that employers can't defend their hiring practices simply by arguing that few minority workers are employed because few apply for jobs.

Allen-Bradley has filed exceptions to the panel findings with the Office of Contract Compliance in Washington. The company contends that the panel erred in concluding that the equal opportunity clause of Executive Order 11246 requires more than "effective nondiscrimination." The company argues that the panel's conclusion that A-B must "take some action designed to broaden its recruitment base" goes beyond the intent and legal force of the order under which the panel must operate.

BARS PLANNED

Nevertheless, Labor Secretary W. Willard Wirtz had before him at midweek an order to all government agencies designed to bar A-B from prime or sub-contracts said to run about $25-million to $30-million a year.

If, as expected, Wirtz signs the order, only products "essential to the national security" could be bought from Allen-Bradley—items for which the company is the only source, on which another source would be unable to get into production fast enough, or which are protected by patents held by the company.

Labor Dept. aides say there's no thought of leaving the decision to incoming Labor Secretary George P. Shultz. And they hint that A-B wouldn't get off any easier if the order were to be delayed.

HEARINGS END

The action that appeared imminent at midweek followed final hearings in Milwaukee to determine whether the company is complying with the "equal opportunity" clause which must be included in all government contracts.

This clause says that "the contractor . . . will take affirmative action to make sure" that job applicants are employed and treated during employment equally, without regard to race, creed, color, or national origin.

Among its conclusions, the three-man panel headed by Professor Bernard J. Meltzer of the University of Chicago Law School found there was no evidence that the company "overtly discriminated" in its hiring.

However, the panel called the company's "failure to take affirmative action to broaden the recruitment base and increase the flow of minority applicants" a violation of the equal opportunity clause in federal contracts.

The decision in the A-B case, if it stands, could become important precedent. A Labor Dept. spokesman called the case a "landmark," and industry generally was watching developments in it closely—and in some instances angrily, as an encroachment on management.

One major employer, Bethlehem Steel Co., is particularly concerned; it is involved in a case that is about to enter final hearings.

Timken Roller Bearing Co., B & P Motor Express, Inc., and Pullman, Inc., other companies that initially bucked the government's contract compliance program, have moved to give in to the government's enforcement pressures instead of fighting to the end.

OBJECTIONS

Allen-Bradley was "pleased with the finding which clears [it] of any charges of discrimination against either applicants or employees," according to George Megow, executive vice-president. But the manufacturer of motor controls and electronic components filed objections to the finding that it wasn't actively seeking minority group job applicants.

In early November, said Megow, A-B inserted ads in two local Negro newspapers as well as the Milwaukee Journal to call attention to general factory and office employment openings. The display ads "were among the first we have ever scheduled for general employment purposes," Megow said. Before A-B got entangled in charges and pressures based on its hiring policies early last year, it frequently filled jobs through employee recommendations.

Milwaukee civil rights groups—Negro and Latin American—charged that through the years this practice perpetuated what was virtually white-only employment.

PRACTICE ENDED

The panel found that prior to formal hearings on the charges, the company had ended its frequent reliance on employee referrals to fill job openings.

Further, it agreed that A-B had revised employment standards and some other restrictive hiring policies. For instance, it relaxed requirements of Wisconsin residency and a high school diploma and opened the gates to those who have passed vocational school general education development tests.

But the panel said that A-B must do even more. It suggested that in filling jobs the company make use of such agencies as the Wisconsin State Employment Service, the Milwaukee Inner City Development Project, the Congress of Racial Equality, the Negro-American Labor Council in Milwaukee, the Urban League, and the Youth Council of the National Assn. for the Advancement of Colored People. A-B says it contacted the Urban League but that it's "not certain" that the league sent any jobseekers.

Further, the panel said that while it didn't have enough information to develop "an action program" for A-B, the company and the federal compliance office should consider as adequate a program that would tend to:

Increase the flow of minority group job applicants.

Advise minority groups of its nondiscriminatory policies.

Remedy A–B's "image among Negroes."

Avoid excessive costs for A–B.

Avoid increases in racial tensions by not implying there are job openings for minority applicants when none actually exists.

Avoid any implication of quota or preferential hiring based on race.

The panel urged A–B to make a "clear public announcement" that it has discontinued its reliance on referrals by employees; that it place recruitment ads in general media which read substantial numbers of Negroes and others, and that it also place ads in "primarily Negro media," and that A–B should utilize "schools serving substantial numbers of Negroes." These guidelines could be precedent.

ENOUGH?

Milwaukee civil rights spokesmen have mixed feelings about the panel's decision. Some are encouraged; others say they still aren't pleased—and that "action against Allen-Bradley" is possible in the spring.

Civil rights activist Father James E. Groppi of St. Boniface Catholic Church in the city's inner core said, "The federal report says Allen-Bradley is guilty of a violation of contract but not of overt acts of discrimination. I would question this finding. Negroes make up less than 1% of A–B's work force.

"We're waiting to see what the government will do now. We're not pleased with the situation at Allen-Bradley, and we're not going to put up with it."

But Armando Orellana, president of the Milwaukee Latin-American Union for Civil Rights, which demanded preferential hiring by A–B in proportion to the minority ratio in the Milwaukee population, said: "We consider the ruling . . . a victory for the Latin American people. We are encouraged. More Latin Americans are working for Allen-Bradley. Before this fall, 14 were employed. Now 38 are."

Orellana's group met with the company in October to ask that Spanish Americans (5% of Milwaukee's population) make up at least 5% of the A–B work force, and that the company train and hire 100 Spanish Americans a year.

Allen-Bradley balked at "any hiring quotas or training programs" but agreed to give special consideration to minority applicants equally qualified for jobs.

EXHIBIT 2A

JULY 29, 1968.

EDWARD SYLVESTER,

Director, Office of Federal Contract Compliance, U.S. Department of Labor, Washington, D.C.

DEAR MR. SYLVESTER: Reference is made to the Federal Register of Tuesday, July 23, 1968, Vol. 23, No. 142, beginning on page 10478, relating to Notice of Hearing Regarding Breach of Contracts for the Timken Roller Bearing Company and the Allen-Bradley Company. As a member of the Senate Labor and Public Welfare Committee, I am somewhat familiar with the activities of the Equal Employment Opportunity Commission established under title VII of the Civil Rights Act of 1964. I am also aware that there are a number of other offices, bureaus, and agencies active in the area of equal employment opportunity.

Although I know that your office exists and operates under Executive Order No. 11246, I feel that the provisions of title VII of the Civil Rights Act have some application to your operations. For this reason, I am at a loss to understand the purpose of paragraph III (a) and (b) of the Notice and I would appreciate your clarifying for me just what your Office has in mind in setting forth these ratios. As you know, section 703(j) of the Civil Rights Act of 1964 provides that no employer shall be required to: ". . . grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number of percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area."

Specifically, my questions are:

1. Was this ratio listed in order to give the impression that the low ratio of Negroes was itself contrary to law? If not, was reference made to this proportion in order to establish a background for other violations?

2. It is the position of the Office that the provisions of the Civil Rights Act or any part thereof applies to your Office? If not, do you give any consideration to or feel bound by the expression of intent by the Congress in this statute? Do you feel that the President's Executive Order supersedes the statute by way of preemption and in effect gives the Executive broader authority than Congress legislated?

3. Do you not think that referring to racial ratios or imbalances in effect requires an employer subject to the Act to violate this statute?

As I indicated, I am aware that your Office operates in a number of areas and with many of the agencies in this field. I would appreciate your furnishing me with a complete list of the programs in which your office is involved and the departments or agencies which administer these programs.

Your early attention to these matters will be most appreciated.

With kindest regards,

Sincerely,

PAUL FANNIN,
U.S. Senator.

EXHIBIT 2B

[From the Federal Register, July 23, 1968]

TIMKEN ROLLER BEARING CO.—NOTICE OF HEARING REGARDING BREACH OF CONTRACTS

(Department of Labor, Office of Federal Contract Compliance, Docket No. 100–68; Executive Order 11246)

The Director of the Office of Federal Contract Compliance, U.S. Department of Labor (hereinafter the Director), having reason to believe that the provisions of the contracts referred to herein have been breached, having given Respondent notice of proposed termination of existing contracts and determination of contract ineligibility under the authority of Executive Order 11246, 30 F.R. 12319 (1965) and the rules and regulations pursuant thereto, 41 CFR Part 60–1, and Respondent having requested a hearing on said proposed actions, hereby sets the matter down for a hearing to be conducted in accordance with rules of procedure which are available at Room 4136, U.S. Department of Labor, Washington, D.C., and which specify the terms on which others may participate.

The allegations on which the Director's proposed action is based are as follows:

I. Timken Roller Bearing Co. (hereinafter the Respondent) is an Ohio corporation, maintaining its principal office in Canton, Ohio. It maintains production facilities in Canton, Ohio, and Columbus, Ohio, where it manufactures tapered roller bearings, steel and steel tubing, and engages in maintenance and repair of railroad rolling stock.

II. (A) At all times pertinent hereto, Respondent has regularly contracted and continues to regularly contract with departments and agencies of the U.S. Government.

(B) Pursuant to the requirements of section 202, Executive Order 11246, 30 F.R. 12320 (1965) (and the corresponding section of preceding Executive orders), the contracts between Respondent and the U.S. Government contain an "equal opportunity clause" in the form attached hereto as Exhibit A. This "equal opportunity clause" provides in part: "(1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, creed, color, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship."

III. (A) In 1960, Columbus, Ohio, had a population of 471,316, of which approximately 77,140 were Negro. In 1960 Canton, Ohio, had a population of 113,631, of which approximately 11,055 were Negroes.

(B) Respondent employs approximately 14,646 persons of whom approximately 1,123 are Negroes. Of approximately 1,857 persons employed as officials, managers, professionals, technicians, and sales workers, approximately 10 are Negroes. Of approximately 1,565 office and clerical workers approximately 41 are Negroes. Of approximately 3,800 skilled workers, approximately 108 are Negroes.

Over one-third (446) of the 1,123 Negroes employed by the Respondent are assigned to unskilled labor or service jobs. Only one-sixth of the white workers are assigned to such jobs.

IV. Since March 6, 1961, Respondent has violated, and continues to violate its contracts with agencies and Departments of the Federal Government. These violations include:

(a) Discriminating against Negroes in the recruitment, selection, and employment of officials and managers, professionals, technicians, sales workers, and office and clerical workers, apprentices, and other trainees.

(b) Engaging in employment practices which favor white applicants and discriminate against Negroes by preferential hiring and assignment of whites without regard to qualifications while placing stringent requirements upon Negroes who apply for employment or assignment in the same or similar jobs, units, or departments, such practices have resulted in the concentration of Negro employees in less desirable jobs.

(c) Employing transfer procedures and seniority regulations which limit the ability of Negro employees to gain access to the more desirable jobs, units, and departments because of loss of seniority, and loss of pay and other benefits. Such procedures and regulations perpetuate the effects of racially discriminatory employment and assignment practices.

(d) Failing to take affirmative action to ensure that persons are recruited, hired, and treated during employment without regard to their race or color.

V. The Government has made reasonable efforts to secure compliance by the Respondent with the "equal opportunity clause" by methods of conference, conciliation, mediation, and persuasion. These reasonable efforts include numerous conciliation meetings between Respondent and the Department of Defense since 1964, including an informal hearing on February 27–28, 1968, in Washington, D.C., attended by Respondent's officials and representatives of the Office of Federal Contract Compliance and the Department of Defense. At that time, as in the past, Respondent failed and refused to take adequate steps to eliminate the conditions described in paragraph IV of this notice.

Wherefore, the Secretary of Labor has designated as the Panel to hear and deter-

mine this matter in accordance with the rules of procedure, heretofore referred to,

Mr. Harold Summers, Associate Chief Trial Examiner, National Labor Relations Board, Room 852, Washington, D.C. 20570, Chairman.

Mr. Dallas Young, Western Reserve University, 332 Newton Baker Building, Cleveland, Ohio 44105.

Mr. Jack G. Day, 1748 Standard Building, Cleveland, Ohio 44113.

and to recommend to the Director whether,

(a) Pursuant to section 209(a)(5) of Executive Order 11246, the Director shall cause to be terminated all existing contracts or any portion or portions thereof which the Respondent holds with agencies and departments of the Federal Government and all subcontracts as defined in 41 CFR 60-1.2(k); and

(b) Pursuant to sections 202 and 209(a)(6) of Executive Order 11246 and 41 CFR 60.127(b), the Director shall declare the Respondent ineligible for further contracts, subcontracts, and extensions of existing contracts or subcontracts until the Respondent has satisfied the Director that it has established and will carry out personnel and employment policies in compliance with the provisions of Executive Order 11246; and

(c) Other appropriate action authorized by section 209 of Executive Order 11246 shall be taken.

The Hearing will be convened at 9:30 a.m., on August 27, 1968, at Conference Room B, Interstate Commerce Commission Building, Constitution Avenue NW., Washington, D.C.

This notice has been signed and issued pursuant to 41 CFR 60-1.26(b) and 60-1.27 at Washington, D.C., this 16th day of July 1968.

WARD MCCREEDY,
Acting Director, Office of Federal Contract Compliance.

Exhibit A

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimation clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States. Executive Order 11246, § 202 (30 F.R. 12319 (1965)).

[F.R. Doc. 68-8725; Filed, July 22, 1968; 8:46 a.m.]

ALLEN-BRADLEY CO.—NOTICE OF HEARING REGARDING BREACH OF CONTRACTS

(Docket No. 101-68; Executive Order 11246)

The Director of the Office of Federal Contract Compliance, U.S. Department of Labor (hereinafter the Director), having reason to believe that the provisions of the contracts referred to herein have been breached, having given Respondent notice of proposed termination of existing contracts and determination of contract ineligibility under the authority of Executive Order 11246, 30 F.R. 12319 (1965), and the rules and regulations pursuant thereto, 41 CFR Part 60-1, and Respondent having requested a hearing on said proposed actions, hereby sets the matter down for a hearing to be conducted in accordance with rules of procedure which are available at Room 4136, 14th and Constitution Avenue, Washington, D.C., and which specify the terms on which others may participate.

The allegations on which the Director's proposed action is based are as follows:

I. Allen-Bradley Co. (hereinafter the Respondent) is a Wisconsin corporation, maintaining its principal office and principal facility at 1201 South Second Street in the city of Milwaukee, Wis., where it is engaged in the manufacture of motor controls, electronic components, ferrite products, and ceramics.

II. (A) At all times pertinent hereto, Respondent has regularly contracted and continues to regularly contract with departments and agencies of the U.S. Government.

(B) Pursuant to the requirements of section 202, Executive Order 11246, 30 F.R. 12320 (1965) (and the corresponding section of preceding Executive orders), the contracts between Respondent and the U.S. Government contain an "equal opportunity clause" in the form attached hereto as Exhibit A. This "equal opportunity clause" provides in part: "(1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, creed, color, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship."

III. In 1960, the city of Milwaukee had a population of 741,324, of whom 62,458 were Negro. The estimated present population of the city of Milwaukee is 776,000, of whom 87,000 are estimated to be Negro. Respondent's present work-force is approximately 6,800, of whom 32 (less than one-half of 1 percent) are Negro. Respondent's plant is located approximately 2 miles from the nearest Negro residential community. Public transportation is available to the door, and the facility is located near a major bus transfer point.

IV. Since March 6, 1961, Respondent has violated, and continues to violate its contracts with agencies and departments of the Federal Government by discriminating against employees and applicants for employment because of their race or color, and by failing or refusing to take affirmative action to ensure that persons are recruited, hired, and treated during employment without regard to their race or color. These violations include:

(a) Respondent, as its primary source of employees, relies and for many years has relied upon the referral by its employees of their friends and relatives and upon its reputation as a desirable employer. Respondent disseminates and for many years has disseminated information about job opportunities almost entirely through its employees. Since Respondent's workforce is and for many years has been over 99 percent white, knowledge of new job opportunities is and has been almost entirely limited to the white community, giving the white community a preference to and denying Negro persons equal access to jobs at Respondent's facility;

(b) Respondent gives, and for many years, has given preference to relatives and friends of present employees in the filling of job vacancies, and as over 99 percent of its workforce is and has been drawn from the white community, Respondent thereby engages in a hiring practice which has the effect of discriminating against Negro persons;

(c) Respondent utilizes hiring standards, including preemployment tests, which have the effect of discriminating against Negro applicants for employment because of their race or color; and

(d) Respondent has failed or has refused to utilize employment sources which primarily serve the Negro community and to take other action to dispel its image in the Negro community as an employer which discriminates against Negro persons on the basis of race and color, which image discourages the referral of Negro applicants to and discourages Negro persons from applying for employment with Respondent and thereby denies to them equal employment opportunity with Respondent.

V. The Government has made reasonable efforts to secure compliance by the Respondent with the "equal opportunity clause" by methods of conference, conciliation, mediation, and persuasion. These reasonable efforts included numerous conciliation meetings between Respondent and the Department of Defense since 1964, including a conference on April 4, 1968, in Washington, D.C., attended by Respondent officials and representatives of the Office of Federal Contract

Compliance and the Department of Defense. At that time, as in the past, Respondent failed and refused to take adequate steps to eliminate the conditions described in paragraph IV of this notice.

Wherefore, the Secretary of Labor has designated as the Panel to hear and determine this matter in accordance with the rules of procedure heretofore referred to,

Professor Bernard Meltzer, University of Chicago Law School, 1121 East 60th Street, Chicago, Ill. 60637, Chairman.

Mr. Boyd Leedom, Trial Examiner, National Labor Relations Board, Room 419, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

Mr. Philip G. Marshall, Attorney at Law, 110 East Wisconsin Avenue, Milwaukee, Wis. 53203.

and to recommend to the Director whether,

(a) Pursuant to section 209(a)(5) of Executive Order 11246, the Director shall cause to be terminated all existing contracts or any portion or portions thereof which the Respondent holds with agencies and departments of the Federal Government and all subcontracts as defined in 41 CFR 60–1.2(k); and

(b) Pursuant to sections 202 and 209(a)(6) of Executive Order 11246 and 41 CFR 60–1.27(b), the Director shall declare the Respondent ineligible for further contracts, subcontracts, and extensions of existing contracts or subcontracts until the Respondent has satisfied the Director that it has established and will carry out personnel and employment policies in compliance with the provisions of Executive Order 11246; and

(c) Other appropriate action authorized by section 209 of Executive Order 11246 shall be taken.

The Hearing will be held at 9:30 a.m., on August 20, 1968, in Room 498, the U.S. Courthouse and Federal Building, 517 East Wisconsin Avenue, Milwaukee, Wis.

This notice has been signed and issued pursuant to 41 CFR 60–1.26(b) and 60–1.27 at Washington, D.C., this 16th day of July 1968.

WARD MCCREEDY,
Acting Director, Office of Federal Contract Compliance.

Exhibit A

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States. Executive Order 11246, § 202 (30 F.R. 12319 (1965)).

[F.R. Doc. 68–8726; Filed, January 22, 1968; 8:46 a.m.]

EXHIBIT 2C

U.S. DEPARTMENT OF LABOR, OFFICE OF FEDERAL CONTRACT COMPLIANCE,
Washington, D.C., September 10, 1968.

Hon. PAUL J. FANNIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FANNIN: This is in response to your recent letter in which you raised certain questions regarding the relationship of Executive Order 11246 and Title VII of the Civil Rights Act of 1964, and inquire about certain practices in the administration of the contract compliance program.

With regard to your general inquiry on the relationship between the Civil Rights Act and the Executive Order, it is our view that it was the intent of the Congress that these two programs complement each other. As you know, the design of Title VII, and to some extent of Title VI as it relates to employment, anticipates the operation of the Equal Employment Opportunity Commission in areas supplemented by the Federal contract compliance program as well as by State fair employment practices laws and commissions. Section 709(d) of Title VII specifically recognizes the Executive Order program. The full resolution of the problems of employment discrimination depends upon vigorous and effective action by all of these entities. We believe this view is supported by the language and the legislative history of Title VI and Title VII of the Civil Rights Act. We believe that Congress recognized in the enactment of the basic fair employment law that the programs of the two Federal entities differed in approach and were designed to reach different aspects of the same problem, and we are aware of no inconsistency in the operations of this Office and the mandates of Title VII.

With regard to your specific inquiry as to the purpose intended in using population ratios and minority utilization figures in the notices of hearings in the Timken Roller Bearing Company and Allen-Bradley Company cases, the primary purpose of such references is to provide factual information against which specific violations will be considered. We see no basis for an inference that mere referral to "racial ratios or imbalances" requires an employer subject to Title VII to violate that Act. As you can appreciate, I am sure, the very nature of quantitative measurement ultimately requires some resort to numbers. The Congress itself resorts to numbers to give precision to many flexible standards which it enacts. Such is the case in Title VII with regard to the size of employers and unions covered, so too in our basic labor relations statute in those provisions which establish the level at which the National Labor Relations Board will exercise jurisdiction. Admittedly, statistics are only rough guides to reality, but we do not believe that they can be dismissed as irrelevant and certainly can be used to raise questions which require further investigation.

Obviously the Executive Order does not supersede the statute. However, it is also clear that Congress, in enacting the Civil Rights Act of 1964, did not intend to restrict existing authority with regard to an area in which both co-equal branches of the Government recognize a constitutional responsibility.

As you can appreciate, both the Congress and the courts, as well as the Executive Branch, are continuing to address themselves to this very difficult problem of securing to minorities the equal enjoyments of rights guaranteed by law to all citizens. I am sure you will agree that all branches of Government must become ever more vigorous in enforcement activities in order to translate its promise into reality. You may be assured we are bending every effort to coordinate its administration in a fair, lawful, and effective manner.

In response to your request for a list of programs and departments involved, we are enclosing a summary for your convenience. I hope this information will be useful to you and, if we can be of further help, please do not hesitate to call upon us.

Sincerely yours,

WARD MCCREEDY,
Acting Director.

EXHIBIT 3

[From the Federal Register, Sept. 24, 1968]

VALIDATION OF EMPLOYMENT TESTS BY CONTRACTORS AND SUBCONTRACTORS SUBJECT TO THE PROVISIONS OF EXECUTIVE ORDER 11246—DEPARTMENT OF LABOR, OFFICE OF THE SECRETARY

Validation of employment tests by contractors and subcontractors subject to the provisions of Executive Order 11246.

1. *General.* (a) The following order regarding the use of employment tests by contractors subject to the provisions of Executive Order 11246 is being issued in response to numerous requests for policy guidance by Government agencies and by contractors.

(b) Two matters regarding selection procedures are of foremost concern to the Government: (1) Recognizing the importance of proper procedures in the utilization and conservation of human resources generally, and (2) pointing out the possible adverse effects of improper procedures on the utilization of minority group personnel.

(c) The order is founded on the belief that properly validated and standardized tests, by virtue of their relative objectivity and freedom from the biases that are apt to characterize more subjective evaluation techniques can contribute substantially to the implementation of equitable and nondiscriminatory personnel policies. Moreover, professionally developed tests, carefully used in conjunction with other tools of personnel assessment and complemented by sound programs of training and job design can significantly aid in the development and maintenance of an efficient work force.

(d) An examination by the Office of Federal Contract Compliance of compliance reviews of contractors has affirmed the increasing reliance on tests in the conduct of personnel activities. In many cases contractors have come to rely almost exclusively on tests as the basis for making employment and promotion decisions, with candidates sometimes selected or rejected on the basis of a single test score. The examination also disclosed that where employment tests are so used, minority candidates frequently experience disproportionately high rates of rejection through failing to attain score levels that have been established as minimum standards for qualification.

(e) The examination further suggests that there has been a decided increase since 1963 in total test usage and a particularly notable increase in the incidence of doubtful testing practices which, experience indicates, tend to have racially discriminatory effects. These findings are particularly evident in testing programs related to blue-collar and clerical job categories.

(f) It has become clear that in many instances contractors are using tests to determine qualification for hire, transfer, or promotion without evidence that they are valid indices of performance potential. Where evidence in support of presumed relationships between test performance and job behavior is lacking, the possibility of discrimination in the application of test results must be recognized. A test lacking validity (i.e., having no significant relationship to job behavior) and yielding lower scores for minority candidates may resultantly reject many who have probabilities of successful work performance equal to those of nonminority candidates.

(g) The order that follows, dealing with basic issues of validity and fairness in those selection programs in which blue-collar and clerical job categories are primarily involved, was developed only after extensive discussions of the many complex problems and technical considerations with test experts and personnel management specialists from both academia and industry. The provisions of the order are designed to serve as a workable set of criteria for agencies and contractors in determining whether or not selection practices are in compliance with Executive Order 11246.

It is recognized that the tests used by the State Employment Agencies should be similarly validated, and it is expected that the U.S. Employment Service will expand, as necessary, its test validation program for State Agencies.

It is also recognized that test usage, as well as test validity, must be reviewed to determine its effect on the employment of minorities. For example, a test may be suspect when it is given in a language in which a significant number of minority applicants are not proficient and where language proficiency itself is not a bona fide requirement for the job. Similarly, a test or other qualification standard should not be used in a situation involving the transfer or promotion of minority employees when such employees would already have occupied the positions involved without such qualifications were it not for past discriminatory practices.

Specific directives concerning test usage will be issued by the Office of Federal Contract Compliance within a short time.

2. *Evidence of validity.* (a) It is directed that each agency require each contractor regularly using tests to select from among candidates for hire, transfer or promotion to jobs other than professional, technical and managerial occupations (defined as occupational groups "O" and "1" in the "Dictionary of Occupational Titles," Third Ed.) to have available for inspection, within a reasonable time, evidence that the tests are valid for their intended purposes. Such evidence shall be examined in compliance reviews for indications of possible discrimination, such as instances of higher rejection rates for minority candidates than nonminority candidates.

(b) Evidence of a test's validity should consist of empirical data demonstrating that the test is predictive of or significantly correlated with important elements of work behavior comprising or relevant to the job(s) for which candidates are being evaluated.

(1) If job progression structures and seniority provisions are so established that a new employee will probably, within a reasonable period of time and in a great majority of cases, progress to a higher level, it may be considered that candidates are being evaluated for jobs at that higher level. However, where job progression is not so nearly automatic, or the time span is such that higher level jobs may be expected to change in significant ways, it shall be considered that candidates are being evaluated for a job at or near the entry level. In the latter case, it would be appropriate for a contractor to institute performance or other tests as a condition of promotion provided such tests also have been validated pursuant to the provisions of this order.

(2) Where a test is to be used in different units of a multiunit organization and no significant differences exist between units, jobs, and applicant populations, evidence obtained in one unit may also suffice for the other. Similarly, where the validation process requires the collection of data throughout a multiunit organization, evidence of validity specific to each unit may not be required.

3. *Minimum standards for validation.* For the purpose of satisfying this order, empirical evidence in support of a test's validity must be based on studies employing generally accepted procedures for determining criterion-related validity, such as those described in the American Psychological Association's "Standards for Education and Psychological Tests and Manuals." (Evidence of content or construct validity may also be appropriate where criterion-related validity is not technically feasible, but it should be accompanied by sufficient information from job analyses to demonstrate the relevance of the content in the case of job knowledge or proficiency tests or the construct in the case of trait measures.) Although any appropriate validation strategy may be used to develop such empirical evidence, the following minimum standards must be met by any approach used so far as applicable:

(1) Where a predictive validity study is conducted, the sample of subjects must be representative of the normal or typical candidate group for the job(s) in question. Where a concurrent validity study is conducted, the sample should be, so far as technically feasible, representative of the minority groups currently included in the candidate population.

(2) Tests must be administered and scored under controlled and standardized conditions, with proper safeguards employed to protect the security of test scores and insure that scores do not enter into any judgments of individual adequacy that are to be used as criterion measures.

(3) The work behaviors or other criteria of employee adequacy which the test is intended to predict or identify must be fully described. Such criteria may include measures other than actual work proficiency, such as training time, supervisory ratings, regularity of attendance, and tenure. In view of the possibility of bias inherent in subjective evaluations, supervisory rating techniques should be developed carefully and the ratings themselves examined closely for evidence of bias. Whatever criteria are used, however, they should represent major or critical work behaviors as revealed by careful job analyses.

(4) Presentations of the results of a validation study must include graphical and statistical representations of the relationships between the test and the criteria, permitting judgments of the test's utility in making predictions of future work behavior.

(5) Data must be generated and results reported separately for minority and nonminority groups wherever technically feasible.

4. *U.S. employment service validation.* Compliance with this order shall be the responsibility of the contractor; however, where testing services of a State Employment Agency are used, the following rules shall apply:

(1) In cases where a contractor uses the testing services of a State Employment Service Office, and the tests used by the State Office have been validated pursuant to the requirements of this order, the employer shall have on file the U.S. Employment Service certification of this fact, which shall be accepted as compliance with this order. (If further tests are required by the contractor, he remains responsible for determination of the validity of such further tests.)

(2) In cases where a contractor uses the testing services of a State Employment Service Office and the tests used by the State Office have not been validated for particular jobs pursuant to the requirements of this order, the contractor shall, as a condition for future use, cooperate with the State Office to effect validation of tests as they relate to job requirements of the contractor.

5. *Use of validity studies.* In cases where the validity of a test cannot be determined pursuant to section 3 above (e.g., the number of subjects is less than that required for a technically adequate validation study, or an appropriate criterion measure cannot be developed), evidence from validity studies conducted in other organizations, such as that reported in test manuals and professional literature, may be considered acceptable when: (a) The studies pertain to jobs which are comparable (i.e., have basically the same task elements), and (b) there are no major differences in contextual variables or sample composition which are likely to significantly affect validity.

6. *Assumptions of validity.* (a) Under no circumstances will the general reputation of a test, its author or its publisher, or casual reports of test utility be accepted in lieu of evidence of validity. Specifically ruled out are: assumptions of validity based on test names or descriptive labels, all forms of promotional literature, data bearing on the frequency of a test's usage, testimonial statements of sellers or users, and other nonempirically based and anecdotal accounts of testing practices or testing outcomes.

(b) Although professional supervision of testing activities may help greatly to insure technically sound and nondiscriminatory test usage, such involvement alone shall not be regarded as constituting satisfactory evidence of test validity.

7. *Continued use of tests.* Under certain conditions, a contractor may be permitted to continue the use of a test which is not at the moment fully supported by the required evidence of validity. If, for example, evidence of criterion-related validity in a specific setting is technically feasible and required but not yet obtained, the use of the test may continue *Provided:* (a) The con-

tractor can cite substantial evidence of validity as described in section 5 above, and (b) he has in progress, validation procedures which are designed to produce, within a reasonable time, the additional data required. It is expected also that the contractor will use cut-off scores which yield score ranges broad enough to permit the identification of criterion-related validity.

8. *Affirmative action.* Nothing in this order shall be interpreted as diminishing a contractor's obligation to undertake affirmative action to ensure that applicants and current employees are treated without regard to race, creed, color or national origin. Specifically, the use of tests which have been validated pursuant to this order does not relieve the contractor of his obligation to take positive and affirmative action in affording employment and training to minority group personnel.

9. *Definition of "test."* For the purpose of this order, "test" is defined as any paper-and-pencil or performance measure used to judge qualifications for hire, transfer or promotion. This definition includes, but is not restricted to, measures of general intelligence, mental ability, and learning ability; specific intellectual abilities; mechanical, clerical and other aptitudes; knowledge and proficiency; occupational and other interests; and personality or temperament.

10. *Other selection techniques.* Selection techniques other than tests may also be improperly used so as to have the effect of discriminating against minority groups. Such techniques include, but are not restricted to, unscored interviews, unscored application forms, and records of educational and work history. Where there are data suggesting that such unfair discrimination exists (e.g., differential rates of rejecting applicants from different ethnic groups or disproportionate representation of some ethnic groups in employment in certain classes of jobs), then the contractor may be called upon to present evidence concerning the validity of his unscored procedures as well as of any tests which may be used, the evidence of validity being of the same types referred to in sections 2 and 3. If the contractor is unable or unwilling to perform such validation studies, he has the option of adjusting employment procedures so as to eliminate the conditions suggestive of unfair discrimination.

11. *Compliance review.* (a) Contractor practices in the use of employment tests and other selection techniques as qualification standards should be examined carefully for possible noncompliance with the requirements of Executive Order 11246 when:

(1) There is a lack of evidence of test validity, but the contractor continues to use test scores as a basis for personnel decisions; or,

(2) The contractor is unwilling to conduct test validation studies, where such studies are technically feasible, or otherwise provide evidence of validity as a requirement for continued test usage; or,

(3) When other selection techniques are used as identified in section 10 above, and there is information suggesting unfair discrimination in employment of minority groups, and the contractor refuses to validate these techniques or to eliminate the conditions suggestive of unfair discrimination.

(b) A determination on noncompliance pursuant to the provisions of this order shall be grounds for the imposition of sanctions under Executive Order 11246.

(c) The use by a contractor of tests or other selection techniques for which there is evidence of unfair discrimination or differential validity patterns for minority and nonminority groups, and no adjustment has been made for this finding, shall be grounds for the imposition of sanctions under Executive Order 11246.

12. *Exemptions.* (a) Requests for exemptions from this order or any part thereof must be made in writing, with justification, to the Director, Office of Federal Contract Compliance, Washington, D.C., and shall be forwarded through and with the endorsement of the agency head.

(b) The provisions set forth above shall not apply to any contract when the head of the contracting agency determines that such contract is essential to the national security. Upon making such a determination, the agency head will notify the Director, in writing, within 30 days.

13. *Agency implementation program.* (a) Each agency shall, within 90 days of the date of this order submit a program to implement this order. The program shall include the establishment of priorities for enforcement that meet the following criteria: Reviews of the selection programs of—

(1) Contractors employing 2,500 or more beginning 6 months from the date of this order;

(2) Contractors employing 1,000 or more beginning 1 year from the date of this order;

(3) All other contractors beginning 18 months from the date of this order.

(b) Notwithstanding subsection (a) of this section, each agency shall identify from agency files of compliance reviews or complaints those files which indicate a probability of the use of tests and other selection techniques not in accordance with the provisions of this order.

(c) The agency shall after such identification and consultation with the Office of Federal Contract Compliance, inform the contractor of the possible violation of the order and ask for a written program to be submitted within 30 days that will conform to the order.

(d) Each agency shall assign responsibility for compliance with this order at Headquarters level and furnish the name of the assigned officer to the Office of Federal Contract Compliance.

(e) Each contracting and administering agency shall issue the following instructions to field personnel concerning procedures to be adopted on investigations under this order:

(1) The investigator will make only a determination of facts from the company records and appropriate interviews with management.

(2) He will carefully document the effect of the current selection program on minority applicants and employees.

(3) He will inquire as to whether validation studies have been completed for any tests being used. If the contractor's answer is affirmative, the investigator will obtain copies of the validation studies to include in the report.

(4) With respect to other selection techniques as discussed in section 10, if information suggests the existence of unfair discrimination against minority groups, we will inquire as to whether validation studies have been completed for these techniques. If the contractor's answer is affirmative, the investigator will obtain copies of the validation studies to include in the report. If the answer is negative, he will inquire as to whether such validation studies are being undertaken or, if not, what measures the contractor contemplates to eliminate the conditions suggestive of unfair discrimination.

14. *Effect of this order on other rules and regulations.* (a) All orders, instructions, regulations, and memoranda of the Secretary of Labor, other officials of the Department of Labor and contracting agencies are superseded to the extent that they are inconsistent herewith.

(b) Nothing in this order shall be interpreted to diminish the present contract compliance review and complaint investigation programs.

15. *Authority.* (a) General: Executive Order 11246, dated September 24, 1965, and Secretary's Order No. 26-65, dated October 5, 1965 (31 F.R. 6921).

(b) Specific:

(1) Part II, Subpart C, section 205 of Executive Order 11246.

(2) Part II, Subpart C, section 206(a) and (b) of Executive Order 11246.

(3) Part III, section 301 of Executive Order 11246.

(4) Part III, section 303(a) and (b) of Executive Order 11246.

(5) Part IV, section 403(b) of Executive Order 11246.

16. *Effective date.* This order shall be effective immediately.

Signed at Washington, D.C., this 9th day of September 1968.

WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 68-11467; Filed, Sept. 23, 1968; 8:45 a.m.]

THE LATEST CRISIS IN ISRAEL

Mr. WILLIAMS of New Jersey. Mr. President, it has long been my hope that an honorable Arab-Israeli peace would be sought and reached. This goal would benefit the Middle East, the United States, and the entire world. There is great danger of a new war in the Middle East. I must, therefore, express my deep concern over the rapidly deteriorating situation respecting peace in this vital area.

I have always been deeply impressed by Israel. Common historic experience, common devotion to democracy are reinforced in the relations between our two countries; reinforced by strong links which are of the spirit. They are no ordinary people—these people of Israel—whom the American people have so long admired and respected. They have done a remarkable job with their small piece of land. The Israelis have watered the strip of desert allocated to them by the family of nations—the U.N.—made it blossom—defended it—raised their children there, and turned it in 20 short years, into almost an oasis.

For instance, a recent survey stated:

In general, Israel standards of health, education, and nutrition approach or even surpass United States norms.

If given the chance, Israel could share her knowledge—agricultural, medical, and educational—with her neighbors. This is the desire and should be the aim.

Certainly the maintenance of the democratic State of Israel is paramount in importance. Our commitment to the preservation of the national integrity of Israel dates back to President Truman's recognition of this nation as an independent state on May 14, 1948. It took President Truman only 4 minutes to make that decision. This Nation was the first to recognize the independent status of Israel. Explicitly, our commitment dates to the Tripartite Declaration issued by England, France, and the United States. We, the United States, and Israel, must maintain our historical friendship as we move toward the unfulfilled objectives which we hold in common.

In the great peril of war which now confronts the world, a shadow is cast over every peaceful home. It is essential that man devote himself in every way possible to the attainment of peace. For peace must be the No. 1 priority.

On January 6 of this year I joined with a number of my Senate colleagues in condemning the United Nations' censure

of Israel. I feel that this type of one-sided decision to censure Israel and ignore Arab terrorism is hardly helpful to the attainment of a genuine peace. Arab violence, terrorism, and violations of the cease-fire agreements have harassed Israel continuously and without reprieve.

President Nasser announced on May 26, 1967:

We have been biding our time until we are perfectly ready and prepared * * * we now feel that we are sufficiently ready and that, in engaging in war with Israel, we can, with God's help, be victorious.

If that statement was not clear enough, the one later that day heard on Radio Cairo was. It stated:

The Arab people is firmly resolved to wipe Israel off the face of the globe.

The 6-day war which ensued proved that the vast Arab countries were no match for the small, yet wholly determined, State of Israel. The Israelis are still fighting for their lives as their Arab neighbors, bolstered by Soviet military and diplomatic support, again openly threaten to obliterate them.

Three days ago, one more heinous atrocity was committed in an Arab state. Fourteen men, nine of whom were Jews, were hanged in front of a cheering mob. To further excite this blood-hungry mob, news was released that more trials will follow. The trial was not only a mockery, but a travesty of justice. It is impossible for a Jew even to lead a normal life in Iraq. The Iraqi Jew is constantly under surveillance by the government. A large number of them have been removed from their jobs. They also suffer the loss of their basic freedoms. Yet social and economic deprivation is not enough—the government now appears to be engaged in a deliberate policy of extermination. The saddest part is that there is no escape for the 2,500 Jews who remain of a Jewish community once totaling 150,000. They are virtual hostages in a state which will not allow them freedom and peace in other lands. Their only obvious "crime" is that they and the Israelis share the same faith.

But how are we to stop the perpetuation of the persecution of these Jews? What impediments can we throw in front of a nation apparently bent on genocide? If words can be our only answer at the present time, let us at least use them vigorously. I applaud the statements of Ambassador Yost, Secretary Rogers, and Secretary-General U Thant. For certainly no rational nor compassionate man can help but be repulsed by the actions of the Iraqi Government. It remains the collective duty of mankind to exhaust every possible avenue to stop this outrageous, deplorable situation from continuing.

It seems that if we are to approach a time of talk, we must stand firmly by the side of Israel. Our "even-handed" inaction will shortly give the Arab States an advantage. The Soviets have greatly bolstered the Arabs militarily. I was very pleased that our sale of the 50 Phantom jets to Israel was finally consummated. I was disturbed to learn, recently, that Jordanians, Saudi Arabians, and Lebanese are presently being trained by the U.S. military under the AID program. They are then sent back to their countries where they participate in vicious terrorist atrocities on women and children. At the same time, we are supplying weapons to Arab countries. There has to be a limit somewhere. I believe that actions of this nature by our Government must stop.

There is already evidence that the Arab States regard the U.N. as a shelter against the necessity of peace. This is the precise antithesis of the meaning of this organization. The U.N. must be an instrument for ending conflicts, not an arena for waging them. The Security Council must especially not be an obstacle and alibi to prevent the attainment of peace.

The time for settlement must be imminent. Never before in our history has there been a greater need for all forces interested in the rights of all people to bring the full force of reason into our commitment for mutual understanding. Abba Eban, Israel's eloquent Foreign Minister, in his speech before the General Assembly of the United Nations on October 8, 1968, stated to the Arab States:

For you and us alone the Middle East is not a distant concern, or a strategic interest, or a problem of conflict, but the cherished home in which our cultures were born, in which our nationhood was fashioned and in which we and you and all our posterity must henceforth live together in mutuality of interest and respect. The hour is ripe for the creative adventure of peace.

I pray that Mr. Eban is right.

The United States and the Soviet Union—indeed the concerned nations of the entire world—must encourage peace talks to begin and, most importantly, to begin between the two sides—the Israelis and the Arabs. The consequences of the alternative are too great for the Middle East and the world.

LAND GRAB REACTION

Mr. BENNETT. Mr. President, the reaction in Utah has been almost unanimously critical of President Johnson's last-minute action enlarging Arches and Capitol Reef National Monuments.

I have received protests from representatives of Utah mining, livestock, and petroleum industries as well as from elected officials and individual citizens. The town board of the ranching community of Boulder, Utah, has even adopted a resolution changing its name to "Johnson's Folly."

Senators will recall that I filed a strong protest to this action in a Senate speech on January 21. Since then, I have been assured that the Senate Committee on Interior and Insular Affairs will hold hearings on this Executive order which would summarily withdraw about 264,000 acres in my State of Utah, where some 70 percent of the land is owned by the Federal Government.

In order that Senators may be aware of the widespread resentment this action has engendered, I ask unanimous consent that a number of editorials from Utah newspapers be printed in the RECORD.

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

[From the Salt Lake City (Utah) Tribune, Jan. 26, 1969]

UTAHANS RESPOND SPEEDILY, CRITICALLY TO ENLARGEMENT OF TWO MONUMENTS

(By Frank Brunsman)

Utah's red rock country is in a state of turmoil since President Johnson signed proclamations enlarging Arches and Capitol Reef national monuments during the last 90 minutes of his presidency Monday.

The presidential proclamations added 48,943 acres to Arches, increasing its size to 82,953 acres. Capitol Reef was enlarged six times. The President added 215,056 acres, increasing the monument to 245,229 acres.

Involved in the action in addition to federal land were 5,920 acres of state land and 2,400 acres of private holdings at Arches and 25,280 acres of state land and 1,080 acres of private land at Capitol Reef.

UTAHANS REACT SHARPLY

Reaction during the week included:

Adoption of a resolution by the Town Board at the ranching community of Boulder, Garfield County, changing its name to "Johnson's Folly."

Announcement by Rep. Laurence J. Burton, R-Utah, that would introduce legislation to limit the President's authority to set aside national monuments under the Antiquities Act.

Protests from representatives of Utah mining, livestock and petroleum industries and state officials because mining and oil prospecting will be barred in the affected areas and grazing will be phased out.

A Senate speech by Sen. Wallace F. Bennett, R-Utah, in which he said, "To see the Interior Department in one final gesture, sweep into Utah and withdraw some 264,000 acres of land without any concern for anybody except a few sightseers, to me is the most blatant type of greed that I can imagine."

MOSS DEMANDS HEARINGS

Demands from Sen. Frank E. Moss, D-Utah, that Congress hold hearings in Utah on proposals to convert Arches and Capitol Reef national monuments into national parks and a statement that outgoing Secretary of the Interior Stewart L. Udall had conceded that Congress may either ratify or modify any executive order enlarging monuments.

The proclamations signed by the outgoing President noted, ". . . it would be in the public interest to add to the Arches National Monument certain adjoining lands which encompass a variety of additional features which constitute objects of geological and scientific interest to complete the geologic story presented at the monument . . ." and ". . . it would be in the public interest to add to the Capitol Reef National Monument certain adjoining lands which encompass the outstanding geological features known as Waterpocket Fold and other complementing geological features which constitute objects of scientific interest. . ."

Nearly 90 natural stone arches have been discovered along the anticline formed by the earth's crust warping upward to comprise Arches National Monument.

According to the Department of Interior, "As now enlarged, its 82,953 acres encompass the two central valleys (Salt Valley and Cache Valley) as well as such striking formations as the Marching Men and the huge fins in Herdina Park.

"Two important ecosystems—the deeply entrenched stream valley of Courthouse Wash and Dry Mesa, 1,200 feet higher than the surrounding area—are protected for study and public understanding. In addition, the enlarged national monument stretches now to the Colorado River Canyon where more than a third of its 1,500-foot walls is a sheer precipice of red sandstone."

Along Waterpocket Fold, so named for potholes eroded in canyon rocks, the earth's

crust tilted sharply downward to form one of the most spectacular and readily understood monoclines in the United States.

In 1937, a scenic spur of this huge monocline, Capitol Reef, the only part accessible at the time, was proclaimed Capitol Reef National Monument.

"Now with the addition of 215,056 acres," the Department of the Interior notes, "the entire Waterpocket Fold running north to south and striking downward west to east, is brought within the National Park System in order to present a complete geologic story and to preserve in its entirety this classic monocline.

"Seventy miles of it are now in the national monument in Wayne, Emery and Garfield counties and the other 30 miles will be in the Glen Canyon National Recreation Area to the south."

[From the Salt Lake City (Utah) Tribune, Jan. 22, 1969]

MR. JOHNSON'S ARBITRARY LAND GRAB

President Johnson's action in issuing proclamations adding 264,000 acres to two national monuments in Utah should not be allowed to stand. The action was taken without consulting any interested parties, including the state of Utah, and without holding public hearings to determine the advisability of the proclamations. It was arbitrary in the extreme and, even worse, it was taken just before Mr. Johnson left office.

The best that can be said is that Mr. Johnson did not do as much as he once intended. But he pulled back only because of violent protests from Chairman Wayne N. Aspinall of the House Interior Committee and limited the expansion to the Capitol Reef and Arches National Monuments in Utah, the Katmai National Monument in Alaska and the creation, by executive order, of the Marble Arch National Monument in Arizona. Otherwise, 7.2 million acres would have been taken over for national monuments in Alaska and Arizona.

Mr. Johnson explained that the largest proposals were dropped because of the fear he might be straining his legal authority by issuing the proclamations during the last hours of his administration. However, since a legal point is involved, what difference does the number of acres make? A land grab is still a land grab despite the size.

It is true all the land involved already belongs to the federal government. But once included in a national monument, it is effectively locked up as far as most other beneficial uses are concerned. Grazing will be phased out, mineral and oil prospecting barred, timbering strictly limited and hunting forbidden.

For cattle and sheep raisers this means the immediate loss of some grazing land. For Utah and other Western states, it may mean a potential loss of incalculable size. In the Capitol Reef area, for example, rich hydrocarbon deposits are not likely to be developed commercially since the federal government, though it has the authority, seldom grants oil and mineral leases at national monuments.

Utah mining men and stock raisers are outraged by Mr. Johnson's decision. If he had called public hearings before he acted, he would have known what to expect. More important, if hearings had been held, the economic meaning of the monument expansion could have been thoroughly explored.

Mr. Johnson apparently wasn't interested. We hope Congress will be. Indeed we call on Congress to consider legislation rescinding the proclamation. Although President Nixon has the authority to do this, we believe it would be better for Congress to examine the whole affair. When economic issues of such vital importance in this area are involved, arbitrary executive action cannot be tolerated.

[From the Salt Lake City (Utah) Deseret News, Jan. 23, 1969]

HOLD PARK HEARINGS

Just when Lyndon Johnson was basking in the glow of an America inclined to remember only his accomplishments as he bowed out of office and forget his mistakes, he blew it.

At least he did as far as Utah is concerned when, in the last minutes of his administration, he signed proclamations adding 266,000 acres to Arches and Capitol Reef national monuments.

He did so without consulting Utah's elected representatives or the people to be affected. Whether the park additions turn out to be good or bad, certainly such arbitrariness is not the way to do it.

We say this more in sorrow than in anger. Few administrations have done as much for conservation as has that of Lyndon Johnson; his reputation in this regard was secure without this final gesture. Moreover, there can be no doubt that in Mr. Johnson's mind, what he did was in the nation's best interests—and that very well may turn out to be the case.

Before anything is done about the national monument additions, Congress should hold hearings in the areas involved. Even in the best of causes, government action should avoid being so arbitrary.

[From the University of Utah Chronicle, Jan. 23, 1969]

THREE PROFESSORS OPPOSE UTAH MONUMENT ADDITION

(By Frank Erickson)

Three members of the Utah Geological and Mineralogical Survey (UGMS) have voiced opposition to President Johnson's withdrawal of 264,000 acres of southern Utah land for addition to two National Monuments.

Dr. William P. Hewitt, UGMS director, Dr. Hellmut Doelling, economic geologist, and Howard R. Ritzma, petroleum geologist, said they were "shocked, to say the least," by the action.

The President signed proclamations Monday that added 49,000 acres to Arches National Monument and 215,000 acres to Capitol Reef National Monument.

OPPOSE WITHDRAWAL

The men oppose the withdrawal because, they said:

The land was withdrawn before any public hearing on the proposal was held,

Under National Monument status, mineral development on the land will be curtailed, and

The locking up of the land takes both revenue and land away from the state of Utah.

Dr. Hewitt said the proposal to withdraw the land was pushed through the Department of Interior by a powerful preservation group, without a public hearing being held.

Mr. Ritzma added a proposal for such a withdrawal had been rumored two months ago, "but it was such a ridiculous proposal it was passed off as impossible."

"It is unfortunate when any area is withdrawn at the command of a single group, without regard for the thoughts, needs or wants of other groups," Dr. Hewitt said. "Our concern is that the land was withdrawn before the people of the state had a chance to know what they were losing."

Tar sand deposits in the Circle Cliffs area to be added to Capitol Reef have been under study for two years by the UGMS, according to Mr. Ritzma. Tar sands is sandstone saturated with crude oil, and the deposits in this area are very large. "There are also several working uranium mines and thousands of uranium claims on the land to be added to Capitol Reef," he said.

Mr. Ritzma added that the Bureau of Land Management spent two years working out a multiple use plan for the areas now withdrawn. "The plan was made with mining and grazing interests in mind, but also contained provisions for primitive areas and recreation development. A hearing on this proposal was to be held within 90 days.

BOUNDARIES NOT KNOWN

The boundaries of the expanded Arches Monument are not yet known, but near the present boundaries are deposits of magnesium, potash, oil, gas and uranium according to Dr. Hewitt.

National Monument status does not close the land to study of surface geology, but "no one is ever going to study the minerals in these areas again when they know they can never be developed," Dr. Doelling said.

The men feel that the state of Utah and citizens of southern Utah are the losers in this withdrawal.

WILL LOSE REVENUE

"37.5 per cent of money collected in rents, royalties and leases for use of federal land is returned to the state and by law is put into education funds," Dr. Hewitt explained. "With the locking-up of this land, the state will lose this revenue forever. Some people think this can be replaced by revenue from tourists, but not one cent of the money taken in by the Park Service for these National Monuments will be turned over to the state."

Mr. Ritzma said, also, that the state owns four square miles in each township in Utah. "The Capitol Reef expansion takes in nine townships, which means the state will give up 36 square miles to the federal government. The land isn't actually lost, because it can be traded for federal land elsewhere. However, these trades take about 10 years to enact, and when they are made, the state usually ends up with poorer land."

PROVIDE INDUSTRIAL DEVELOPMENT

Dr. Doelling added that the mineral potential of the withdrawn areas could have provided industrial development in southern Utah where industry is severely needed. "There are a surplus of people in southern Utah who need jobs. Besides limiting mineral development, the locking up of the Circle Cliffs calls for grazing to be phased out, which will place a hardship on some cattlemen. As one rancher put, 'that scenery is nice, but you can't eat it.' "

"Conservationists justify these withdrawals by saying that the minerals locked up are still there, and in time of national emergency they can be utilized if necessary," Dr. Hewitt said, "but there are two fallacies in this argument.

CAN USE RESOURCES

He continued, "It is not necessary to destroy an area to utilize its resources. Nobody in their right mind would go in and destroy Capitol Reed or the Arches."

Around the turn of the century, the mining industry used some practices that would be scorned by today's standards, Dr. Hewitt said, "But the mining industry has shown every effort to become a good citizen and not destroy."

[From the Deseret News, Salt Lake City (Utah) Jan. 25, 1969]

(By Gordon Eliot White)

WASHINGTON.—The inside story of how 7.5 million acres of public domain, State, and private land were almost—but not quite—put into the National Park system by a stroke of President Johnson's pen is one of a Cabinet-Member's intrigue, jealousy at the highest levels of the Johnson Administration, and an attempted squeeze play on the President that didn't work.

The tale began last spring. Interior Secre-

tary Stewart L. Udall wanted to go out of office with a record as the man who added the greatest number of new parks and monuments to the National Park system in a half-century. He asked the park service for its suggestions, to be presented in time for President Johnson to sign the necessary proclamations before he left office.

President Johnson was aware of the history of last-minute actions by previous administrations during their final hours. In August, 1968, he asked the members of his cabinet for their ideas on executive acts that might be undertaken before inauguration day. He also issued strict orders: Any last-minute moves to be made during the transition period between election day and January 20 would have to be non-controversial. He wanted no contretemps to mar the orderly transfer of power to the new administration, be it Hubert Humphrey's or Richard Nixon's.

Secretary Udall suggested his plan that the President create new major national monuments, using his powers to withdraw federal land from the public domain under several acts of Congress. Apparently the President seemed favorably disposed toward the proposal.

Mr. Udall quietly issued feelers to the major conservation groups—the Sierra Club, the Izaac Walton League, the National Wildlife Federation, and others for suggestions of areas suitable for protection as national monuments. At least 17 were named, from which he chose four new monuments and decided on additions to three others. A total of 264,000 acres would be added to arches and capitol reef monuments in Utah and 94,500 acres to Katmai National Monument in Alaska. New monuments covering more than 7.2 million acres would be created at Marble Canyon, in the Sonora Desert of Arizona; on land adjacent to Mount McKinley National Park in Alaska; and in the Brooks mountain range of Alaska.

The Sonoran Desert monument would have taken in several thousand acres of Air Force air-to-air gunnery range, so the withdrawal had to be cleared with the Defense Department. It went straight to Secretary Clark Clifford, who, on investigating, found that any restriction on hunting in the Sonoran area would be hotly opposed and that the Air Force refused to be pushed off its range.

In a session with President Johnson and Udall, late in the summer, Clifford brought up the monument proposal, which he now knew would violate the White House stricture on last-minute controversy.

"If the Secretary of Interior is going to be allowed to set up this kind of controversial addition to his national park system," Clifford is reported to have told the President, "I have some projects I'd like to see put into effect after the election and I know some other members of the cabinet have, too." The President repeated his order that controversial projects be dropped. He demanded that Udall get clearance from the Congressional delegations of the affected states as well as from the House and Senate Interior and Appropriations Committees before asking the White House to act.

Here some background is necessary. Rep. Wayne N. Aspinall, D-Colo., chairman of the House Interior Committee since 1959, is a man who believes the public lands should be controlled by Congress through the legislative process, not by the President acting by executive fiat. The President, however, does possess limited legal authority over the public lands.

Early in Rep. Aspinall's tenure as House committee chairman, President Eisenhower set aside the C & O Canal near Washington as a national monument without consulting Congress. In retaliation, Mr. Aspinall has blocked authorizations for development funds for it ever since.

President Kennedy, acting at Mr. Udall's request, created small monuments in the Virgin Islands and in Alabama, to Mr. Aspinall's annoyance. In the aftermath of that disagreement, Mr. Udall agreed for the administration that no major withdrawals would be made by the White House without clearance from the congressional committees. This was known as the "Gentleman's agreement."

With this agreement regarding land withdrawals in the background, Mr. Udall went ahead with his plans. During the late fall, Interior Department teams mapped precise boundaries for the new monuments, covering their activities with the explanation that they were just outlining grazing areas. Legal descriptions were drawn up and proclamations prepared for Mr. Johnson's signature. Precedents for Presidential action were listed that went back to Theodore Roosevelt's administration. Elaborate maps were drawn and a press release an inch thick was mimeographed.

During the second week in December, Mr. Udall presented his detailed plans to Mr. Johnson, showing him how, in a grand final gesture, he could become the President who had added the most acreage to the National Park System. Mr. Udall reinforced his arguments—particularly for the vast six million acre tract in Alaska—by noting that Alaska Governor Walter J. Hickel had just been named Interior Secretary in the Nixon Cabinet and presumably would be unlikely to support the same kind of huge withdrawal later. Mr. Johnson, still favorable toward the plan, asked again for the congressional clearances. Secretary Udall told him in his "opinion" there would be no trouble. He either did not mention the gentleman's agreement or glossed over it. The President told him to get a firmer picture of Hill reaction.

Secretary Udall answered the White House insistence for congressional clearance with general reports that "there is not opposition" There wasn't any. No one knew any such proposal had been made.

Mr. Johnson, not satisfied, refused to act until he had a "head count" from the committees and the interested State delegations in Utah, Arizona, and Alaska.

After Christmas, Mr. Udall was still under pressure from Mr. Johnson to get full clearance from the Hill. Finally, in January, he went to three men in Congress who, in all likelihood, would approve of the plan. He told Rep. John Saylor, R-Pa., ranking Republican on the House Interior Committee, a dedicated conservationist. Saylor has long wished to create more monuments and parks and had himself proposed that Marble Canyon be added to Grand Canyon National Park. Sketchy details were given to Sen. Henry M. Jackson, D-Wash., chairman of the Senate Interior Committee and a man who is usually neutral or favorably disposed to new monuments. He "cleared" the plan with Utah by telling Sen. Frank E. Moss, D-Utah, that he had plans for arches and Capitol reef, but did not give the Utahan details of the plan. He mentioned that the President would act on Monday, the final day of his administration. Objections then would come too late to stop the withdrawals. He told Sen. Moss the plan was secret. "Don't even tell your wife," he admonished the Senator.

Mr. Udall did not brief Rep. Wayne N. Aspinall, D-Colo., chairman of the House Interior Committee; Sen. Alan Bible, D-Nev., chairman of the Senate Parks and Recreation Subcommittee; any of the other Utah members; any of the Arizona members except, possibly, his brother, Rep. Morris K. Udall; or any Alaskan member unless he told Sen. Bob Bartlett, now dead.

The Secretary was a little surprised to find that Sen. Moss was not overjoyed at the plan. Moss did keep his promise to keep it secret, however.

It was a dangerous game. Secretary Udall knew two things: To act without consultations was a violation of the gentleman's agreement between the administration and the congressional leaders. The Antiquities Act, under which he proposed to move, carried no acreage limits but had already been under threat of congressional repeal if the "agreement" was violated. Under the two other land-withdrawal laws there is a 5,000 acre limit on the Executive.

Until January 14th, six days before the administration left office, things went according to plan. The congressional leaders who knew about it had no complaints, as Udall told the President, adding, under Mr. Johnson's questioning, that, in "his opinion", there would be no controversy.

Then on January 14 Mr. Johnson delivered his last State of the Union message before a joint session of Congress. He described his accomplishments during five years in office, ticking off new parks created: At Canyonlands, the Redwoods Park in California, and others. The President looked up from his prepared speech and added, "and there's going to be more set aside before this administration ends."

The cat was out of the bag. Sen. Moss knew at once what was up. This reporter left the House gallery and began asking people who should have known, what did the President mean? Was Utah involved? No one knew.

Watching from Colorado, Chairman Aspinall heard the President's words on television and was puzzled. The Washington Post, however, did not include those words in its version of the Johnson speech, taken from the prepared remarks issued earlier by the White House.

This reporter pressed the Interior Department for details, but none were forthcoming. Sources in the Department said yes, something was up, but they couldn't talk about it.

On Wednesday, Mr. Udall, worried that the ad lib by the President might alert possible opponents, decided to try to box in Mr. Johnson. He asked Sen. Jackson to mention the plan in general terms, alluding to "a couple of million acres in Alaska, Utah, and Arizona," as though the President had already made his decision, thus making it embarrassing for him to back down. Sen. Jackson brought up the idea in the Interior Committee's hearing on Gov. Walter J. Hickel, the controversial Interior Secretary-designate.

Sen. Jackson observed at the hearing, "I might mention that which I listened to and observed last night at the Joint Session of the Congress. The President indicated that he has under consideration a proposal to create a number of national monuments by Executive order. This would remove these lands from multiple-use development and add them to the national park system. Some of the land is in Alaska and some of it in the Southwest.

"Now I gather that the Presidential action would be accompanied by a request to the Congress to create National parks on these lands.

"I understand informally, he has in mind some additions to Mount McKinley National Park, and I believe the setting aside of a certain amount of acreage in the Arctic Slope area.

"I do not know the exact details. Some of it is in Arizona . . . and some, I believe, in Utah. But it is a question of the action that the President will take, I gather, before January 20."

Sen. Jackson had mentioned the proposal before the conservationist witnesses arrived at the Hickel hearing, and most of the reporters at the session were more interested in Hickel than in monuments. Only the Deseret News reported the story and the fact that Sen. Bible hadn't been told about the plan. When questioned, Sen. Moss had said he knew about it but none of his previous proposals were involved. He couldn't say more, and Sen. Jackson "may have spoken out of turn," he added.

The Interior Department was still noncommital under questioning by this reporter,

but a new player entered the game at this point.

Rep. Aspinall, alterted by the press, called the department. He got the details and promptly went through the ceiling. His committee was being bypassed, he wasn't being consulted, and a long-standing agreement was being dishonored. The chairman won't say he called Mr. Johnson, but the President got the word, probably through Assistant White House Counsel W. Devier Pierson. The President called Udall and insisted that all the interested Members of Congress be briefed or the plan was off.

Thursday night the Arizona delegation went downtown to hear about the plan to create Sonoran Desert and Marble Canyon Monuments. Marble Canyon was bad; Sonoran Desert, a planned 911,000 acre tract, was unacceptable. Some of the best hunting in the State was in the land along the Mexican Border, and oil and gas and other minerals were suspected there.

The Utah and Alaskan delegations were notified late Thursday of briefings to be held early Friday. Both groups were stunned by the plans, which could hardly be evaluated in a few minutes. They felt that some of the area probably belonged in parks. Indeed, Sen. Wallace F. Bennett, R-Utah, had introduced bills to make arches and Capitol Reef into parks, but on a smaller basis. Initial reactions were blank, but by the time they got back to the Capitol, anger had set in over the manner of making the withdrawals.

All had been sworn to secrecy, but bits and pieces leaked out. Sources at Interior by now were giving a general description of the area involved and members of the Utah delegation added enough to the puzzle that the outline could be seen in some detail. Friday morning Rep. Burton, Sen. Bennett, and Sen. Moss were all calling for hearings on the plan to give Utahans a chance to discuss it.

The story of the proposed withdrawals was broken by the Deseret News in its Friday afternoon editions.

Meanwhile, Mr. Udall took his proclamations to the President at a final Cabinet meeting Friday noon. His department prepared to put out its press release under an embargo for Sunday use, but at 2:00 p.m. Mr. Udall was back; the President had not acted. "The release is just wastebasket material until the President acts," Interior said. "Maybe we will get it by 10 a.m. Saturday."

Friday night Mr. Udall called the President again. The proclamations were not signed. Rep. Aspinall had threatened to block any development funds for the monuments if they were rammed through over his objetcions. Mr. Johnson was furious that he had been misled.

On Saturday, the 10 a.m. deadline passed. At 2:00 p.m. nothing had happened. The President knew that the C & O Canal National Monument had received no funds, that Rep. Aspinall did not bluff.

Late Saturday afternoon the Secretary, apparently thinking the proclamations had been signed, released the announcement. "President Johnson has signed proclamations adding more than 7.5 million acres. . . ." Also, in another release, Interior noted that Mr. Udall had named D.C. Stadium the Robert F. Kennedy Memorial Stadium. Mr. Johnson might have looked upon that idea with little enthusiasm, though his argument with Udall was based on far more than a name.

By 6 p.m. Saturday, Interior was calling back its release. Mr. Johnson had not signed the proclamations. Saturday night Mr. Udall and the President again quarreled on the phone. Mr. Udall offered his resignation. At one time, Mr. Udall simply made himself unavailable for the Johnson wrath. He went to the Justice Department to discuss the plan with Government lawyers there. Nothing was done.

Representative Aspinall was livid. People who saw him described his anger as "violent." Mr. Johnson was only slightly less angry.

All day Sunday the proclamations simmered, unsigned, on Mr. Johnson's desk. Mr. Udall waited, fretting, at his office, amid boxes of books and paintings awaiting the movers.

Monday morning the President was still undecided. He wanted to make his mark on the park system as had his predecessors for half a century. In 5 years he had used his executive authority to create only one monument: tiny 27.5 acre Ellis Island in New York Harbor was added to Liberty Island National Monument.

As Lyndon Johnson prepared to leave the White House for the last time as President, he signed withdrawals of 384,500 acres in Utah, Arizona, and Alaska, but rejected 7.2 million acres of Mr. Udall's proposal. Devier Pierson said at 10:30 that Mr. Johnson had acted. The Johnson administration expired 90 minutes later.

In a final press release the President said:

"I am happy to be able to dedicate this portion of the public domain to the purposes of conservation. The areas I have chosen are not large—but they are superb landmarks of major historic and scientific interest, and action is needed now to insure that this land is put to its finest use.

"A number of additional national monument proposals were presented to me for consideration by the Secretary of Interior. They include the Sonoran Desert area in Arizona, an enlargement of the Mount McKinley National Park in Alaska, and the creation of a vast new park area above the Arctic Circle in Alaska. Each would be an exciting addition to our park system.

"After a careful review of these proposals, I have concluded that it would not be desirable to take executive action for the acquisition of this land in the last few days of my term. The proposals include over 7 million acres—an enormous increase in our total park holdings. I believe the taking of this land—without any opportunity for congressional study—would strain the antiquities act far beyond its intent and would be poor public policy. Understandably, such action, I am informed, would be opposed by leading Members of Congress having authority in this field who have not had the opportunity to review or pass judgment on the desirability of the taking.

"Under these circumstances, I have directed the Secretary of Interior to submit these additional proposals to the Interior Committees of the Senate and the House of Representatives for their consideration as new national parks. I hope the committees will see fit to give the proposed areas careful study at the earliest possible time."

RESTRICTIONS PROPOSED ON TAX-LOSS FARMING

Mr. NELSON. Mr. President, last week I was pleased to join the Senator from Montana (Mr. METCALF) and 22 other Senators in sponsoring legislation to limit the use of financial losses from farming to offset taxes on nonfarm income.

Our present farm tax system is being greatly abused by corporations and wealthy persons who are farming at a loss in order to reduce the taxes they pay on income from their other nonfarm enterprises.

If these tax loopholes are allowed to continue, the future of family farming in America will be jeopardized. Tax-loss farming disrupts normal market prices and creates ruthless and unfair price competition for legitimate family farmers who are simply trying to earn a living.

In 1966, 108 individuals with annual incomes of more than a million dollars were involved in some phase of farming and 93 of them reported losses for income tax purposes.

This legislation will restrict the amount of excess farm losses that a corporation or individual can use to offset taxes against their nonfarm income. It also includes safeguards to exempt bona fide family farmers who find it necessary to supplement their regular farm incomes by other means.

Under our proposal, nonfarm income up to $15,000 could be completely offset by farming losses in paying income taxes. This provision is aimed at protecting the person who is primarily a farmer but has a part-time job or other additional income.

Each $1 of nonfarm income between $15,001 and $30,000 would reduce the original tax deductions allowed by $1. Therefore, individuals with more than $30,000 nonfarm income could not deduct losses from farming.

This legislation will not stop city people from owning farms. But it will prevent any corporation or individual from misusing tax provisions that have been developed primarily to help the bona fide farmer.

URBAN LEAGUE'S ENDORSEMENT OF COUNCIL OF SOCIAL ADVISERS

Mr. MONDALE. Mr. President, on January 20 the National Urban League presented President Nixon with its recommendations for action to be taken by the new administration in order to "solve our most pervasive and corrosive problems."

I was pleased to find that the League has endorsed my own call for the creation of a Council of Social Advisers in the Office of the President. The Full Opportunity Act, S. 5, which I introduced on January 15, declares full social opportunity a new national goal and establishes a Council of Social Advisers to monitor our success in achieving that objective. It would also require the preparation of an annual social report and creates a joint congressional committee to review the report.

Mr. President, I hope the League's recommendations, and its support for the creation of a Council of Social Advisers in particular, will receive President Nixon's personal attention as well as that of the Senate. I ask unanimous consent that a New York Times article discussing the League's recommendations be printed in its entirety in the RECORD.

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

URBAN LEAGUE URGES GUARANTEED ANNUAL INCOME TO REPLACE WELFARE SYSTEM

(By John Leo)

The National Urban League has urged that the welfare system be abolished and replaced with a program guaranteeing a minimum income for all American families.

This was the major recommendation in a 51-page memoranduum presented by the league to President Nixon on Monday and released yesterday.

The document also urged a $2-minimum

wage, with automatic increases tied to the Consumer Price Index; a White House conference to deal with friction between the police and Negro communities, and an immediate investigation of reports of "a rapidly deteriorating racial climate in the armed services."

Attacking the welfare system as "obsolete, punitive, ineffective and bankrupt," the league said it would give the details of a plan to replace it sometime after its mid-February board meeting.

Whitney M. Young Jr., the league's executive director, said the plan would look "something like" proposals for a negative income tax recommended by various Government and business committees. A minimum income proposal was studied by President Johnson and his advisers but was never espoused as Administration policy.

"THIS IS AN INVESTMENT"

Mr. Young called on President Nixon to "convince the American people that this is an investment, like the G. I. Bill, that will ultimately bring in far more money in taxes than it costs."

Current estimates are that a workable minimum income program could cost as much as $30-billion a year, as against the present welfare bill to Federal, state and city governments of $5.5-billion a year.

"The one prompt, effective solution to the problem of poverty in an affluent society," the memorandum said, "is to provide everyone with a minimum income."

The report contained no dramatic new proposals, arguing that action must be taken along the lines sketched out by the Johnson Administration, the National Advisory Commission on Civil Disorders, the President's Committee on Urban Housing and the President's Commission on Automation, Technology and Economic Progress.

"The National Urban League believes," said the report, "that the new Administration has entered office at a time when the foundations for a massive crusade to solve our most pervasive and corrosive problems have been well established."

The report called for a sweeping eight-year program to eradicate slums and solve the urban crisis by the nation's 200th anniversary in 1976.

Mr. Young said he believed that the President was "anxious to deny, through his actions, the suspicions many Negroes have of him."

Urging Mr. Nixon to act immediately, he said:

"The President is now going through a honeymoon period. Before his detractors and the conservatives start acting, he should put these programs into action."

The memorandum called for a comprehensive plan for Government and industry, working in partnership, to develop the slums. It rejected proposals to curb inflation by permitting an increase in unemployment.

"Such a policy would wreak havoc in black communities where the unemployment rate runs as high as 40 per cent," the memo said.

The league asked for the establishment of a Council of Social Advisers, along the lines of the Council of Economic Advisers, to warn of danger signals on the racial front, and requested a special program to integrate the 100,000 Negroes in the armed services who are to return to civilian society this year.

President Nixon asked the league to put its proposals into a memorandum when he talked with Mr. Young last Nov. 15.

THE SAFE STREETS ACT—HOW IT WORKS

Mr. HART. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Safe Streets Act: How It Works," written by W. Carey Parker, and published in the December 1968 issue of Public Management.

In his well-reasoned article, Mr. Parker lucidly explains the workings of title I of the Safe Streets Act of 1968, an act which inaugurates a major new program of Federal assistance to State and local law enforcement in the United States.

Mr. Parker brings no little expertise to his topic. During the 15-month journey of the Safe Streets Act through Congress, Carey Parker, as speical assistant to the head of the Justice Department's Criminal Division, played a key role in passage of the act.

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

SAFE STREETS ACT: HOW IT WORKS

(By W. Carey Parker)

(NOTE.—The opinions expressed in this article are the author's, and do not necessarily represent the views of the Department of Justice.)

The Omnibus Crime Control and Safe Streets Act of 1968, signed into law by President Johnson last June, inaugurates a major new program of federal assistance to state and local law enforcement in the United States. The Safe Streets program is designed to provide massive federal aid to help our states and cities improve and strengthen all aspects of their law enforcement systems. It promises to become the most important contribution ever made by the federal government in the war against crime.

The new Act is a direct outgrowth of the comprehensive studies carried out by the President's National Crime Commission. The Commission's report, *The Challenge of Crime in a Free Society*, emphasized that crime in America is primarily a state and local responsibility. The Commission found, however, that there were many urgent problems that state and local governments could not solve on their own. To help these governments carry out their law enforcement responsibility, the Commission recommended a program of sustained and substantial federal financial assistance in all areas related to law enforcement.

Acting on the Commission's recommendation, President Johnson proposed the Safe Streets bill to Congress in February, 1967. In the course of its 15-month journey through the Senate, the bill took on its "omnibus" quality with the addition of a series of titles dealing with controversial law enforcement problems such as police interrogation, wiretapping, and gun control. The essence of the law enforcement assistance program remained unchanged, however, and became Title I of the Act.

The phrase "law enforcement" in Title I is a comprehensive term covering all aspects of the law enforcement and criminal justice system. It encompasses each of the basic elements of the system—police, courts, and corrections—as well as general programs for crime prevention and public safety. More specifically, the phrase covers detection and investigation of crime and apprehension of offenders; pretrial procedures; prosecution and defense of criminal cases; conviction and sentencing of offenders; post-conviction procedures; and imprisonment, probation, parole, and rehabilitation of offenders.

No part of the system is beyond the scope of the Act. In every area of law enforcement, federal funds will be available to support a variety of programs to develop new approaches, equipment, and techniques for better law enforcement.

To carry out the provisions of Title I, the Act creates a Law Enforcement Assistance Administration, located within the Department of Justice under the general authority of the Attorney General. The Administration will be headed by three high-level officers, appointed by the President with the advice and consent of the Senate.

Together, they will have the responsibility for administering four principal categories of federal grants under Title I:

Planning grants, to enable state and local governments to prepare and develop comprehensive plans covering their entire law enforcement systems. Federal funds may be used to pay up to 90 per cent of the cost of such planning programs.

Action grants, to enable state and local governments to carry out programs and projects to implement their law enforcement plans. In most cases, federal action funds may be used to pay up to 60 per cent of the total cost of a program. Grants for riot control or control of organized crime may be used to pay up to 75 percent of the cost of a program, and grants for salaries or construction may be used to pay up to 50 per cent of the cost of a program.

Research, development, and special project grants, to encourage the application of modern science and technology to law enforcement. Grants in this category may be used to pay up to 100 per cent of the cost of a project, and may be made not only to state and local governments, but also to other public agencies, and to private organizations as well.

Education grants, consisting of student loans up to $1,800 per year and tuition aid up to $200 per quarter or $300 per semester for law enforcement personnel and students planning careers in law enforcement.

In addition to these grants, the Act contains a significant provision authorizing the Federal Bureau of Investigation to expand its training programs for state and local law enforcement personnel, both in the field and at the FBI National Academy at Quantico, Va.

For the current fiscal year, Congress has appropriated a total of $63 million for the Safe Streets Act. Of this amount $19 million will be available for planning grants and $29 million for action grants. Under the terms of the Act, both planning and action funds must be allocated among the states according to population. In addition, for the current fiscal year, $3 million will be available for research grants, $6.5 million for education grants, $3 million for FBI training programs, and $2.5 million for organization and operation of the Law Enforcement Assistance Administration. In future years, appropriations under the Act are expected to increase substantially with expenditures eventually reaching approximately $1 billion a year.

The Safe Streets Act draws no distinction between state and local governments with respect to eligibility for research grants, education grants, and FBI training. Under the education grant program, for example, student loans will be available to local law enforcement officers enrolled on a full-time basis in college degree programs related to law enforcement. Similarly, local officers enrolled full-time or part-time in college-level courses will be eligible for assistance under the tuition aid aspect of the grant program.

The Act requires that special consideration must be given to student loans for police or correctional personnel on academic leave to earn degrees. Repayment of the loans will be cancelled at the rate of 25 per cent per year for each subsequent year of service in law enforcement.

With respect to eligibility for planning grants and action grants, the Act does draw a distinction between state and local governments, since essentially all such grants must be made in the first instance to state governments. At the same time, however, the Act places strict controls on state governments to insure full and adequate participation by local governments in the planning and action programs, including specific requirements as to the amount of federal funds that must be

made available by the states to local governments.

In the case of planning grants, federal funds awarded to a state must be used to establish and operate a state-level law enforcement planning agency, whose principal responsibility is the preparation of the state's comprehensive law enforcement plan. The Act specifically requires that local governments and local law enforcement agencies must be given reasonable representation on the state agency. Moreover, under the terms of the Act, 40 per cent of the federal planning funds granted to a state must be made available by the state to local governments within the state, to enable the local governments to participate in the formulation of the state plan.

In the case of action grants, an even larger share—75 per cent—of the total funds granted to a state must be made available by the state to local governments. The Act lists seven major examples of law enforcement programs for which action grants may be used: public protection, recruiting and training of personnel, public education, construction, control of organized crime, riot control, and community service officer programs. In each of these areas, as well as many others, the success of the law enforcement assistance program will depend on extensive participation by local governments.

One of the most significant features of the action grant program for local governments is the provision authorizing federal funds to be used to pay higher salaries to law enforcement personnel. Under the terms of the Act, up to one-third of any action grant may be used for the compensation of personnel, subject only to two requirements—federal funds may be used only to increase salaries, and any increase must be matched by an equal increase paid out of state or local funds. Even these limitations, however, do not apply to salaries of personnel engaged in training programs.

To insure that local governments are not disadvantaged by undue delay in applications by states for grants under the Act, Title I sets strict time limits for state compliance. A state must apply for its planning grant within six months after the enactment of the statute—that is, by Dec. 19, 1968. Furthermore, the state must file its comprehensive law enforcement plan within six months after the approval of its planning grant by the Law Enforcement Assistance Administration. If a state fails to meet these deadlines, the Act authorizes the administration to make planning grants and action grants directly to cities, counties, and other units of local government within the state.

Implementation of the Safe Streets program is well under way in the Department of Justice. Shortly before the statute was enacted, Attorney General Ramsey Clark designated a special task force within the Department to prepare a blueprint for the Law Enforcement Assistance Administration. On June 20, 1968, the day after the bill was signed into law, the Attorney General announced preliminary plans for the organization of the Administration into three separate divisions:

An Office of Planning and Law Enforcement Grants will administer the planning grant and action grant programs and provide technical assistance to help state and local governments formulate their law enforcement plans and action programs.

The National Institute of Law Enforcement and Criminal Justice, created by the Act itself, will administer the research grant program. The Institute will also develop its own in-house research capability, and, in cooperation with the Federal Bureau of Investigation, will establish a crime statistics center for the collection and dissemination of data on all aspects of law enforcement in the United States.

An Office of Academic Assistance will administer the program of student loans and tuition aid.

In July and August, 1968, the Department of Justice arranged a series of conferences around the country with representatives of state and local governments and numerous citizens' groups, to discuss a variety of proposals for launching the law enforcement assistance program.

In late August, acting under a special provision of the Act, the Attorney General awarded riot control grants totaling $4,350,000 to 40 states, the District of Columbia, and Puerto Rico. Pursuant to the requirements of the Act, 75 per cent of these funds will be made available by the states to local governments.

In September, tentative guidelines for the planning grant program were distributed to the 50 state governors, mayors of the 135 largest cities, and 400 other key figures in state and local law enforcement. To facilitate the rapid distribution of planning funds, the administration adopted a two-page grant procedure under which a state may apply for an immediate grant of "initial" planning funds to establish and staff its law enforcement planning agency. Subsequently, the state may obtain the remainder of its planning funds by submitting an application demonstrating that its planning operation meets the requirements of the Act, including adequate representation by local governments on the state agency, and adequate state procedures for distributing federal funds to local governments.

In October, detailed plans were announced for the education program, offering student loans and tuition aid for study in areas such as police science, police administration, corrections, public safety, criminology, criminalistics, and law enforcement technology, as well as in related aeras such as sociology, psychology, and computer technology. Loans and grants will be made directly by the 1,800 colleges and universities expected to participate in the program.

The Safe Streets Act holds immense promise for local law enforcement in the United States, not least because it establishes a creative new federal-state-local partnership that gives the federal government its first significant role in the nationwide struggle to upgrade law enforcement. The range of innovations and improvements to be funded under the Act is as vast as the imagination of state and local law enforcement. The means are at hand. As the eloquent closing passage of the Crime Commission's Report declares, "Controlling crime in America is an endeavor that will be slow and hard and costly. But America can control crime if it will."

PROJECT REHAB

Mr. JAVITS. Mr. President, for the past 5 years the Central Labor Council of New York City has been conducting a project to provide physical, emotional, and vocational rehabilitation services to workers and workers' families. Project Rehab, under three distinguished trade union leaders, Michael Sampson of the Utility Workers, chairman of the project, Harry Van Arsdale of the Electrical Workers, overall president of the council, and Gerald R. Waters, Sr., director of the project, was originally funded by a grant from the Department of Health, Education, and Welfare, supplemented by matching funds from the New York City Central Labor Council. It utilized the skills of both a professional staff and, of volunteer counselors from local unions throughout New York City. Nearly 4,000 workers have been reached through this program, and its success in helping otherwise unemployable persons find and hold jobs led to the decision of the council to continue the project through union contributions when the Federal demonstration funds run out. The officials of the New York City Central Labor Council and the local union volunteers who have made Project Rehab such a tremendous achievement are examples of the great public spirit of the trade union movement in New York City. I ask unanimous consent that several articles describing Project Rehab be printed at this point in the RECORD.

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

[From the New York Times, Dec. 27, 1968]

UNION PIONEERING

All but obliterated in the grim tide of strike news that has enveloped the city in recent weeks is organized labor's assumption of direct responsibility for underwriting a pioneering project in physical, mental and vocational rehabilitation. The project was initiated five years ago by the New York City Central Labor Council, with the aid of $580,000 in grants from the Federal Department of Health, Education and Welfare. Unions here have put in another $280,000 of their own funds to provide counseling and treatment for workers who would otherwise have been unable to hold a job.

The results have been hailed by distinguished medical authorities as a significant contribution to community well-being. Now that the Federal demonstration funds have run out, labor itself is paying the bill and seeking to integrate the program into the regular operation of established union-management health and welfare funds. The local A.F.L.–C.I.O. has thus taken a long forward step in social involvement.

[From the Labor Chronicle, December 1968]

PROJECT REHAB ISSUES 5-YEAR REPORT AS PROGRAM FOR COUNCIL CONTINUES

"Project Rehab" of the New York City Central Labor Council has reached the stage of its "final report" on a five-year program of worker rehabilitation counseling aided by government grants, Council President Harry Van Arsdale, Jr., notes in a foreward to the report, that the affiliated unions are determined to carry it on through voluntary contributions.

PRESIDENT MEANY HAS REPORT

The first copy of the report was presented to AFL–CIO President George Meany by Michael Sampson, chairman of the project and of the Community Services Committee of the Council. The report analyzes the cases of 3,261 workers or members of workers' families who were guided to rehabilitative services for physical, emotional or vocational impairments. In many of the cases, the counseling and treatment meant the difference between holding a job or being unemployed.

START IN 1963

The project was initiated in 1963 as a demonstration of what labor could do in liaison and counseling services to help members in need of rehabilitation. At the start, it received a three-year grant of $270,000 from the U.S. Dept. of Health, Education & Welfare's Social Rehabilitation Service with the labor council to supply matching funds over the period. It was the first such grant ever given to a central labor council. Six months before the grant expired, the project had proved so productive that the government provided funds to extend it for two more years.

In all, $580,000 in federal funds have gone into the demonstration project, with the city AFL–CIO supplying an additional $280,000. The funds enabled the Community Services Committee to launch the project with a professional staff and to recruit and train volunteer counselors in local unions throughout the city.

Director is Gerald R. Waters, Sr., Margaret Barry is assistant director and John J. Gehan associate director. Medical Advisers are Dr. Guy F. Robbins and Dr. Howard A. Rusk.

President Van Arsdale expressed appreciation to them and to Chairman Sampson who had assumed responsibility for the program. He also gave credit to Administrator Mary Switzer of HEW Social Rehabilitation Service who encouraged the city AFL–CIO to undertake the project.

FUTURE PLANS

Chairman Sampson reported that 180 local and international unions already have contributed $30,000 to continue the program. But the real answer, he suggested, may be in efforts to establish it as a tax-exempt, non-profit organization.

NEW YORK LOCALS PLAN TO KEEP UP WORKER REHABILITATION PROGRAM

The New York City Central Labor Council's "Project Rehab" has reached the stage of its "final report" on a five-year program of worker rehabilitation counseling aided by government grants.

But the project has proved so successful, Council Pres. Harry Van Arsdale, Jr., notes in a foreword to the report, that the 500 unions affiliated with the central body are determined to carry it on through voluntary contributions.

First copy of the report was presented to AFL–CIO Pres. George Meany by Michael Sampson, chairman of the project and of the labor council's Community Services Committee.

It analyzes the cases of 3,261 workers or members of workers' families who were guided to rehabilitative services for physical, emotional or vocational impairments. In many of the cases, the counseling and treatment meant the difference between holding a job or being unemployed.

Actually, Sampson pointed out, for purposes of the report the analysis was limited to cases referred prior to Nov. 15, 1967. In the past year, he noted, additional hundreds of workers were helped, bringing the total to nearly 4,000.

The project was initiated in 1963 as a demonstration of what labor could do in liaison and counseling services to help its own members in need of rehabilitation.

At the start, it received a three-year grant of $270,000 from the U.S. Dept. of Health, Education & Welfare's Social Rehabilitation Service with the labor council to supply matching funds over the period. It was the first such grant ever given to a central labor body. Six months before the grant expired, the project had proved so productive that the government provided funds for two more years.

In all, some $580,000 in federal funds have gone into the demonstration project, with the city AFL-CIO supplying an additional $280,000.

The funds enabled the Community Services Committee to launch the project with a professional staff and to recruit and train hundreds of volunteer counselors in local unions throughout the city.

First director of "Project Rehab" was Louis L. Levine, who continues as a consultant. His successor and current director is Gerald R. Waters, Sr. Margaret Barry is assistant director and John J. Gehan associate director.

Medical advisers to the project are Dr. Guy F. Robbins and Dr. Howard A. Rusk.

Van Arsdale paid tribute to all of them, and to Sampson who had assumed overall responsibility for the program. He also gave special credit to Administrator Mary Switzer of HEW's Social Rehabilitation Service who encouraged the city AFL–CIO to undertake the project and carry it through.

But the key to the project's success, the report makes clear, have been the local union volunteers.

"The union representative became an important member of the team," the report observes.

"For all practical purposes he was an effective vocational counselor to the professionals involved in treatment. He knew the job duties on which job recommendations could be based. He could negotiate with an employer in a way that no professional counselor could approximate.

"Because of his special relationship to the patient and coworkers, he could make the member's return to work a relatively smooth process. The project made a beginning in developing this particular aspect of vocational rehabilitation. It is worth further consideration."

Sampson noted that throughout the five-year period, the project had the strong support and cooperation of voluntary and government agencies, the medical profession, medical centers and schools.

As for the future, he reported that 180 local and international unions already have contributed some $30,000 to continue the program. But the real answer, he suggested, may lie in efforts now being explored to establish it as a tax-exempt, non-profit organization that will be able to attract large contributions and establish working relationships with labor-management health and welfare funds.

THE NIXON RESPONSIBILITY FOR DESEGREGATION

Mr. MONDALE. Mr. President, we are at an important junction in the battle to insure that all Americans enjoy equal opportunity and equal justice under law. The issue, quite simply, is whether and when basic civil rights will be extended to, and enforced for, all the citizens of our country. Unprecedented and important civil rights laws have been passed during the past decade, and the Nixon administration is now faced with the responsibility of implementing them fully and effectively.

An article in last Sunday's Washington Post indicated that the Nixon administration was confronting its first test in civil rights enforcement. This article, which I ask unanimous consent to insert at this point in my remarks, suggested that Robert H. Finch, Secretary of the Department of Health, Education, and Welfare, might grant 60-day extensions to five southern school districts for which funds were scheduled to be terminated on January 29, 1969, for failure to comply with provisions of the Civil Rights Act of 1964.

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

NEED FOR REVIEW HALTS SCHOOL FUNDS CUTOFFS

In its first move on the ticklish topic of school desegregation, the Nixon Administration has decided to keep Federal funds flowing, at least temporarily to several embattled Southern school districts.

Health, Education and Welfare Secretary Robert H. Finch has concluded that reprieves should be granted to districts where fund cutoffs had been imminent.

The extra time will be used to permit Finch and his staff to conduct the case-by-case reviews they have promised in dealing with districts whose desegregation pace has been challenged by HEW.

Finch's decision represents at least a small victory for Southern Republicans, including Sen. Strom Thurmond of South Carolina, who have been urging a fresh look at pending desegregation disputes.

One White House source said that the new HEW Secretary felt the impending cutoff deadlines had been set by departing Democrats "just to embarrass the new Administration."

At least six Southern school systems, and perhaps more, are believed included in Finch's decision to defer final cutoffs.

Rep. Charles Raper Jonas (R.-N.C.) reported on Friday that the White House congressional liaison office had informed him Thursday that Martin County, N.C., would be granted a 60-day stay. The cutoff of funds was scheduled next Wednesday.

The Martin County case has taken on considerable symbolic significance, because despite four years of noisy controversy, not a single school district in North Carolina has yet had its Federal funds terminated for insufficient desegregation.

In the cases of five other Southern districts, notification of final funds cutoffs has been sent to the House Education and Labor Committee and the Senate Labor and Public Welfare Committee. The cutoffs take effect 30 days after notification of the Committees.

Finch aides were busy Friday checking out the details on Martin County and the five others. They are Abbeville County School District No. 60, Anderson County District No. 4 and Barnwell County District No. 45, all in South Carolina, and the Water Valley and South Panola Districts in Mississippi.

Mr. MONDALE. Mr. President, I was deeply concerned to read this article. I was deeply concerned to learn of the possibility that fair and firm enforcement of the law of the land might be unduly delayed or postponed, and I wrote Secretary Finch urging him to permit these termination orders to take place as scheduled.

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

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

JANUARY 29, 1969.

Hon. ROBERT H. FINCH,
Secretary of Health, Education, and Welfare, Department of Health, Education, and Welfare, Washington, D.C.

DEAR SECRETARY FINCH: Since the passage of the Civil Rights Act of 1964 an important beginning has been made toward the elimination of the dual racially segregated school system. Recently the Office for Civil Rights in your Department reported a significant increase during the past year in the desegregation of formerly dual school systems in eleven Southern states. This progress must continue.

I was very concerned, therefore, to read the enclosed article indicating that you may grant 60-day extensions to the five Southern school districts for which federal funds are scheduled to be terminated today under the provisions of Title VI of the Civil Rights Act of 1964. I sincerely hope that you will permit these termination actions to take place as scheduled, and that the Department will continue its practice of enforcing Title VI fairly and firmly.

I am deeply committed to the intent and the implementation of the Civil Rights Act passed in this last decade, and to the goals of equal justice and equal opportunity.

I would appreciate being informed of your decision in these cases.

With best regards.

Sincerely,

WALTER F. MONDALE.

Mr. MONDALE. Mr. President, Secretary Finch has now acted. Although he has permitted the termination of funds to take place on the day originally scheduled, he added a potentially dangerous new amendment to the termination or-

der. I ask unanimous consent to insert the Secretary's statement at this point in the RECORD.

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

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF THE SECRETARY,

Washington, D.C.

STATEMENT BY ROBERT H. FINCH, SECRETARY OF HEALTH, EDUCATION, AND WELFARE

(Regarding Disposition of the Following Title VI Compliance Cases: *Martin County Board of Education, North Carolina; Abbeville School District No. 60, South Carolina; Barnwell School District No. 45, South Carolina; Water Valley Consolidated School District, Mississippi;* and *South Panola Consolidated School District, Mississippi.*)

One of my sensitive responsibilities as Secretary of Health, Education, and Welfare concerns the enforcement of Title VI of the 1964 Civil Rights Act. *The President set forth on several occasions during the campaign what I believe is the proper construction of this provision of the law.* It is my intention to adopt procedures which are consistent with that interpretation in my enforcement of the law.

The spirit and even the life of a community and the short and long term well-being of its citizens, *both black and white,* are at stake in every decision in this area. Misunderstandings respecting the law, confusion as to its enforcement and the encouragement of false hopes can pit man against man, student against student, and government against government. The total effort in this area must be such as will reopen lines of communication that have been closed by past controversy; to develop new incentives to encourage a continuing dialogue between all the parties concerned; and provide as much flexibility and as many options as possible to ensure that the law is objectively enforced with understanding, compassion and fairness to every American.

It was my initial hope that sufficient time would be available to my Department to develop a broad policy encouraging negotiation. I am, however, today faced with an immediate decision in this area affecting five school districts which well before my tenure were adjudged to be in violation of Title VI of the Civil Rights Act of 1964. In each of these difficult cases, the administrative procedures provided under the law have been exhausted. On December 29, 1968, the former Secretary of HEW, Wilbur Cohen, before he left office, transmitted the findings of the Reviewing Authority withholding federal assistance to these districts to the appropriate Committee Chairmen in the Congress. Thirty days having now elapsed, that decision becomes effective today.

When all of the alternatives have been exhausted as they have been in these instances, the law must in the end be enforced.

However, because of the urgency of this immediate situation and also because of my hope that federal funds can be restored as soon as possible, I am immediately dispatching forthwith negotiation teams from Washington to each of those five districts involved in order for them to sit down with the local school officials, fairly and fully establish the facts, and develop workable and effective alternatives within the law. In addition I am amending the termination order for each of the five districts to allow for the retroactive restoration of federal funds within 60 days once the teams and local officials agree on an acceptable plan. Also I am requesting the several state school authorities involved to hold the federal funds in trust during the period of negotiation.

I want to make it clear that because of the urgency of this situation, the use of these negotiation teams and the possible retroactive restoration of funds will apply only to these five districts and should not be interpreted as establishing a permanent policy approach in this area. This emergency action is being taken because obviously I have not had an opportunity to carefully establish and review the facts in these particular cases and because I believe every avenue must be explored to reopen lines of communication to these school districts and re-instate federal funding as soon as possible. It is not an enjoyable responsibility to withhold funds from any school district, particularly when dire consequences will ensue for all students involved.

In the future, it is my intent to reassess all of the Department's procedures to develop policies which will encourage negotiations, provide flexibility and fairness, and assure enforcement of the law consistent with the interpretation the President repeatedly expressed in the campaign and in these ways assist in providing just and equal educational opportunity for every school child in the country.

Mr. MONDALE. Mr. President, in essence, this termination order, as amended, represents a serious procedural departure from the established method for implementing title VI of the Civil Rights Act of 1964. It establishes a virtual trust fund—of Federal funds—for these school districts which have failed to comply with the law. And it provides an additional 60-day period for these districts to submit acceptable desegregation plans and thereby qualify for their trust fund money.

Mr. President, I seriously doubt whether this additional 60-day extension, and this trust fund arrangement, are justified in these cases. None of these districts has made significant progress toward the elimination of their dual, racially segregated school systems since the Supreme Court ruled them unconstitutional back in 1954. Mr. Roy Wilkins, executive director of the National Association for the Advancement of Colored People stated:

The districts in question do not need another 60 days since they have been dodging compliance with the law for more than 14 years.

Furthermore, the Department of Health, Education, and Welfare has been negotiating with each of these districts for over a year. Each one has failed to even submit alternative desegregation plans to replace the "freedom of choice" plans which have not resulted in progress.

The implications of this decision to the Nation in general, and to southern school superintendents in particular, were clearly stated in an editorial that appeared in the Atlanta Journal, January 30, 1969, which I submit for insertion in the RECORD at this point.

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

A COSTLY NIXON RETREAT

President Nixon has done law enforcement and Constitutional process a great disservice in begining his Administration with encouragement of those who defy the law on school desegregation in the South.

This was exactly what was done Wednesday when Mr. Nixon's Secretary of HEW, Robert H. Finch announced the Administration's decision to grant a 60-day reprieve to five Southern school districts scheduled to lose Federal funds for refusal to abolish segregation.

Mr. Finch, a Californian unacquainted with the ramifications of such actions, thus slaps the face of every Southern school board and every Southern school superintendent who has moved with great difficulty to obey the law. He strengthens the forces of defiance, threatens the political futures of those who have tried to do the right thing and offers subtle promise that the law really is not the law.

No official words about careful review or finding "effective alternatives" can remedy the damage done by an act of this kind, at this moment, on the part of a Federal agency charged with enforcement of the law. Already there have been long delays for reviews and finding alternatives. A school system does not reach the fund cut-off point until it has persistently evaded the law.

Officials of 700 to 800 Southern school districts are in various stages of negotiations with the Federal government over how or whether they will comply with the law. We believe most of these officials are conscientious men trying to respect the Constitution and the law their civics classes teach children about. But they are human. They need support in doing a difficult job, not discouragement to skip out on it and to yield to forces of lawlessness which have been powerful throughout the South.

A firm hand at HEW and in the White House is needed. Mr. Nixon has begun his Administration with a very shaky hand, indeed, on this matter. To him and to Mr. Finch this may seem to be merely a matter of being cautious but anyone who really knows the South is aware of the damage that that can be done by such hesitation and evidence of vacillation. It plays into the hands of hoodlums on one end of the spectrum of "respectability" and of the Strom Thurmond's on the other. The law is the loser in either case.

There can be no doubt today what the law is. Some Southern politicians who now look hopefully to the Nixon Administration for vacillation, were arguing heretofore that HEW guidelines were illegal, going beyond the law. The Fifth Circuit Court of Appeals composed of Southern Federal judges resoundingly repudiated that notion and affirmed the validity of the guidelines and the way in which they were being applied as a means of enforcing the law. The U.S. Supreme Court later affirmed this position by the court that has handled these matters in this region.

There is no doubt about the law but there is doubt now about the law's enforcement—just enough doubt to subtly undermine the best elements in the South. Hope springs anew in the hearts of those high and low who are essentially contemptuous of Constitutional process; and those who have tried to do their duty, have good cause for discouragement. In this field of supreme importance to the South, its stability and its continued orderly progress, the Nixon Administration is off to the worst possible start. Shortly we shall see if this is to be the pattern.

Mr. MONDALE. Mr. President, I remain seriously concerned about the recent decision in these cases, and I intend to follow very closely the future actions in this area. I am deeply committed to the intent and the implementation of the Civil Rights Act of 1964, and I believe the ultimate decisions rendered in these five cases will have far-reaching effects on civil rights and educational progress in this country.

PROPOSED DISAPPROVAL OF EXECUTIVE, LEGISLATIVE, AND JUDICIAL PAY RATES

Mr. WILLIAMS of Delaware. Mr. President, under the rules, if there is

no further morning business is it in order to call up Senate Resolution 82?

The PRESIDING OFFICER. Is there further morning business?

Mr. DIRKSEN. Mr. President, reserving the right to object, if that is in order, I thought our understanding was that this resolution would not be made the pending business until the end of the day.

Mr. WILLIAMS of Delaware. That was my understanding.

Mr. DIRKSEN. That we would then take it up on Tuesday next at the end of the policy committee session, about 2 o'clock.

Mr. WILLIAMS of Delaware. That was the agreement.

Mr. DIRKSEN. I have no objection.

Mr. WILLIAMS of Delaware. I have no objection, either. It was my understanding in accepting the agreement, that it would not be discussed or acted on today but that Senate Resolution 82 would be the unfinished business when the Senate completed its business tonight and that on Tuesday next, upon the completion of morning business, it would still be the unfinished business. On Tuesday we would then proceed to consider the resolution as the unfinished business until it was disposed of. In order to do that it would take unanimous consent at this time for Resolution 82 to be made the unfinished business. I thought we had reached an agreement. However, I have been told within the last couple of minutes that there may be a misunderstanding about that agreement which the Senator from Illinois and I thought we had——

Mr. DIRKSEN. I know nothing about a misunderstanding.

Mr. WILLIAMS of Delaware. If there is a misunderstanding, it leaves us no choice under the rules of the Senate except to do what we can at this time. I hope that the acting majority leader, who I thought was familiar with the agreement, can settle this, but if not, I have no choice——

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY. Mr. President, I ask unanimous consent that Senate Resolution 82 be placed on the calendar, and that the Senate proceed to its consideration, and that it continue to be the pending business beyond 2 o'clock.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

Resolved, That the Senate disapproves the recommendations of the President with respect to rates of pay transmitted to the Congress in the budget for fiscal year 1970 pursuant to section 225(h) of the Federal Salary Act of 1967.

Mr. WILLIAMS of Delaware. Mr. President——

Mr. KENNEDY. Mr. President, it is my understanding that there will be no votes on this resolution today, and that this matter will be brought up, in accordance with the motion, on Tuesday next.

Mr. WILLIAMS of Delaware. That is right.

Mr. KENNEDY. Excuse me.

Mr. WILLIAMS of Delaware. Mr. President, if I may interject here, it is my understanding that the unanimous-consent would automatically make——

The PRESIDING OFFICER. First, is there objection to the request of the Senator from Massachusetts?

Mr. WILLIAMS of Delaware. Well, Mr. President, reserving the right to object—and I do not have any objection—it is my understanding, however, that unanimous consent on Senate Resolution 82 will automatically make it the pending business now in the Senate, and will remain the pending business beyond the hour of 2 o'clock today. When we adjourn today it will automatically be the unfinished business when the Senate completes the morning hour on Tuesday next. I have no objection.

Mr. McCARTHY. Mr. President, reserving the right to object——

Mr. WILLIAMS of Delaware. There will be no discussion or action today; I agree on that, unless——

The PRESIDING OFFICER. Unless it is displaced by any other motion.

Mr. WILLIAMS of Delaware. Unless disposed of in some manner.

Mr. KENNEDY. Also, the leadership has stated that there will be no Senate votes on that matter today.

Mr. WILLIAMS of Delaware. That is correct.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Massachusetts? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS

Mr. PROXMIRE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is Senate Resolution 82.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that, in spite of the provisions of germaneness under rule VIII, I be permitted to speak on a matter not pertaining to the pending resolution.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

S. 823—INTRODUCTION OF THE FAIR CREDIT REPORTING BILL

Mr. PROXMIRE. Mr. President, I introduce a bill and ask for its appropriate referral.

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

The bill (S. 823) to enable consumers to protect themselves against arbitrary, erroneous, and malicious credit information, introduced by Mr. PROXMIRE (for himself, Mr. WILLIAMS of New Jersey, Mr. MONDALE, Mr. NELSON, Mr. MAGNUSON, Mr. McGEE, Mr. MOSS, Mr. YARBOROUGH, Mr. YOUNG of Ohio, and Mr. JAVITS), was received, read twice by its title, and referred to the Committee on Banking and Currency.

Mr. PROXMIRE. Mr. President, it is an amendment to the Truth-in-Lending Act which passed the Congress last year. The bill would establish certain Federal safeguards over the activities of credit reporting agencies in order to protect consumers against arbitrary, erroneous, and malicious credit information. I am delighted that nine Senators have joined me in sponsoring this much-needed reform, including Senators McGEE, NELSON, MOSS, YARBOROUGH, YOUNG of Ohio, JAVITS, MAGNUSON, WILLIAMS of New Jersey, and MONDALE.

Although a number of congressional committees have recently begun to investigate the activities of credit reporting agencies, most Americans still do not realize the vast size and scope of today's credit reporting industry or the tremendous amount of information which these agencies maintain and distribute. For example, the Associated Credit Bureaus of America have over 2,200 members serving 400,000 creditors in 36,000 communities. These credit bureaus maintain credit files on more than 110 million individuals and in 1967 they issued over 97 million credit reports. Credit bureaus typically supply information on a person's financial status, bill paying record, and items of public record such as arrests, suits, judgments and the like. The information is furnished to creditors for the purpose of extending credit.

One firm based in Atlanta, Ga.—the Retail Credit Co.—has 1,800 offices in the United States and Canada. As a recent story in the Wall Street Journal put it:

> You may not have heard of retail credit, but there is a good chance it has heard of you.

The Retail Credit Co. investigates individuals who apply for insurance or employment and supplies 35 million reports a year to their 40,000 customers. Their files include dossiers on 45 million individuals and contain information on drinking, marital discords, adulterous behavor, as well as a person's general reputation, habits and morals. A typical investigation takes 30 minutes, with much of the information coming from neighbors.

Another nationwide firm, Hooper-Holmes of Morristown, N.J., specializes in maintaining derogatory information on "deadbeats" and providing investigative reports to insurance companies. They have files on 9 million persons.

One of the fastest growing credit reporting firms is the Credit Data Corp. of California which has 20 million credit files on computer tape. During recent hearings, the firm's president testified they were adding 50,000 new files a week and estimated that within 5 years information on every American who has applied for credit could be in their computer data bank.

While the growth of this information network is somewhat alarming, what is even more alarming is the fact the system has been built up with virtually no public regulation or supervision. A few years ago, the executive branch proposed the establishment of a national data bank with personal information on every U.S.

citizen. The "big-brother is watching" overtones of this project plus congressional opposition led to its quick abandonment. Yet we are building roughly the same type of data bank under private auspices but with none of the public safeguards.

I do not mean to suggest that credit reporting agencies perform no worthwhile function or that we should arbitrarily curb their growth. Credit reporting agencies are absolutely essential in today's credit economy where consumer debt has passed the $100 billion mark. The credit reporting industry has come into being and has grown in response to the demand by retailers, banks, and other financial institutions for sound information about the credit worthiness of consumers. Creditors need this information, and they need it as quickly as possible, in order to make sound credit decisions. And consumers need an efficient credit reporting industry in order to obtain credit promptly with a minimum of redtape.

Therefore, my objective in introducing the fair credit reporting bill is to correct certain abuses which have occurred within the industry and to insure that the credit information system is responsive to the needs of consumers as well as creditors. During the last few years, the Congress has made great progress in passing consumer protection legislation including truth in packaging, auto safety, cigarette labeling, truth in lending, and meat inspection. I believe the fair credit reporting bill carries on this fine tradition.

CREDIT REPORTING ABUSES

Mr. President, before describing the details of the fair credit reporting bill, I would like to outline some of the abuses which have grown up within the existing credit reporting system. The main problems can be classified under three main headings: First, the problem of inaccurate or misleading information; second, the problem of irrelevant information; and, third, the problem of confidentiality.

INACCURATE INFORMATION

Perhaps the most serious problem in the credit reporting industry is the problem of inaccurate or misleading information There have been no definitive studies made of just how accurate is the information in the files of credit reporting agencies. But even if it is 99 percent accurate—and I doubt it is that good—the 1 percent inaccuracy represents over a million people. While the credit industry might be satisfied with a 1-percent error, this is small comfort to the 1 million citizens whose reputations are unjustly maligned. Moreover the composition of the 1 million persons is constantly shifting. Everyone is a potential victim of an inaccurate credit report. If not today, then perhaps tomorrow.

Given the inherent difficulties involved in collecting, storing, and distributing information, it is unrealistic to expect 100 percent accuracy. Errors can crop up in a variety of ways.

First. Confusion with other persons: Each year, millions of Americans get married, get divorced, change their name, their job or their residence. Millions of people have the same or similar name. Therefore, it is no wonder that credit bureaus frequently confuse one individual with another, sometimes with tragic results. Recently, a New York assemblyman was denied credit for no apparent reason. Only after repeated calls to the credit bureau did he learn that the credit bureau had confused him with someone else. A person less persistent might still have a falsely blemished record, particularly if he did not happen to be an assemblyman.

Second. Biased information: A record of slow or nonpayment in a person's credit file does not necessarily mean he is a poor risk. Perhaps he had a legitimate dispute with a merchant and withheld payment until the merchant lived up to the terms of the contract. While merchants have a wide variety of collection weapons, about the only bargaining power consumers have is the threat to hold up payment. Unfortunately, the consumer's side of the story does not find its way as easily into the files of the credit bureau as does the merchant's version.

Third. Malicious gossip and hearsay: Perhaps the most serious misinformation in credit reporting agency files is malicious gossip and hearsay. This type of information is most prevalent in the files of credit reporting agencies which specialize in investigating people who apply for insurance or employment. The information is often obtained from neighbors or coworkers where the opportunity is ripe for anonymous character assassination. These kinds of investigations usually include detailed information on highly personal items such as drinking habits, marital strife, private morals, and the like. Many people have written to me citing specific examples of this kind of abuse. Some of these cases are as follows:

A Maine housewife has lost virtually all her credit and her life, hospital, and car insurance due to "bad morals" cited in a credit report. The reason? For 12 years she has been a common law wife to a man whose wife will not divorce him.

A college student from Ohio lost his car insurance on the strength of a neighbor's secret testimony.

A Pennsylvania woman was turned down for major medical coverage by an insurance company. After repeated interviews with company officials and the Pennsylvania insurance commissioner, the woman's husband finally learned the reason. A credit report indicated she was an alcoholic. In actual fact, the woman had never consumed more than a dozen drinks in 20 years of married life.

A Florida insurance man with 20 years of experience writes that credit investigations are frequently characterized by hearsay evidence, inaccuracies, incompetent investigators, and snide insinuations.

The attitude of credit reporting industry officials on hearsay evidence is not exactly reassuring. For example, the general counsel of Retail Credit testified at a recent hearing. "What's wrong with hearsay? We all operate on hearsay everyday. We couldn't have a civilized society without hearsay."

Fourth. Computer errors: With the growing trend toward computerization, the incidence of computer errors is on the increase. Such errors are particularly prevalent during periods of conversion when all of the "bugs" in the new computer system have not yet been worked out. For example, a California credit reporting agency mistakenly labeled a whole file drawer of good credit risks as bad credit risks. I have received numerous letters from people badgered by computer-written letters hounding them to pay for goods never received.

A young Wisconsin housewife has written me about her experience with a major oil company which for some reason failed to send a bill for 2 months. To quote from her letter:

> In September, my husband and I received an overdue bill notice. We paid the amount at once and sent with it a covering letter explaining that my change of name and address probably confused their billing department. In reply, we received a letter demanding payment of the same overdue bill and return of our credit cards. At this point, we were only too happy to get rid of the cards, but we still owed the . . . Corporation more than they had attempted to collect . . . We have sent two letter requesting to be billed. Eventually, the . . . Corporation will tell us the amount we still owe, and we will pay. But their computer will have recorded us as delinquent, and a poor credit rating will be foisted on us as a result of *their* mistake. As young marrieds, we are just beginning to need a good credit rating. This company's mistakes can cause us grief.

A highly knowledgeable aerospace engineer has written:

> I am especially concerned by the possibilities of error afforded by computer systems, which spew forth incorrect data and half-truths due to the dogmatic nature of computer programming and the limitations of human operations. We desperately need legislation to protect all of us.

Recently, the "Judd for the Defense" TV program dramatized the case of a man who lost his job and ultimately his sanity as a result of a credit bureau computer error. The transcript of this program appears on page 1424 of the RECORD for January 22.

Fifth. Incomplete information: Because of the increased computerization and standardization of credit bureau files, all of the relevant information is not always reflected in a person's file. For example, one housewife had difficulty obtaining credit. She finally discovered the credit bureau had categorized her as a "slow payer" despite the fact that the credit manager at the store involved was fully aware of and had agreed to the extenuating circumstances causing the late payment. However, under the credit bureau's file system, these additional facts were not recorded. The trend toward standard computerized reporting should increase this type of inaccuracy.

Recently the Consumer Finance News reported the case of a man repeatedly rejected for bank loans for no apparent reason. It turned out the banks were relying on an unfavorable credit report from a computerized credit bureau. Some years earlier, the man had missed several payments on his auto loan due to a severe injury. Although the man ob-

tained the specific permission of the lending offices to delay the payments, the computer showed only that the payments were late.

Another type of incomplete information is concerned with adverse items of public records. Most credit reporting agencies assiduously cull adverse information on people from newspapers, court records, and other public documents. These items include records of arrests, judgments, liens, bankruptcies, suits, and the like. However, most agencies are not anywhere nearly as diligent in following up on the case to record information favorable to the consumer. Action following arrest is often dropped because of a lack of evidence. Suits are dismissed or settled out of court. Judgments are reversed. However, these facts are seldom recorded by the credit reporting agencies with the result that their records are systematically biased against the consumers.

To cite but one example of this type of abuse, let me recount the experience of a California man who recently wrote to me. He was falsely arrested and convicted of a felony in 1962 on a case of mistaken identity. In 1963 the real criminal confessed. Despite his innocence, the man has never been able to obtain any credit since even though he is a successful real estate broker.

CORRECTING ADVERSE INFORMATION

The problem of inaccurate information is compounded by the difficulty consumers have in getting their adverse records corrected. It would be unrealistic to expect credit reporting agencies to be absolutely accurate on every single case. But it seems to me that consumers affected by an adverse rating do have a right to present their side of the story and to have inaccurate information expunged from their file. Considering the growing importance of credit in our economy, the right to fair credit reporting is becoming more and more essential. We certainly would not tolerate a Government agency depriving a citizen of his livelihood or freedom on the basis of unsubstantiated gossip without an opportunity to present his case. And yet this is entirely possible on the part of a credit reporting agency.

There are a number of reasons why it is difficult for consumers to correct inaccurate information.

First, many consumers simply are unaware of the existence of credit reporting agencies or of the fact that their file contains inaccurate information. A person who applied for credit and is turned down is not always told the reason. In the absence of such disclosure he may not connect the rejection with an adverse credit rating, particularly if he has a limited education and is less sophisticated about financial matters.

Even more serious is the practice of many retailers of not even informing a person he has been rejected for credit. His application is simply pigeonholed. In such a case, the individual does not know whether his application is rejected, lost, or merely pending. He would thus have no way of knowing a credit reporting agency is sending out adverse information on him which may be entirely inaccurate.

But the most disturbing fact of all is that the service agreement between some credit reporting agencies and its business customers prohibits the customer from disclosing the identity of the credit reporting agency to any consumer. For example, until recently a standard service contract of the Retail Credit Agency required its clients to agree that "all reports, whether oral or written, will be kept strictly confidential; except as required by law, no information from reports nor your identity as the reporting agency will be revealed to the persons reported on."

To illustrate the workings of this clause, let us assume Retail Credit investigated an applicant for an insurance policy. Let us further assume the report included a completely baseless charge that the person was an alcoholic. As a result of the report, the insurance company rejects the person for insurance. However, the company is precluded by the service agreement from revealing the reason why or from identifying the Retail Credit Co. as the purveyor of the charge. Thus the individual has no opportunity whatsoever of correcting the falsehood. Moreover, such a lie could even affect his future employment. Surely this kind of protected character assassination has no place in a democracy where the right of procedural due process is guaranteed to every citizen.

Following House hearings chaired by Congressman GALLAGHER, Retail Credit deleted the no-disclosure clause from its contract. However, it is not known how many other credit reporting agencies impose a similar requirement.

A second reason why consumers have difficulty in correcting inaccurate information is that such procedures are costly to credit reporting agencies. Most credit reporting agencies operate on a high-volume basis. The typical investigation by the Retail Credit Co. takes 30 minutes. Since a credit reporting agency earns its income from creditors or its other business customers, time spent with consumers going over individual reports reduces the agency's profits.

While it is no doubt true that many individual credit reporting agency managers feel a moral obligation to help consumers correct their files, it is also true that no single agency can spend too much time on such consumer services without driving up the cost of their reports. If the cost goes too high, the agency could lose business to a rival credit reporting agency with a more limited consumer service program. The Credit Bureau in the District of Columbia probably has one of the best consumer service programs in the country, yet only 2 percent of its total budget is allocated to this function.

Some credit reporting agencies set up artificial roadblocks to discourage consumer attempts to correct their files. For example, the manager of the Fort Smith, Ark., credit bureau has written in a credit bureau trade publication that—

> If the declined applicant is interested enough in his or her record to visit the bureau, and feels strongly enough that an error has been made, we should take the time to investigate. In checking with other bureau managers, I find most of them are willing to investigate. However, some bureaus discourage this by placing a nuisance charge on the investigation, or merely placing the date of the interview as much as two weeks away.

When such practices are openly acknowledged in the industry's own trade magazine, it is difficult to deny that they exist.

Many credit reporting agencies refuse to show consumers their files possibly out of fear of litigation and partly to protect its information sources. Retail Credit will neither confirm nor deny that it made a report on an individual on the grounds that if it did so, its information would dry up, litigation would increase, and its reporting activities would be slowed down. This argument is but another example of the needs of business taking precedence over consumer rights.

A third reason why consumers have trouble correcting their credit records is that many credit bureaus also serve as debt collection agencies. Thus when a particular bill is in dispute, the credit bureau acting as a collector has a direct financial interest in upholding the merchant's version of the dispute. Under these circumstances it is no wonder that the consumer has trouble getting his side reflected in the credit bureau files.

If the problem were confined to that one particular case, the problem would not be so bad. But the adverse credit information can jeopardize an individual's credit standing with all of his other creditors. He could wind up losing all his credit, his insurance, perhaps even his job, all because of a dispute on a single unjust bill. When credit bureaus become collection agencies, the opportunities for vindictive action against a recalcitrant debtor become enormous. In such a case the individual is helpless regardless of whether he is right or wrong. I have received mail from numerous individuals who have been harassed and hounded unmercifully by credit bureaus acting as bill collectors. One Wisconsin couple was even forced to move to California because of the unconscionable collection tactics employed by a credit bureau.

IRRELEVANT INFORMATION

In addition to supplying inaccurate information, a second major abuse of credit reporting agencies is the dissemination of irrelevant information—that is, the information may be technically accurate but it may not serve any useful purpose.

One of the most common irrelevancies perpetuated by credit reporting agencies is furnishing information on minor offenses committed many years ago. Although our legal system recognizes a statute of limitations on even the most serious offenses, this concept does not appear to have invaded the thinking of some credit reporting agencies. The fact that a man was arrested as a youth 10 or 15 years ago has little bearing on his credit worthiness today. But some credit reporting agencies seem to think it does. To illustrate:

A Washington attorney was recently denied employment because his credit report included information about two cases of intoxication that occurred 20 years ago.

An Oregon businessman, having difficulty obtaining credit, finally managed to see his credit report. He discovered a false charge of bankruptcy which had allegedly occurred 16 years ago. The credit bureau refused to make the correction.

A New Orleans photographer, testifying before Senator HART's Antitrust Subcommittee, indicated he is still being damaged by derogatory credit reports concerning a suit filed 10 years ago and subsequently dismissed.

A second kind of irrelevant information goes beyond the immediate purpose for acquiring the information and includes all kinds of extraneous details, frequently of a highly personal nature. For example, standard credit reports used to judge an applicant for credit sometimes include information on the person's "character," "habits," and "morals." First, it is difficult to define what these terms mean. Second, it is doubtful a credit bureau can come up with any definitive judgment on a person's morals given the time taken to investigate—about 30 minutes. Third, it is difficult to see what business it is of the creditors anyway unless they are just downright nosey. A creditor does not have an absolute right to obtain details on any and all aspects of a person's private life merely because he has applied for credit, even if the creditor can demonstrate some vague and tenuous relationship between the information and the decision as to whether or not to grant credit. At some point the individual's right to privacy takes precedent over the creditor's right to obtain information.

The Associated Credit Bureaus of America—ACB of A—Inc. has indicated this item has been deleted from ACB of A standard reporting forms. However, it is unclear to what extent information is still reported by individual members or nonmembers. According to ACB of A officials, only two-thirds of all credit bureaus belong to ACB of A.

HOW CONFIDENTIAL ARE CREDIT BUREAUS?

The fact that credit reporting agencies maintain files on millions of Americans, including their employment, income, billpaying record, marital status, habits, character and morals is not in and of itself so disturbing. What is disturbing is that this practice will continue, and will have to continue, if we continue to have an insurance system and a consumer credit system of the kind we have. What is disturbing is the lack of any public standards to insure that the information is kept confidential and used only for its intended purpose. The growing accessibility of this information through computer- and data-transmission techniques makes the problem of confidentiality even more important.

One aspect of the confidentiality problem is the fact that some credit reporting agencies have only a vague policy as to whom they will furnish the information. This point was forcefully demonstrated by a Columbia law professor, who wrote a credit bureau to see whether the agency would supply information about a research assistant on the grounds that she was being considered for a promotion. The credit bureau quickly responded, supplying information on her marital and financial status, previous employment record, police record, character, habits, and morals. All this was freely given despite the fact that Columbia was not a credit granter and was not a member of the local bureau.

The testimony of the president of Retail Credit before the Gallagher subcommittee is instructive on the problem of confidentiality:

> From its beginning, our Company has followed a positive philosophy in helping our customers to market their goods and services. Our aim has been to develop, and present objectively, the facts, favorable or otherwise, which our customers need for making valid business decisions. . . . The users of our services must be reputable, responsible, financially sound firms with a legitimate need for business information.

It is interesting to note that in this statement of basic philosophy, nowhere is the need of business counterbalanced by the individual's right to privacy. Just what is a "legitimate business need" is not very clear. Would the information in the files of Retail Credit be given to a private detective agency on the grounds that it had a "legitimate business need"? Could the information be used by a market research firm planning a sales campaign? This would certainly appear to be a legitimate need from the point of view of the business. Would information on a person's sex habits developed in an insurance report be given to a business firm on the grounds that the firm was considering the person for employment? Must the person have applied for employment or can a business firm obtain the information on its own, claiming "legitimate business need"?

Going beyond the field of business needs, other writers have given examples of a labor union obtaining credit reports on prospective jurors in a Federal prosecution, and of credit reports being obtained to check on prospective husbands or sons-in-law.

A second aspect to the problem of confidentiality is the use of information inconsistent with the purposes indicated when the information was collected. When an individual seeks to buy an insurance policy, it might be argued that he has given his implied consent to be investigated. Likewise, when he applies for employment. But surely the doctrine of implied consent cannot be stretched to infer that the individual has agreed that information acquired in an insurance investigation or filled out on a credit application can be furnished to prospective employers. Considering the gossipy personal information included in Retail Credit's insurance investigations it is frightening to think such information could affect a person's entire career. It is bad enough to be turned down for insurance. It is much worse to lose a job on the basis of an erroneous piece of gossip in a credit file.

A third aspect to the confidentiality problem is the maintenance of adequate internal security procedures. The pay of credit bureau employees is extremely low and the turnover is very high. Under these conditions a large and constantly changing group of people have access to the files. Just how many are able to fulfill their proclivities for snooping and gossip is hard to tell. What is certain, however, is that tight security standards are expensive. Since credit bureaus are almost entirely responsive to the needs of business and have little responsibility to consumers, it is difficult to see major expenditures on security systems in the absence of public standards.

A fourth aspect to the problem of confidentiality is whether or not the information in the files of credit reporting agencies should be made available to governmental agencies. On this question, the industry appears divided. Harry C. Jordan, president of the Credit Data Corp., refuses to give any information to a governmental law-enforcement agency unless pursuant to a legal process. On the other hand, the Retail Credit Co. makes such information freely available to governmental agencies including the FBI and the Internal Revenue Service. The president of the firm, W. Lee Burge, has testified that "we have considered our voluntary cooperation with these agencies to be in the public interest."

One can certainly be sympathetic to the problems of the FBI and IRS in meeting their heavy responsibilities. But, nonetheless, their right to investigate is not absolute and is subject to various constitutional restraints including the rights guaranteed by the fourth amendment on unreasonable search and seizure. Regardless of whether the individual has any legal control over the information on him in a credit reporting agency's file, I certainly feel he has a moral claim to controlling its use. He should not be entirely dependent upon the policies of the particular credit reporting agencies to protect his basic rights.

BIAS TOWARD GHETTO RESIDENTS

One consequence of the present credit reporting system is to systematically exclude ghetto residents from the mainstream of the American credit economy. There is a vicious cycle element to the problem. Ghetto residents cannot get credit with the reputable downtown retailers because they have bad credit records. Therefore, they deal with the ghetto merchants who charge exorbitant prices for inferior and often defective merchandise. An FTC survey of retailing in the District of Columbia showed prices in ghetto stores averaged 60 percent more.

There is no doubt in my mind that one of the principal reasons for the riots we have suffered in ghetto areas has been the distress and the indignation of people who live in the ghettos that they are being overcharged. As a matter of fact, we can see it documented when the stores that are broken into and burned and looted are the stores where merchants who allegedly have overcharged them are in business. The FTC survey, in showing that they are charged 60 percent more, it seems to me, is the clearest kind of documentation.

As a result of being bilked, many of these ghetto residents discontinue pay-

ments, thereby incurring an even worse credit record, thus making it even more difficult to obtain credit at the lower cost stores.

What we need is a credit reporting system that is more socially oriented—one that serves the needs of consumers and particularly low-income consumers as well as creditors. We need to develop more precise methods of credit evaluation in order to establish the credit worthiness of the many ghetto residents capable of meeting their obligations.

That study indicated, incidentally, that the overwhelming majority of ghetto residents do meet their obligations and are concerned about their credit and have a good credit record.

Such methods should not be passive and rely upon consumer initiative to bring corrections to the attention of the credit bureau. Instead, a more active approach is called for in which the credit bureau itself takes the initiative. However, such a system would be more costly than the existing system. From the creditor's point of view, the added cost of such "social frills" may not be commensurate with the added revenue, although from a broader social point of view the added benefits substantially exceed the cost. Since the creditor pays the bill for credit reporting services, he calls the tune. Thus, in the absence of public standards, it is unlikely that a socially responsive credit reporting system will evolve.

LEGAL STATUS OF CREDIT REPORTING AGENCIES

Only one State, Oklahoma, has undertaken to regulate credit reporting agencies. A statute passed in 1910 requires:

Whenever an opinion upon the financial or credit standing of any person is about to be submitted for the purpose of establishing a financial or credit rating of customers, to be used by the retail business concerns, the person . . . submitting such opinion shall first mail a copy of such opinion to the person about whom the opinion is given.

Note that the statute applies only to "opinions" and not "facts." Facts which turn out to be wrong can be as damaging as any opinion.

What little regulation there is exists in judicial decisions, but even here, the dominant trend is to uphold the interests of the credit reporting agency rather than the consumer. According to a forthcoming note in the Georgetown Law Review:

Despite the scope and nature of credit investigations and the serious inaccuracies or misinformation they may produce, the individual who is the subject of a credit report is all but unprotected in most jurisdictions. The bulk of actions against credit bureaus are libel suits. They are seldom successful, however, because the majority view is that a report by a credit bureau to a particular subscriber whose legitimate business interests are involved or appear to be involved is conditionally privileged. Thus, in the absence of malice, the subject of the report has no cause of action against the credit bureau, regardless of the falsity of the report. The basis for the privilege is that the credit bureau is performing a necessary and useful business which benefits those who have a legitimate interest in the report.

The privilege is, however, conditional and may be lost if the credit reporting agency releases the report to the general public or to distinterested parties or with malice. A few courts hold that the privilege is lost if the credit reporting agency failed to exercise "due care" or meet similar standards, but this is a minority view. The majority of courts hold that negligence does not destroy the credit reporting agency immunity from libel actions.

What we have, then, is a credit reporting system operating as a quasi-public utility with virtually no public regulation. Almost every segment of the credit industry is subjected to detailed regulation, both State and Federal, to uphold the rights of the consumer. And yet the credit reporting industry, one of the most vital links in our credit system, has gone unregulated despite the existence of serious abuses. Under what theory of public policy can this anomaly be justified?

One theory advanced by credit reporting industry spokesman to justify inaction is that there are no basic rights at stake. According to this argument, "credit is a privilege, not a right." It is the individual who submits the application for the credit; therefore, he must expect to be investigated. The creditor has the right to ascertain whatever information he feels he needs to make a decision. Since the creditor is paying for the information, the credit bureau must naturally follow the wishes of the creditor.

The basic fallacy in this argument is that because the creditor pays the bill his needs are paramount. In the final analysis, the consumer pays the bill, either as a separate charge added to the finance charge, or in the form of higher prices for the merchandise. If a merchant rejects an applicant for a 30-day charge account and the applicant pays cash instead, he is indirectly subsidizing the credit reporting system but with no collateral benefits. Since the consumer pays the bill in the end, he has a right to have his interests represented and protected. The credit reporting system can only be justified if it serves the consumer as well as business. But nowhere in the system are consumer interests represented or articulated. Whatever reform has occurred has been in response to critical newspaper or magazine articles or congressional hearings.

A second argument advanced by the industry to head off public safeguards is the notion of voluntary regulation. Since the Gallagher hearings early last year, the Associated Credit Bureaus of America and various creditor organizations have been working to develop a code of voluntary guidelines. On January 13, an advisory committee on protection of privacy consisting of ACB of A and eight creditor organizations recommended a set of guidelines to protect consumer privacy. While these guidelines are an encouraging step, certain points about the guidelines should be noted:

First. Not one single consumer organization participated in the development of the guidelines although eight creditor groups were represented. This fact alone reveals the basic orientation of the credit reporting industry.

Second. The guidelines are only recommendations. There is no assurance they will be followed by individual credit reporting agencies. In fact there is considerable opposition to any consumer protection guidelines by some credit reporting agencies as evidenced by a rather stormy meeting held on the subject last December.

Third. No adequate means exists for the national trade association to enforce the guidelines. If adoption of the guidelines become a condition of membership, member agencies could simply withdraw from the association if they disagreed with the guidelines. Little would be lost since a Supreme Court antitrust decree requires member agencies to make information available to nonmembers on the same terms and conditions such information is furnished to members.

Fourth. Voluntary guidelines are inherently unstable and to a large extent, unfair. If they have any degree of effectiveness, they impose extra costs on those who comply. Thus, noncompliers are rewarded and are given an unfair competitive advantage over those who comply.

Fifth. Even if the guidelines were followed by all ACB of A members, approximately one-third of all credit bureaus do not belong to the association.

Sixth. The guidelines do not cover firms engaged in insurance or personnel investigations where some of the most serious invasions of privacy have occurred.

Seventh. The guidelines impose no requirements on creditors or other users of information to disclose to consumers that they are being rejected because of an adverse credit report. That is the very heart of the bill I have offered. Thus the individual has no sure way of knowing he is the victim of an inaccurate credit report.

WHAT THE FAIR CREDIT REPORTING BILL DOES

Mr. President, in response to these abuses, I have drafted a fair credit reporting bill designed to provide consumers with more protection than they are now getting. I believe the bill is a sensible and moderate approach to the problem and reflects what many of the best credit reporting agencies are already doing. The bill does not seek to curb the growth of credit reporting agencies but rather to make uniform throughout the industry procedures designed to insure the consumer's right to a reporting system that is accurate and relevant and which safeguards confidentiality.

The guidelines apply to all credit reporting agencies using the facilities of interstate commerce and who provide information on an individual's credit worthiness, credit standing, credit capacity, character, or general reputation. The act would cover all agencies reporting such information to business firms and others for the purpose of granting credit, providing insurance, or for employment or personnel purposes or for other business purposes.

In order to protect consumer interests, the following requirements would apply:

A. ACCURACY OF INFORMATION

First. Credit reporting agencies would have to provide, upon request, a reason-

able opportunity for an individual to correct inaccurate or misleading information in his file;

Second. In order to make the first provision effective, creditors and other firms using credit reports would have to disclose to individuals that they are being rejected for credit, insurance, employment, and so forth, wholly or partly on the basis of a credit report when such is the case and to disclose the name and address of the credit reporting agency. In this way the individual is alerted to the existence of possible inaccuracies in his credit file and has an opportunity to take corrective action.

Third. Whenever credit reporting agencies enter a derogatory item in a person's credit file based upon public records such as notices of judgments, suits, arrests, and so forth, they would be required to notify the individual. This alerts the individual to the fact the credit bureau has recorded the adverse item. If the matter is subsequently settled in favor of the individual he then has an opportunity to contact the agency to seek a record. In the absence of such notification to the individual, the adverse information could remain in the file indefinitely.

B. RELEVANCE OF INFORMATION

First. Credit reporting agencies would be required to keep information current and to destroy such information after it has become obsolete or after the expiration of a reasonable period of time.

Second. Credit reporting agencies would be required to limit their information to those items essential to the purpose for which the information is used. Likewise, they would be precluded from handling information only remotely related to the purpose for which it is used or which represents an undue invasion of the individual's right to privacy. For example, a credit report furnished to a retail merchant on a person seeking to open a charge account could properly include information on the person's bill-paying record, but not information on the person's private habits or morals.

C. CONFIDENTIALITY OF INFORMATION

First. Credit reporting agencies would be required to maintain general procedures to insure the confidentiality of information obtained by the agency. This would extend to internal security procedures to safeguard information as well as appropriate checks on prospective customers to insure the preservation of confidentiality.

Second. Credit reporting agencies could furnish information on individuals only to persons with a legitimate business need for the information and who intend to use the information in connection with a prospective consumer credit or other transaction—such as the sale of insurance—with the individual, unless the individual consents otherwise in writing. This would preclude the furnishing of information to Government agencies or to market research firms or to other business firms who are simply on fishing expeditions.

Third. Credit reporting agencies could not furnish information for purposes different from the purposes disclosed in the collection of the information unless agreed to in writing by the individual concerned. This provision would preclude an agency from giving information it collects pursuant to a credit or insurance investigation to current or prospective employers.

The act would be administered by the Federal Reserve Board which also administers the Federal Truth-in-Lending Act. The Board is given the authority to write more detailed regulations to achieve the purposes of the act. Individuals are given the right to bring civil actions against credit reporting agencies which willfully violate the act or regulations issued thereunder and collect actual damages, court costs, and attorney fees, and punitive damages of not less than $100 nor more than $1,000.

Mr. President, I believe the fair credit reporting bill is a reasonable approach to the problem. It gives consumers the protection they need against unfounded or malicious credit reports, while at the same time it permits the credit reporting industry to fulfill its important function in our economy. I am hopeful that the Congress can take early action on this measure.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD at the end of my remarks.

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

S. 823

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

SECTION 1. (a) The Truth in Lending Act is amended by adding at the end thereof the following new chapter:

"CHAPTER 4—CREDIT REPORTING AGENCIES

"Sec.
"161. Short title.
"162. Findings and purpose.
"163. Definitions and rules of construction.
"164. Requirements on credit reporting agencies.
"165. Requirements on users of credit reports.
"166. Civil liability.

"§ 161. Short title

"This chapter may be cited as the Fair Credit Reporting Act.

"§ 162. Findings and purpose.

"(a) The Congress makes the following findings:

"(1) An elaborate interstate mechanism has been developed for investigating and evaluating the credit worthiness, credit standing, credit capacity, character and general reputation of individuals.

"(2) In an economy which depends increasingly upon information on individuals for the extension of credit and the movement of goods and services there is a need that such information be accurate and readily ascertainable.

"(3) Credit reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers and individuals.

"(4) There is a need to insure that credit reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the individual right to privacy.

"(b) It is the purpose of this chapter to require that all credit reporting agencies, utilizing the facilities of interstate commerce, adopt reasonable procedures, in accordance with regulations prescribed by the Board, for meeting the needs of commerce for credit and other information in a manner which is fair and equitable to the individual.

"§ 163. Definitions and rules of construction

"(a) Definitions and rules of construction set forth in this section are applicable for the purposes of this chapter.

"(b) The term 'credit rating' means any evaluation or representation as to the credit worthiness, credit standing, credit capacity, character, or general reputation of any individual.

"(c) The term 'credit report' means any written, oral, or other communication of any credit rating, or of any information which is sought or given for the purpose of serving as a basis for a credit rating.

"(d) The term 'credit reporting agency' means any person which regularly engages in whole or in part in the business of furnishing credit reports, and for the purpose of preparing or furnishing them uses any means or facility of interstate commerce.

"§ 164. Requirements on credit reporting agencies

"Every credit reporting agency shall follow procedures, in conformity with regulations prescribed by the Board, to achieve the following objectives:

"(a) To insure the confidentiality of information obtained by the agency which bears upon the credit rating of any individual.

"(b) To provide any individual, upon request, a reasonable opportunity to correct information obtained by the agency which may bear adversely upon his credit rating.

"(c) To limit the collection, retention, or furnishing of information bearing upon the credit rating of any individual to those items essential for the purposes for which the information is sought and to preclude the collection, retention, or furnishing of information which only marginally benefits the purposes for which the information is sought or which represents an undue invasion of the individual's right to privacy.

"(d) To keep current information bearing on the credit rating of any individual and to destroy such information after it has become obsolete or after the expiration of a reasonable period of time.

"(e) To notify promptly any individual whenever information which is a matter of public record is obtained by the agency and which is, or is likely to be interpreted by the agency or its clients as, adverse to the credit rating of the individual, and to provide a reasonable opportunity to the individual to submit an explanatory statement with respect thereto.

"(f) To insure that, unless the individual on whom the information is being furnished agrees otherwise in writing, the information obtained by the agency is furnished only—

"(1) to persons with a legitimate business need for the information and who intend to use the information in connection with a prospective consumer credit or other transaction with the individual on whom the information is furnished; and

"(2) for the purposes disclosed in the collection of the information.

"§ 165. Requirements on users of credit reports

"Whenever credit pursuant to a consumer credit transaction is denied or other prospective transaction with an individual is cancelled wholly or partly because a report from a credit reporting agency, the person involved shall so notify the individual to whom the credit is denied or with whom the prospective transaction is cancelled and shall supply the name and address of the credit reporting agency making the report.

"§ 166.Civil liability

"(a) Any credit reporting agency or user of information which willfully fails to comply with any requirement imposed under this chapter with respect to any individual is liable to that individual in an amount equal to the sum of—

"(1) any actual damages sustained by the individual as a result of the failure;

"(2) such amount of punitive damages as the court may allow, which shall be not less than $100 nor greater than $1,000; and

"(3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

"(b) Any action under this section may be brought in any United States District Court, or in any other court of competent jurisdiction, within two years from the date of the occurrence of the violation."

(b) The table of chapters at the beginning of the Truth in Lending Act is amended by adding at the end thereof the following:

"4. Credit reporting agencies..... 161"

(c) The caption at the beginning of the Truth in Lending Act is amended to read as follows:

"TITLE I—TRUTH IN LENDING"

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

Mr. PROXMIRE. I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I congratulate the Senator for the very interesting and able presentation he has made in this area. It is very clear from his remarks that this matter certainly deserves a great amount of study. Having listened to the Senator's remarks, I assure him of my interest and I believe the matter should be directed to the attention of every Senator because this is an important problem and we should look carefully into it.

Mr. PROXMIRE. I thank the Senator from Louisiana, who is an outstanding Senator. He has studied all kinds of problems from all sorts of angles and who understands the credit industry. We all know he is the fine chairman of the Committee on Finance. I am most flattered and gratified that he has expressed interest in the bill. I agree that the matter should be called to the attention of all Senators.

Mr. LONG. I am sure the Senator has discussed his bill with the parliamentarian. Is the bill to go to the Committee on Banking and Currency?

Mr. PROXMIRE. It is my understanding the bill will go to that committee. It is an amendment to the truth-in-lending bill. It affects primarily credit. There is no tax angle involved. Possibly the Committee on Commerce would have an interest, but fundamentally it is a matter for the Committee on Banking and Currency.

Mr. LONG. It would occur to me that the Committee on Banking and Currency would be the committee to study the matter, although, as the Senator indicated it would be of interest to some of the other committees. Logically, however, I think the Committee on Banking and Currency would be the proper committee to study the matter.

Mr. PROXMIRE. The staff has informed me that the matter has been discussed with the parliamentarian and in their judgment the matter would go to the Committee on Banking and Currency.

Mr. LONG. Now, we have a truth-in-lending law, and we are getting into that area. It is very appropriate to try to see to it that persons are not victimized by falsehoods that get into credit reports.

I am happy to hear the Senator outline what the bill would do. I know it contains a great number of facets, and I am curious to know how the Senator became interested in these problems.

Mr. PROXMIRE. We received quite a bit of mail on this subject, the newspapers have been aware of this problem, and we have a very diligent staff man, Mr. Kenneth McLean, who has gone into this matter and discussed it with people in the industry. He has done a marvelous job of research. Obviously, he had much to do with the speech I have just delivered.

Mr. LONG. I did not hear all of the Senator's speech. Did the Senator speak of individuals stealing a large number of credit cards, in some instances from post offices?

Mr. PROXMIRE. No. Recently I did introduce a bill dealing with unsolicited distribution of credit cards. I think that matter also deserves the attention of Congress. This is an industry which has grown fantastically in the last few years. I understand the Mafia was selling credit cards at $200 apiece.

This is an area that has not been given enough attention by Congress, and we should study this new industry.

Mr. LONG. It seems to me that perhaps we should have a Federal law in this area, similar to obtaining by false pretense laws, in a situation where someone steals, buys, or fraudulently obtains a credit card other than his own and proceeds to use that credit card to run up large amounts of credit. That is becoming an increasing problem where there are a large number of credit cards outstanding.

Mr. PROXMIRE. That is exactly right. That is why the main thrust of the bill I introduced on that matter is to provide that credit card issuers are required to meet certain safeguards and if they do not meet those safeguards then they, rather than the recipient of credit cards, will be responsible and liable.

The difficulty is that if, say, the Senator from Louisiana, or I, were to receive a credit card and we did not use it or want to use it, and someone should steal it, we are likely to be liable for thousands of dollars that could be run up against us. It is one purpose of that bill to protect the consumer so that he will not be placed in that vulnerable position.

I thank the Senator from Louisiana very much.

EXECUTIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations now at the desk, and which were reported earlier today.

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

DEPARTMENT OF JUSTICE

The legislative clerk read the nominations of 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; and Will Wilson, of Texas, to be an Assistant Attorney General vice Fred M. Vinson.

The PRESIDING OFFICER. Without objection, the nominations are confirmed.

DISTRICT OF COLUMBIA

The chief clerk read the nomination of Walter E. Washington, to be Commissioner of the District of Columbia for a term expiring February 1, 1973.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

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

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

LEGISLATIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

THE CALENDAR

Mr. KENNEDY. Mr. President, I ask unanimous consent that, beginning with Calendar No. 2, the calendar be called in sequence.

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

Mr. KENNEDY. Mr. President, these items have all been cleared on both sides of the aisle.

ELEANOR S. WHELAN

The resolution (S. Res. 72), to pay a gratuity to Eleanor S. Whelan, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Eleanor S. Whelan, sister of Joseph M. Whelan, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of his death, a sum equal to six months' compensation at the

rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

LOUIS C. STREETS

The resolution (S. Res. 71) to pay a gratuity to Louis C. Streets, was considered, and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Louis C. Streets, widower of Clementine E. Streets, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of her death, a sum equal to six months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

LULU M. TOWLES

The resolution (S. Res. 70), to pay a gratuity to Lulu M. Towles, was considered, and agreed to, as follows:

S. RES. 70

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Lulu M. Towles, widow of George A. Towles, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE MANUAL

The resolution (S. Res. 75), authorizing the revision and printing of the Senate Manual for use during the 91st Congress, was considered and agreed to, as follows:

Resolved, That the Committee on Rules and Administration be, and it is hereby, directed to prepare a revised edition of the Senate Rules and Manual for the use of the Ninety-first Congress, that said Rules and Manual shall be printed as a Senate document, and that two thousand additional copies shall be printed and bound, of which one thousand copies shall be for the use of the Senate, five hundred and fifty copies shall be for the use of the Committee on Rules and Administration, and the remaining four hundred and fifty copies shall be bound in full morocco and tagged as to contents and delivered as may be directed by the committee.

JOINT COMMITTEE ON PRINTING AND JOINT COMMITTEE ON THE LIBRARY

The resolution (S. Res. 74), providing for Members of the Senate of the Joint Committee on Printing and the Joint Committee on the Library, was considered, and agreed to, as follows:

Resolved, That the following-named Members be, and they are hereby, elected members of the following joint committees of Congress:

JOINT COMMITTEE ON PRINTING: Mr. Jordan of North Carolina; Mr. Allen, of Alabama; and Mr. Scott, of Pennsylvania.

JOINT COMMITTEE OF CONGRESS ON THE LIBRARY: Mr. Jordan of North Carolina; Mr. Pell, of Rhode Island; Mr. Cannon, of Nevada; Mr. Cooper, of Kentucky; and Mr. Thurmond, of South Carolina.

THE 69TH ANNUAL REPORT, NATIONAL SOCIETY OF THE DAUGHTERS OF THE AMERICAN REVOLUTION

The resolution (S. Res. 73), authorizing the printing of the 69th annual report of the National Society of the Daughters of the American Revolution as a Senate document, was considered, and agreed to, as follows:

S. RES. 73

Resolved, That the sixty-ninth annual report of the National Society of the Daughters of the American Revolution for the year ended March 1, 1966, be printed, with an illustration, as a Senate document.

Mr. KENNEDY. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-5), explaining the purposes of the resolution.

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

The National Society of the Daughters of the American Revolution was incorporated by act of Congress on February 20, 1896 (29 Stat. 8-9), which act included the provision "that said society shall report annually to the Secretary of the Smithsonian Institution concerning its proceedings, and said Secretary shall communicate to Congress such portions thereof as he may deem of national interest and importance," but did not provide that such report be printed. When, in 1889, during the 55th Congress, the first report of the society was transmitted, as required by law, it was printed as a Senate document pursuant to a simple resolution agreed to by the Senate. All subsequent DAR reports, to date, have been printed as Senate documents under the same procedure.

The printing-cost estimate, supplied by the Public Printer, is as follows:

To print as a Senate document (1,500 copies) ---------- $3,933.41

COMSAT BOARD OF DIRECTORS

The bill (S. 17), to amend the Communication Satellite Act of 1962 with respect to election of the board of the Communications Satellite Corp., was announced as next in order.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ANDERSON. Mr. President, on January 15, 1969, the Senator from Rhode Island (Mr. PASTORE) and I introduced a bill (S. 17) which would amend the Communications Satellite Act of 1962 to provide for a more equitable representation of stockholders on the board of the Communications Satellite Corp.

It is my understanding that as a result of the sale of stock by the carriers during 1967 and 1968, the total number of shares held by stockholders who are communications common carriers has been reduced to less than 40 percent of the total common Comsat shares outstanding. Therefore, Mr. President, the adoption of this amendment is urgently needed to correct an inequity with respect to the representation of the public stockholders on the board of the Comsat Corp. I believe that the formula set out in S. 17 will provide for an equitable representation of both public and common carrier stockholders.

I have always felt that a provision as provided for by S. 17 should have been a part of the act so that in the event that communications carriers did not purchase substantially 50 percent of the voting stock which was to be held for them, their right to elect six of the 12 members of the board elected by stockholders should be reduced proportionately.

When the Aeronautical and Space Sciences Committee held hearings in March 1963 on the nominations of the incorporators of the Communications Satellite Corp., I addressed myself to this very problem and was assured that should the shares of stock held by communications carriers be reduced substantially below 50 percent of the total Comsat shares outstanding, the corporation would request that an amendment be enacted which would adjust the carriers' representation and public shareholders' representation on the Comsat board. This now being the case, the Comsat Corp. has now suggested that this amendment be enacted.

Mr. President, to make this record complete, I ask unanimous consent to have printed in the RECORD at the end of my remarks a letter dated March 30, 1963, sent to me by Mr. Sam Harris, vice chairman of the incorporators of the Communications Satellite Corp., and my response to him dated April 1, 1963.

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

(See exhibit 1.)

Mr. ANDERSON. Mr. President, in closing, let me say again that the formula for stockholders' representation on the corporate board of the Communications Satellite Corp. as set forth in the proposed amendment, S. 17, provides for an equitable representation of both the public and common carriers.

I urge Congress to act favorably on this bill at an early date to correct the existing inequitable formula.

EXHIBIT 1

LETTER FROM VICE CHAIRMAN OF INCORPORATORS TO CHAIRMAN OF SENATE SPACE COMMITTEE, MARCH 30, 1963

HON. CLINTON P. ANDERSON,
Chairman, Senate Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We are pleased to confirm the statement made to you during the course of the conference in your office on March 29, 1963—attended by you, Senator Symington, Senator Smith, Mr. Leo D. Welch, Dr. Joseph V. Charyk, Mr. Bruce G. Sundlun and the undersigned—concerning the number of Directors the carriers are entitled to elect to the Board of the Communications Satellite Corporation.

If the carriers do not purchase substantially 50% of the voting stock offered at the time of the initial public offering, the Incorporators will request the Congress to adopt an amendment to the Act so as to reduce proportionately the number of Directors the carrier stockholders may elect.

As mentioned to you during the course of our conference, it is the considered view of counsel to the Incorporators that the number of carrier-elected Directors can be reduced in this manner only by an amendment to

the Act, and that such an amendment of the Act would lawfully supersede any contrary provision of the Articles of Incorporation. We are advised that the Department of Justice is submitting to you an opinion to the same effect.

We are most grateful for the courtesy shown to us by you and your colleagues. We wish to thank each of you again for the opportunity to exchange views and to obtain the benefit of your advice.

Yours sincerely,

SAM HARRIS.

LETTER FROM CHAIRMAN OF SENATE SPACE COMMITTEE TO VICE CHAIRMAN OF INCORPORATORS, APRIL 1, 1963

Mr. SAM HARRIS,
Vice Chairman,
Communications Satellite Corp.,
Washington, D.C.

DEAR MR. HARRIS: I appreciate your letter of March 30, with reference to the stock to be acquired by the carriers in the Communications Satellite Corporation.

I appreciate your assurance that if the carriers do not purchase substantially 50 percent of the voting stock offered at the time of the initial public offering, the Incorporators will request the Congress to adopt an amendment to the Act so as to reduce proportionately the number of Directors the carrier stockholders may elect.

I think this will help very materially in discussions that may take place before the Congress, and I am glad that we had this opportunity to exchange views.

Sincerely yours,

CLINTON P. ANDERSON.

The PRESIDING OFFICER. The bill (S. 17) is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 17

A bill to amend the Communications Satellite Act of 1962 with respect to the election of the board of the Communications Satellite Corporation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 303(a) of the Communications Satellite Act of 1962 (47 U.S.C. 733(a)) is amended to read as follows:

"SEC. 303. (a) The corporation shall have a board of directors consisting of fifteen individuals who are citizens of the United States, of whom one shall be elected annually by the board to serve as chairman. Three members of the board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, effective the date on which the other members are elected, and for terms of three years or until their successors have been appointed and qualified, and any member so appointed to fill a vacancy shall be appointed only for the unexpired term of the director whom he succeeds. The remaining twelve members of the board shall be elected annually by the stockholders. Six of such members shall be elected by those stockholders who are not communications common carriers, and the remaining six such members shall be elected by the stockholders who are communications common carriers, except that if the number of shares of the voting capital stock of the corporation issued and outstanding and owned either directly or indirectly by communications common carriers as of the record date for the annual meeting of stockholders is less than 45 per centum of the total number of shares of the voting capital stock of the corporation issued and outstanding, the number of members to be elected at such meeting by each group of stockholders shall be determined in accordance with the following table:

When the number of shares of the voting capital stock of the corporation issued and outstanding and owned either directly or indirectly by communications common carriers is less than—	But not less than—	The number of members which stockholders who are communications common carriers are entitled to elect shall be—	And the number of members which other stockholders are entitled to elect shall be—
45 per centum	40 per centum	5	7
40 per centum	35 per centum	4	8
35 per centum	25 per centum	3	9
25 per centum	15 per centum	2	10
15 per centum	8 per centum	1	11
8 per centum		0	12

No stockholder who is a communications common carrier and no trustee for such a stockholder shall vote, either directly or indirectly, through the votes of subsidiaries or affiliated companies, nominees, or any persons subject to his direction or control, for more than three candidates for membership on the board, except that in the event the number of shares of the voting capital stock of the corporation issued and outstanding and owned either directly or indirectly by communications common carriers as of the record date for the annual meeting is less than 8 per centum of the total number of shares of the voting capital stock of the corporation issued and outstanding, any stockholder who is a communications common carrier shall be entitled to vote at such meeting for candidates for membership on the board in the same manner as all other stockholders. Subject to the foregoing limitations, the articles of incorporation of the corporation shall provide for cumulative voting under section 27(d) of the District of Columbia Business Corporation Act (D.C. Code, sec. 29–911(d)). The articles of incorporation of the corporation may be amended, altered, changed, or repealed by a vote of not less than 66⅔ per centum of the outstanding shares of the voting capital stock of the corporation owned by stockholders who are communications common carriers and by stockholders who are not communications common carriers, voting together, provided that such vote complies with all other requirements of this Act and of the articles of incorporation of the corporation with respect to the amendment, alteration, change or repeal of such articles. The corporation may adopt such bylaws as shall, notwithstanding the provisions of section 36 of the District of Columbia Business Corporation Act (D.C. Code, sec. 29–916d), provide in the event of a national emergency for the continued ability of the board to transact business."

SEC. 2. As promptly as the board of directors of the Communications Satellite Corporation shall determine to be practical after this Act takes effect, a meeting of the stockholders of the corporation shall be called for the purpose of electing twelve members of the board in accordance with section 1 of this Act. The members of the board elected at such meeting shall serve until the next annual meeting of stockholders or until their successors have been elected and qualified.

SEC. 3. The status and authority of the members of the board of the Communications Satellite Corporation who were elected in conformity with the provisions of the Communications Satellite Act of 1962 prior to amendment by this Act and who are serving when this Act takes effect shall not be in any way impaired or affected until their successors have been elected and qualified in accordance with section 2 of this Act.

Mr. KENNEDY. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–6), explaining the purposes of the bill.

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

The principal purpose of S. 17 is to amend the Communications Satellite Act of 1962 (the act), so that the composition of the board of directors of the Communications Satellite Corp. will more nearly reflect the relative holdings of stock by stockholders who are communications common carriers and stockholders who are not communications common carriers.

PURPOSE OF LEGISLATION

The Communications Satellite Corp. was incorporated under District of Columbia law on February 1, 1963, as authorized by the act. The act authorized the corporation to issue and have outstanding no par value voting capital stock in such amounts as it should determine. The act required that 50 percent of such stock be reserved for purchase by authorized communications common carriers. In June 1964, the corporation offered for sale 10 million shares of no par value common stock at an offering price of $20 per share. As was anticipated by the Congress, 50 percent of that stock (5 million shares) was subscribed to by communications common carriers and the remaining 50 percent was subscribed to by members of the general public.

Common stock subscribed to and held by stockholders who are not communications common carriers has, for administrative purposes, been designated by the corporation as series I stock and the holders of such shares have been designated as series I stockholders. Similarly, common stock subscribed to and held by stockholders who are communications common carriers has been designated as series II stock and the holders of such shares have been designated as series II stockholders. All stock is, however, a single class of common stock, and, subject to the limitations of the act on total amount of ownership, series II stockholders may sell their stock to the general public, and series I stockholders may sell their shares to authorized communications common carriers.

Pursuant to section 303(a) of the act, the corporation is managed by a 15-member board of directors. Three members of the board are appointed by the President of the United States, by and with the advice and consent of the Senate, for terms of 3 years and the remaining 12 members of the board are elected annually by the stockholders. In view of the fact that the Congress anticipated that 50 percent of the corporation's stock would initially be owned by the communications common carriers, section 303(a) of the act provided specifically that six of the elected members of the board should be elected annually by those stockholders who are communications common carriers and that six should be elected annually by other stockholders of the corporation. Thus, the initial board of directors and all subsequent boards of directors, including the present one, have, in addition to the three directors appointed by the President, been composed of six directors elected by the series I stock-

holders and six directors elected by the series II stockholders.

The question of whether carrier representation on the board should be reduced as carrier stockholdings were substantially diminished was considered by the Congress in 1962, but was not dealt with in the act as finally passed. The House version of the act[1] contained a provision which, if it had been enacted into law would have made the carriers' representation on the board dependent upon the percentage of common stock of the corporation that they owned in the aggregate.

Both the incorporators of the corporation and the Department of Justice expressed concern about the problem to Members of the Congress during the process of organizing the corporation. On March 30, 1963, Mr. Sam Harris, vice chairman of the incorporators, advised the chairman of the Senate Space Committee, Senator Anderson, by letter, as follows:

"If the carriers do not purchase substantially 50 percent of the voting stock offered at the time of the initial public offering, the incorporators will request the Congress to adopt an amendment to the act so as to reduce proportionately the number of directors carrier stockholders may elect."

On April 1, 1963, the Department of Justice advised the chairman of the Senate Space Committee by letter that, upon a showing at any time that the carriers have elected six directors without retaining substantially half of the voting stock, it would be appropriate, and the Department would recommend, that Congress adopt an amendment to the Communications Satellite Act of 1962 which would relate the number of directors which the carrier stockholders are entitled to elect to the percentage of the corporation's common stock owned by the carriers.

On May 3, 1967, International Telephone & Telegraph Co. (ITT), a communications common carrier, disposed of 235,000 shares of the corporation's common stock by a sale to a group of underwriters and other securities dealers for resale to the public. As a result of such distribution and previous sales by other communications common carriers of lesser numbers of shares, the number of shares held by communications common carriers was reduced to 45.25 percent of the total number of shares of common stock issued and outstanding. Shortly thereafter, the board of directors of the corporation unanimously determined that carrier representation on the board should be reasonably proportionate to that percentage which the series II shares of common stock outstanding bears to the total of shares of common stock outstanding. The board authorized the management of the corporation to take appropriate action in order to give effect to such policy, if the number of series II shares fell below 45 percent of the total number of shares outstanding.

On June 4, 1968, ITT sold to a group of underwriters and securities dealers for resale to the public an additional 316,250 shares of the corporation's common stock. As a result of such sale, the series II shares outstanding were reduced to 42.06 percent of the total shares of common stock outstanding. Thereafter, the board of directors of the corporation, after again reviewing the matter, unanimously reaffirmed the policy enunciated at its meeting of May 9, 1967, and the corporation management recommended to the Congress an amendment to the act which would permit a reduction in the number of carrier directors elected to the board and a corresponding increase in the number of noncarrier directors. That amendment was introduced by Senator Pastore on July 25, 1968 as S. 3884 (90th Cong.). The committee was advised that the directors of the corporation, including the carrier directors, unanimously endorsed the bill.

Following the June sale of stock, one of two ITT directors on the corporation board, Mr. Eugene Black, resigned from the corporation's board.

On December 5, 1968, ITT again sold to a group of underwriters and securities dealers 400,000 additional shares of its stock of the corporation. That sale left ITT holding 100,000 shares of the corporation's stock, and reduced the total number of shares held by communications common carriers to 38.06 percent of the total common stock outstanding. Following that sale, the remaining ITT director, Mr. Ted B. Westfall, resigned from the corporation's board.

GENERAL STATEMENT

Section 1 of this bill amends section 303(a) of the act to provide a formula for electing 12 members of the board in such a manner that representation on the board will be reasonably proportionate to the relative shareholdings of stockholders who are communications common carriers and stockholders who are not communications common carriers. The first adjustment in relative representation on the board between series I and series II stockholders would be made as promptly as the board shall determine to be practical after the enactment of the bill (sec. 2) and thereafter once each year by the election of directors at the annual meeting of the corporation. Although it is recognized that it is possible that substantial changes in shareholdings could occur during the year, so that the composition of the board might not at any particular time precisely reflect the relative holdings of the two series of stock, the committee feels that the probable infrequency of this, and the expense and other practical problems incident to special meetings of stockholders, militate against a statutory requirement of interim adjustments.

The formula set forth in the bill provides that if the shares of the voting capital stock of the corporation issued and outstanding and owned either directly or indirectly by communications common carriers on the record date for the annual meeting of stockholders is less than 45 percent of the total number of shares of the voting capital stock of the corporation issued and outstanding on such date, then the number of members to be elected at such meeting by each group of stockholders shall be determined in accordance with the following table:

When the number of shares of the voting capital stock of the corporation issued and outstanding and owned either directly or indirectly by communications common carriers is less than—	But not less than—	The number of members which stockholders who are communications common carriers are entitled to elect shall be—	And the number of members which other stockholders are entitled to elect shall be—
45 per centum	40 per centum	5	7
40 per centum	35 per centum	4	8
35 per centum	25 per centum	3	9
25 per centum	15 per centum	2	10
15 per centum	8 per centum	1	11
8 per centum		0	12

It should be emphasized that the total number of members of the board always would remain at 15. The only adjustment would be in the relative number of carrier and noncarrier directors to be elected annually. When carrier shareholdings are less than 8 percent of the total number of shares outstanding, the carriers no longer would be entitled by law to elect any reserved number of directors, but would be entitled to cast their votes for directors in the same manner as all other stockholders and may apply the rules of cumulative voting.

This legislation retains the limitation of the original act that no carrier shall vote, either directly or indirectly, through the votes of subsidiaries or affiliated companies, nominees, or any persons subject to his direction or control, for more than three candidates for membership on the board.

The bill declares that the articles of incorporation of the corporation may be amended, altered, changed, or repealed by a vote of not less than 66⅔ percent of the outstanding shares of the voting capital stock of the corporation owned by the public and carrier stockholders, voting together. This makes clear that series I and series II stock are not to be treated as separate classes of stock under the District of Columbia Business Corporation Act or any other law. It is anticipated that the stockholders will be asked to approve amendments to the articles of incorporation which will implement the changes provided for by this legislation.

The last sentence of section 1 of the bill authorizes the corporation to adopt such bylaws as shall, notwithstanding the provisions of section 36 of the District of Columbia Business Corporation Act (District of Columbia Code, sec. 29–916d), provide in the event of a national emergency for the continued ability of the board to transact business. Section 36 of the Business Corporation Act provides that a majority of the directors of a corporation must be present in order to constitute a quorum for the transaction of business. The last sentence of section 1 of the bill permits the Communications Satellite Corp. to adopt more flexible bylaws which would help to assure the continuity of the decisionmaking process of this important international communications corporation in the event of a national emergency. As to the term national emergency, the committee accepts the observations made by the Chairman of the Federal Communications Commission, Rosel H. Hyde, and the chairman of the Communications Satellite Corp., James McCormack, that this provision will be applicable only in those situations specified in section 606 of the Communications Act of 1934, as amended.

Section 2 of the bill provides for an initial adjustment of the relative number of series I and series II directors in accordance with the table set forth in section 1 at a meeting of the stockholders to be called as promptly as the board deems practical. The exact time of the meeting is left to the discretion of the board. This is a desirable discretion in the event this legislation is not enacted in time to become effective for the May 1969 meeting of Comsat.

Finally, section 3 provides that, until their successors are elected and qualified, the enactment of the bill does not in any way impair or affect the status or authority of any member of the board who was elected in conformity with the provisions of the act prior to the enactment of this legislation.

CONCLUSION

From the point of view of the corporation and its public stockholders, there is a degree of urgency to the prompt enactment of this legislation. Similar legislation was sought in the second session of the 90th Congress, but time did not permit committee action. Since that time, the sales of stock by communications common carriers have increased the imbalance between the representation of the

[1] H.R. 11040, 87th Cong., second sess. sec. 303(a)(1962).

public and such carriers on the corporation's board. In the absence of legislation, the corporation's solicitation of proxies and other arrangements for the election of directors at the annual meeting in May 1969 must now go forward on the basis of the Communications Satellite Act's present provision for six carrier directors and six public directors, an arrangement which will leave the public (series I) stockholders substantially underrepresented. Hence, time is of the essence.

The Department of Justice, the Federal Communications Commission, the Office of Telecommunications Management, and the Communications Satellite Corp., and the common carrier representatives serving on the board of directors of Comsat all support the legislation.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 90–448, appoints the Senator from Alabama (Mr. SPARKMAN) and the Senator from South Carolina (Mr. HOLLINGS) as members of the National Advisory Commission on Low-Income Housing.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

SEIZURE OF AMERICAN OIL PROPERTIES

Mr. LONG. Mr. President, an advertisement was published in the Washington Post this morning regarding the seizure by Peru of the assets of the International Petroleum Co., Ltd., by means of less than direct confiscation.

This advertisement illustrates the uncertainty of foreign oil supplies and the complete and arbitrary way in which certain nations can act when those nations feel, for one reason or another, because of a military overthrow of the elected government or because of an unreasonable attitude on the part of the government, that they wish to demand a higher price for oil or wish to confiscate or, in fact, to seize the oil company.

Some time ago, as a member of the Foreign Relations Committee, I fought successfully for an amendment that would remove any discretion whatsoever with respect to a President's right to continue foreign aid to a country that had confiscated American investments. A somewhat similar effort had been made previously, but discretion had been left to the President. When the time came to act, somehow, this Government, at the executive level, determined that it was in the national interest to avoid applying the provisions of the antinationalization or anticonfiscation amendment. When we removed all the discretion from the President, we then began to have an effective amendment.

Senator Hickenlooper, of Iowa, at that time suggested that that amendment touched only a part of the problem, because a great deal of the nationalizations or confiscations actually occurred through discriminatory taxation, import or export quotas, and by various and sundry methods, achieved the same result, but not by a direct confiscation of someone's assets.

The position stated by the International Petroleum Co. in its advertisement today is very clearly illustrative of the kind of thing some nations can resort to. It also illustrates that, while it is one thing to save the consumers money by having this country rely on foreign oil, those who advocate that overlook the fact that just because the world price may be below the price of domestic oil, the oil could not be bought by us that cheaply if those other countries are in a position to engage in international blackmail or extortion against the United States or our allies.

I have in mind the kind of things that occurred when Nasser closed the Suez Canal or when war broke out between Israel and the Arabs and the Arab nations decided they would boycott virtually the whole free world with regard to oil, until they were satisfied with the way that dispute was settled.

I also have in mind the arbitrary way in which countries which had signed agreements with companies in this country suddenly decided they were not satisfied with contracts previously negotiated and that they were going to insist that the price be doubled, or their share of the profits be doubled, or perhaps tripled, as the case may be.

In a case of that sort, the oil companies have had right on their side time and again, but they have had no court on which they could rely. The traditional story is told that the oil company lawyer goes before the man who signed the confiscation order and explains how the company had been forcibly seized, at which time the man who signed the order turned his three-cornered hat to the other side, where, instead of "President," it said "Chief Judge," and then proceeded to rule that he had not seized anything.

In this particular case it will be noted that the court in Peru, recognizing that the seizure order violated the Peruvian constitution, proceeded to rule that the constitutional rights of one in Peru do not exist if they would violate or in any way conflict with the order of the military junta that had taken over down there—a very arbitrary and difficult thing for a company to contend with.

I think Senators and others will read this advertisement with interest. It is obviously restrained, because the company would like to negotiate for a reasonable settlement of its grievance. I ask unanimous consent that the advertisement be printed in the RECORD.

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

PERU'S BIGGEST TAXPAYER SEIZED BY JUNTA

International Petroleum Company, Ltd., in Peru, an affiliate of Standard Oil Company (New Jersey), has now been seized by a Military Junta—less than six months after an agreement had been reached with the Constitutional Government of Peru.

In recent weeks, many statements have been made regarding the confiscation of the producing, refining and related properties of International Petroleum (IPC) in Peru. These facilities served the local market and were the country's principal source of petroleum products. In view of developments, it seems appropriate to present a few facts to clarify the situation.

The dispute originated with the La Brea y Pariñas oil fields in northern Peru. In 1826, the mineral rights were acquired by a Peruvian. Sixty-three years later, the fields were sold to a British company.

In 1911, a disagreement arose regarding the tax status of the properties. This dispute was submitted to international arbitration in 1922 as agreed to in a treaty between Peru and Great Britain. In the course of its award settling the tax dispute, the arbitral tribunal confirmed the title which the British company held.

SUCCESSIVE PERUVIAN GOVERNMENTS RESPECT TITLE

This title to the La Brea y Pariñas fields was acquired by International Petroleum in 1924. For more than 40 years, successive Peruvian governments further recognized, through numerous actions, the validity of International Petroleum's property rights. Such actions included inscription of the title in the Public Register; purchase of land by the government through contracts which preserved the company's subsoil rights; and acceptance of tax and other payments derived from the properties. In view of this, the words and actions of the Military Junta mean that past governments—over more than 40 years—failed to defend the Nation's sovereignty and dignity.

EFFORTS TO ACCOMMODATE

During this time, International Petroleum offered on several occasions to cede its subsoil titles to the government and operate under Peru's general petroleum legislation. The government rejected these offers on the grounds that IPC would then pay lower taxes. So the company then agreed to pay at least as high taxes as it was currently paying. The proposal was never accepted. Nevertheless, the company continued negotiations with successive regimes in the hope of reaching a settlement.

In 1963, Peru declared the international treaties with Great Britain and titles to the La Brea y Pariñas oil fields to be null *ipso jure* (*which means in effect that they never existed*). Based on this retroactive legislation, a concept was advanced by some political sectors that the profits of IPC for many years from its operations in La Brea y Pariñas constituted a company "debt" to the State.

DEFINITE SETTLEMENT AGREED TO

Despite these actions and allegations against the company, an agreement was reached with the Constitutional Government of Peru on August 12, 1968.

The company accepted the basic demand of President Fernando Belaúnde and the Peruvian government to turn over the La Brea y Pariñas oil fields to the Nation. In addition, the company ceded compressor plants, pipelines, tankage and other producing facilities connected with the fields.

For its part, the government renounced any and all claims against International Petroleum arising from this controversy.

Under powers granted by the Peruvian Congress, this agreement was incorporated in

an Executive Order, signed by the President and approved by all Cabinet members, including the three representatives of the Armed Forces.

With the controversy eliminated, the government granted International Petroleum's marketing and refining activities the same status accorded other private oil companies under Peru's general petroleum law.

Although the terms of the agreement were very onerous to IPC, the company regarded is as a necessary prelude to workable relations with the Peruvian government and one which would permit it to plan future investments. The agreement was widely publicized in the Peruvian press and hailed by practically all sectors of public opinion.

JUNTA ABROGATES AGREEMENT

But this solution was to last only briefly. On October 3, 1968, a Military Junta deposed the President and took over the government. The following day, the Military Junta issued a Decree Law declaring the contracts with the constitutional regime of President Belaúnde null and void. It also charged government officials with corruption in concluding the agreement. This charge has no foundation.

On October 9, military forces seized the La Brea y Pariñas oil fields and also took over the Talara refinery, industrial complex and other surface installations. Moreover, the Military Junta made it clear that any compensation for the seized assets of International Petroleum would have to take into account the company's alleged "debts."

These were reported to be very large as a result of the latest adopted line of reasoning. It goes like this. International Petroleum has been a trespasser in La Brea y Pariñas since 1924.

This reasoning is clearly absurd.

DUE PROCESS DENIED

The company requested relief from the Peruvian courts on the basis that it had been deprived of its property and other rights without due process of law, as established by the Peruvian Constitution. Its petition was denied on the grounds that laws and Decree Laws must be applied even if in conflict with the Constitution. Since the Military Junta has assumed all legislative as well as executive functions, the decrees it issued in seizing International Petroleum's properties have prevailed over constitutional guarantees.

COMPANY CONTINUES SUPPLY

Since the seizure of the refinery was illegal and the Government refused to negotiate a settlement, the company could not establish a normal business relationship with Empresa Petrolera Fiscal (EPF). However, to avoid a shortage of vital petroleum products throughout Peru, it agreed to take supplies from the refinery. It was prepared to make payments covering cash costs which it would normally have incurred had the seizure not take place, *pending a settlement of the overall issue.* On this basis, payments were made and were accepted by the government oil company which now operates the refinery.

ANOTHER "DEBT" TURNS UP

More recently, yet another claim of a company debt has been raised and has been used as a pretext to take over the financial and operating management of International Petroleum. On January 8 of this year the government oil company, EPF, presented International Petroleum with a bill for $14 million. This is claimed to represent the value of products delivered to the company since the takeover of its oil producing properties and refinery. The sum is based on an unrealistically high price structure which would cause the company to operate at a loss.

On January 16, EPF attached International Petroleum's assets and bank accounts in Lima to collect this claim, pursuant to a Decree Law which had been enacted *two weeks before.* The same day the company was intervened and agents of the Empresa moved into its offices and installations to control financial operations.

On January 28, company officials were removed and EPF took over total operational management of International Petroleum in Peru.

A PUZZLING STATEMENT BY EPF

In view of all that has transpired, it is strange that EPF placed an advertisement in the U.S. press on January 20 to assure the American public that the "solution" to International Petroleum's problem "will open the path to greater confidence . . . between our two countries."

To call this assertion puzzling is an understatement.

INTERNATIONAL PETROLEUM CO., LTD.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

THE POLITICAL SITUATION IN GREECE

Mr. PELL. Mr. President, on October 3 and 12, 1968, while addressing the Senate on the question of the political situation in Greece, I referred to reports of brutal beatings inflicted upon persons arrested as enemies of the military regime. I mentioned the investigation being made into this matter by the Commission on Human Rights of the Council of Europe, of which Greece is a member. This examination, still going on, includes testimony from Greek citizens who have knowledge of some of these disgraceful incidents. A public report will be issued later this year. In the meantime, observers of the hearings in Strasbourg, France, are aware of some of the details of these tortures which flagrantly violate the European Convention on Human Rights; a convention to which Greece is a party.

Two articles have recently appeared on this subject which I think will be of interest to Senators. Without objection, I wish to place the articles, "The Man Who Told the Truth" by Terence Prittie in the Guardian Weekly of January 2, 1969, and "Greek Junta on Trial," by James Becket in the Nation magazine of January 6, 1969, in the CONGRESSIONAL RECORD at this point.

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

[From Guardian Weekly, Jan. 2, 1969]

THE MAN WHO TOLD THE TRUTH

(By Terence Prittie)

A great deal has been written in the past month about Pantelis Marketakis—the "missing witness" who was brought to Strasbourg by the Greek military regime to testify before the Council of Europe's Human Rights Commission, who escaped into the arms of Greeks in exile, who took him to Oslo with the collaboration of Scandinavian diplomats, and who handed himself over to the Greek Embassy in Stockholm and returned to his home in Crete under the protection of the regime. One incident in this confused yet quite explicable story has not yet been described in any detail. It is the most revealing incident, since it has to do with what happened to Marketakis in Strasbourg.

Marketakis was in effect a prisoner in Strasbourg, just as long as he was being held by the military regime as a witness who would "disprove" accusations of the torture of political prisoners in Greece. In the early afternoon of November 24 he and the three other key witnesses were in the Diligence restaurant close to the cathedral for a meal. The four witnesses were accompanied by half a dozen trusties who were instructed to feed them but never let them out of their sight. They sat down at a table to order food.

They had scarcely done so when the exile Greek leader, Professor Andreas Papandreou, came into the restaurant with several of his friends. Ostensibly, this was a fortuitous meeting; in all probability Papandreou had learnt where the party was going and had followed. For his immediate action was to walk past the table where the witnesses and their guards were sitting and to say loudly, not to them but at them, that anyone who gave false testimony before the Human Rights Commission was a traitor to his country.

Having caused some confusion among the ill-assorted party of prisoners and thugs, Papandreou rejoined his friends. But another Greek exile, a former diplomat, entered the restaurant almost at once and sat down at the table next to the prisoners. He was travelling incognito, as a business man, but evidently had his instructions beforehand from Papandreou. He found an easy pretext for engaging his compatriots at the next table in conversation, as they were having some difficulty with the menu.

Mr. X became so popular that he returned with the party to their hotel, the Maison Rouge. He waited for an opportunity to take Marketakis aside, duly did so, and explained to him that his testimony could only result in more Greeks being tortured by the regime. Probably he picked on Marketakis because he was so obviously a simple man—in fact he is a Cretan peasant—and was also so obviously in a state of mental torment.

Marketakis asked Mr. X what he should do. The answer—tell the truth, encourage other Government-primed witnesses to do the same, and come and talk to Papandreou about it all. Marketakis sought out one of the other witnesses, Constantin Meletis, and talked to him. Meletis agreed that they should escape, with Mr. X's help. Marketakis accordingly took the two Greek Government guards who were on duty on their floor of the Hotel Maison Rouge out on to the Place Kléber to make a small purchase. Meletis went, on the instructions of Mr. X, to the Hotel Union, on the Quai Kellermann, about half a mile away. From the Union he was escorted to the Grand Hotel on the Place de la Gare, Papandreou's headquarters.

Marketakis returned to the Maison Rouge with his guards, and Mr. X at once engaged them in conversation. While he was doing so, Marketakis made his way out of the hotel and into a white Citroen car which was waiting for him outside and was piloted by a Greek exile, Dr. Dimitrios Papamentellos. Papamentellos drove him to the Grand Hotel.

The escape of Marketakis and Meletis, both simple but brave men, reflected much credit on them. Subsequently, they gave a great deal of information both to Papandreou and his friends, and to representatives of the Human Rights Commission. The Greeks in exile collected plenty of other information while they were in Strasbourg, some of it tape-recorded, which will be added to the

growing dossier on the methods of police persuasion used by the present Greek regime. The return of Marketakis to Greece will make no difference to that, and the full story of how it occurred will become known in due course. It seems probable that the junta's agents threatened reprisals against his family. That he himself suffered torture and other indignities seems beyond doubt; it was reported in the "Guardian" as long ago as last May, and both his confirmation and denial were superfluous.

[From Nation Magazine, Jan. 6, 1969]

GREEK JUNTA ON TRIAL

(By James Becket)

STRASBOURG, FRANCE.—In September of 1967 the governments of Norway, Sweden, Denmark and Holland filed an application with the European Human Rights Commission charging the Greek junta with violating nearly all the basic articles of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The case dragged on for more than a year through purely legal and procedural stages, but last month when a subcommission convened in Strasbourg to hear testimony on torture, the human element of human rights burst upon the commission. The French provincial city was the scene of a drama reminiscent of both James Bond and the Keystone Cops. Two witnesses brought by the junta escaped their guards. Rushing about Strasbourg all week were officers of the French *Sûreté*, armed junta thugs, international lawyers, Greek exiles and hordes of journalists. Not only is the case on its way to becoming a landmark in the history of the international protection of human rights, but it has assumed an immediate political importance.

The European Commission on Human Rights came into existence after World War II. Empowered to hear cases brought by individuals or member states, the basic functions of the commission are to find the facts of a dispute and to attempt a "friendly settlement." It has not been easy for the Scandinavians to press the case. Not only has pressure from many quarters been exerted on them to abandon their efforts, but it has been difficult to find witnesses outside Greece, who were willing to testify, especially witnesses who had been tortured. The junta does not permit anyone who has been tortured to leave Greece, and recently they have been forcing torture victims to sign declarations that they were well treated.

The delegation of the Greek regime flew from Athens to Paris on Saturday, November 23. In this delegation of forty-nine which took the train to Strasbourg were not only lawyers and witnesses but members of the Greek security police, the military police (ESA), the Greek CIA (KYP), and *pistoleros* attached to the Prime Minister's office. Three of the witnesses were soon to find themselves on the front pages of the world press—two because they appeared before the commission and one because she didn't.

On Sunday Constantine Melitis, 33, a grocer from Salonika, and Pandelis Marketakis, 38, a car mechanic from Crete, sat with their guards in the hotel dining room puzzling over the menu. A Greek came up and offered to help. This man belonged to Andreas Papandreou's Panhellenic Liberation Movement (PAK). Through him the two witnesses found the chance they were looking for; they managed to elude their guards and arrive at the Grand Hotel to ask the Norwegian delegation for protection. The story had still not broken on Monday when an emissary of the junta came to the Grand Hotel "on his own" to ask that the "kidnapped" witnesses be handed over for "humanitarian reasons."

The two witnesses turned out to have quite a story to tell. Melitis had been the driver of the car in which a leftist deputy named Tsarouchas was arrested last May between Salonika and Athens. Melitis was savagely beaten, his cheekbone shattered, but at least he arrived alive in Salonika. Tsarouchas died of a "heart attack." Melitis broke under the KYP tortures of *falanga* (bastinado), mock execution, and worst of all electric torture when electrodes were attached to his genitals. Marketakis, who lost an eye fighting the Communists in 1948, was arrested in Crete after an explosion in a factory. He went through seventy-five days of systematic torture, nearly dying of internal bleeding. When both men were finally released the police spread the story that they had betrayed their comrades. Isolated and without work, they were cultivated by the police, who planned to use them as prosecution witnesses whenever needed. Given the ever-present threat to their families, the police believed they could count on them. They were brought to France as "tame" witnesses.

The subcommission began hearing evidence on Monday morning in a highly charged atmosphere. Proceedings before the commission are absolutely secret. (It is doubtful that any sovereign state would sign the Convention if they were public.) However, the witnesses themselves, if unable to tell what happened inside the commission, were able to relate their experiences in Greece. Lieutenant (j.g.) Marotis-Lanas of the Greek Navy's South Aegean Command, formerly in charge of the junta's security office for Piraeus and the Aegean islands (he defected after the King's coup) told of watching Greeks being tortured, told of picking bodies up on the beaches around Athens, and told of a secret interrogation center in Agios Paraskevas, near the American College, where the camp commander proudly showed him his latest torture equipment. (The Greek delegation admitted the existence of this hitherto secret camp, but claimed it was a NATO camp for "interrogating" Eastern Europeans.) The witness also told of a police list of nearly 1,000 names of those in hiding who were to be killed on capture. (Tsarouchas had been on the list.) Most important as to direct junta responsibility was Lieutenant Marotis-Lanas' testimony that in his presence Minister of the Interior Pattakos gave orders to torture and kill specific persons. Miss Kiti Arseni, 30, told of her nightmarish torture a year ago on the notorious "terraza" of the Bouboulinas Street Security Police Station. Arrested for passing along a "freedom poem" of Theodorakis, she suffered *falanga* as well as being beaten all over her naked body with a plaited steel wire. The climax was when her brother, an army draftee, was brought in and forced to beat her himself. Even those observers who knew about torture in Greece were shocked by the picture that emerged. Rather than the work of an occasional Balkan sadist, it is a highly programmed modern enterprise.

On Wednesday morning the two Greek *transfuges* left the Grand Hotel under heavy police escort, ran the gauntlet of television and press to enter the modern commission building where armed Greek heavies and Council of Europe police milled about the corridors. The French, aware that the Greeks were armed, were under orders from Paris to avoid any incidents on the premises. After the witnesses had testified, they were whisked back by the *Sûreté* to their original hotel to retrieve their luggage. In a dramatic confrontation, the head of the Greek delegation, Mr. Koutoupis, told Marketakis: "For what you have done today your children will pay."[1]

[1] A Reuters story of December 18 reported that Mr. Marketakis was in London, accompanied by Greek Government officials, en route from Stockholm to Athens. His official "interpreter" said that Marketakis retracted allegations of torture, alleged that he had been kidnapped by "Communists in Strasbourg," and had been forced to say what he did under the threat of "twenty revolvers." The Greek Embassy in Stockholm also announced that he had been held earlier in Norway by "twenty anarchists" (a number apparently favored by junta spokesmen). Before turning him over to his countrymen, the Swedish police questioned Mr. Marketakis, who however, maintained that he was returning home of his own volition.

The drama then shifted to the fate of a third Greek witness, Miss Zaira Peta, who never appeared before the commission. (She had been in Bouboulinas at the same time as Miss Arseni.) Sunday she was in tears at dinner and each time she left her room she was flanked by two Greek guards. At least one journalist was roughed up for inquiring about her. Wednesday Miss Peta disappeared. The Greek delegation gave out three different stories as to why she was unable to appear: she was sick, her sister was sick, and business commitments necessitated her immediate return to Athens. Miss Peta is a seamstress.

Meanwhile the case gradually proceeds. More evidence on torture is being heard in mid-December, then the commission plans to hear witnesses in Greece. If a "friendly settlement" is not reached (and it is difficult to imagine how wholesale torture and murder can be subject to this formula), the commission will submit a report to the Council of Ministers, which is made up of the Foreign Ministers of the Council of Europe countries. After a three-month waiting period, they will seek a solution.

For international law and the developing international protection of human rights, this case is an important test. Here the concepts of national sovereignty and human rights clash. Before leaving Greece, Marketakis and Melitis had been told that foreigners were attacking Greece and that they would go to the Greek consulate in Strasbourg to give testimony. True, they had been beaten some themselves, but that was between Greeks and abroad they would be patriots. The exciting aspect of this case from the standpoint of human rights law (as well as from the standpoint of the victims) is that it is a Norwegian's business when a fellow European's human rights are violated. The question remains whether the rather fragile international mechanism can bear the strain of this case, the most important it has ever faced. The Greek investigation will make or break the commission. If it is unable to protect such basic human rights as the right to be free from torture, it will be exposed as an institution able to handle only procedural issues which provide articles in learned legal periodicals. The case is dynamite for its political implications—not only in Greece, where heads are sure to roll as a result of last month's fiasco but also in Europe and the Atlantic Alliance.

Even though this is supposedly a European matter, the proceedings were held under the long shadow of the United States. American diplomats at such institutions as the Council of Europe, the Common Market and NATO have put considerable pressure on the Europeans to ease up on the Colonels. The United States argues that "communications must be kept open" with the Papadopoulos regime. If the allies were to push too hard, dangerous hard-liners might take over. But given the situation in the Mediterranean, stability not democracy has top priority. Observers at the Council of Europe, believing that NATO calls the tune, are pessimistic that the Council of Ministers would act even on a finding of genocide by the

commission if it opposed what the United States conceived its NATO interests to be. But pressure is building up on the Colonels and the Americans. After the drama of Strasbourg, the one newspaper in Norway which has been sympathetic to the Colonels, the conservative *Morgenblatt*, wrote: "NATO must choose—Greece or Norway."

Mr. PELL. Mr. President, these articles offer clear evidence that the military regime continues to deny Greek citizens their right to human dignity and justice.

Mr. President, in May 1967, shortly after the military regime had come to power in Greece, I said in a speech to this body that I deplored the illegal military seizure and that I deplored, moreover, the lack of any kind of strong, public reaction or expression of disapproval from the United States. I pointed out that we as a nation have come to hold a rather benign attitude toward military coups and forced right-wing political settlements, while at the same time registering great alarm over similar assaults from the left wing; I pointed out that we have given at least tacit approval to seven regimes resulting from right-wing coups since 1960, while supporting only one left-wing coup during that same period. And I expressed the view that, even if elections in Greece led to a left-wing government that necessitated Greece's withdrawal from NATO, we would be better off dealing with a neutral government that represented popular choice than we would be with an allied government that had no support from its people. I hold to that view now more strongly than ever, and I urge the Senate to give it deep consideration. It seems to me that the inescapable conclusion can only be that the revitalization of democracy in Greece is as much in our own interest as it is in the interests of the people of Greece. We should, therefore, do everything we can to encourage its prompt evolution.

POLICY PAPER ON EAST-WEST TRADE

Mr. PELL. Mr. President, in February 1966, a Committee for the Promotion of East-West Trade was established within the framework of the New York Regional Export Expansion Council. The members of the committee are prominent business executives.

The committee has prepared a policy paper on East-West trade which contains a number of recommendations for expanding peaceful trade with the Soviet Union and the Communist countries of Eastern Europe.

The paper notes that present U.S. restrictive trade policies have forfeited our export sales to the advantage of Western European and Japanese firms. The paper also notes that these restrictive policies have made it more difficult for the U.S. Government and U.S. business to respond to the general movement in Eastern Europe toward nationalism, economic decentralization, and the establishment of closer ties with the Western World.

I believe that the recommendations of the policy paper are sound and are in the national interest. I ask unanimous consent that the full text of the report be placed in the RECORD, together with a list of the members of the Committee for the Promotion of East-West Trade.

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

POLICY PAPER ON EAST-WEST TRADE

(Prepared by Committee for the Promotion of East-West Trade, New York Regional Export Expansion Council)

During the early 1950's, United States trade with the Soviet Union and other communist countries almost disappeared. With the emergence of the Geneva spirit fostered by President Eisenhower, United States-Soviet relations began to improve and trade followed.

In July, 1955, President Eisenhower at the Heads of Government Meeting at Geneva urged the creation of "conditions which will encourage nations to increase the exchange of peaceful goods throughout the world." Later, at the Four Power Foreign Ministers Conference in October, 1955, Secretary of State Dulles committed the United States to "progressively simplifying certain of our operating procedures concerning exports to the Soviet-bloc countries so that the pathway to commercial enterprise might become smoother."

When Premier Khrushchev took the initiative in proposing a considerable increase in U.S. Soviet trade in 1958, President Eisenhower made it clear in a letter to him that the U.S. favored expansion of peaceful trade with the Soviet Union pointing out that "it could be of mutual benefit and serve to improve our relations in general, especially if it were accompanied by broad contacts between our peoples . . ." The policies initiated by President Eisenhower to improve relations with Eastern Europe were supported and strengthened by the Kennedy and Johnson administrations.

The economic and political changes which have taken place in Eastern Europe in the last few years are significant and far-reaching. The general movement in Eastern Europe towards nationalism, economic decentralization and their attempt to establish closer ties with the Western World should be encouraged by our policies and actions. However, our existing policies, particularly on export and credit restrictions, have made it more difficult for the U.S. Government, U.S. business and the public to respond to these changes and to improve relations.

The restrictive policies of the U.S. towards trade with Eastern Europe have not achieved the intended objective of preventing goods from going to the East European communist countries. The main result has been the forfeiture of U.S. export sales to our West European and Japanese competitors and the forfeiture of political and economic leverage in an area of the world where normalization of relations would be a true benefit to mankind.

Trade between Eastern Europe and the non-communist world in 1967 was $15 billion. Western Europe and Japan claimed $9.4 billion of this trade. The U.S. share of this trade was only $372.5 million, or 2.5%. This miniscule figure is even more striking when compared to our world trade which in 1957 was $57 billion, making our trade with Eastern Europe an insignificant 0.15% of our world trade.[1]

The small share of U.S. trade to Eastern Europe can be attributed primarily to our one-sided, self-imposed limitations. Mr. Harold Linder, former president of the Export-Import Bank, Mr. Robert Roosa, partner of Brown Brothers Harriman and former Under Secretary of the Treasury, and a number of other leaders of American industry and finance have stated that if these barriers were removed, we could expect at least to double or triple our trade with Eastern Europe.[2]

A substantial number of American commercial and industrial firms would like to participate in the East European market which is expanding at the rate of 15–17% per year. Because of advanced technology, and in many cases because of pricing and servicing, the East European Trading Organizations have often affirmed their preference for American products and plants. Some American firms are working in the market, but most hesitate partially because of the psychological barrier and partially because of U.S. Government restrictions.

During the past year there have been increasing official and unofficial overtures from the East European governments to improve relations with the U.S. We believe that the New Administration and the Congress have a great opportunity to explore these overtures with the objective of improving overall relations, increasing contacts between the American people and the peoples of Eastern Europe and, in general, lessening East-West tensions. Towards this end, this Committee submits the following recommendations:

1. The New Administration should make an early policy statement setting forth its position on East-West relations and indicating its support for all efforts to improve relations, including the expansion of trade in nonmilitary goods. This policy statement should point out that such trade is in the national interest. Such a policy statement will open up channels of communication to Eastern Europe and also help to clear the air and remove the stigma attached to East-West trade in the American business community and in the public.

2. The President should be authorized by the Congress to grant, at his discretion, Most Favored Nation treatment to any or all of the communist countries. Existing tariff barriers prevent the countries of Eastern Europe from exporting many of their products to the U.S. market which, in effect, also prevents them from earning dollars for U.S. purchases. The lack of Most Favored Nation status is also looked upon by the East European countries as an attempt on our part to treat them as "second-class citizens of the world." We should note that our allies in Europe and Asia do not raise these arbitrary barriers to their trade with Eastern Europe.

In exchange for granting Most Favored Nation status, the Administration can negotiate for reciprocal trade concessions on an individual basis regarding such matters as settlement of lend-lease loans, property claims and non-discriminatory treatment of U.S. exports.

3. The Export-Import Bank should be given the authority to make guarantees available to U.S. exporters for normal, medium and long-term credit to the East European countries.

The governments of Eastern Europe have made it clear that they will not engage in substantial trade with the U.S. unless we offer credit terms which are competitive with those they are receiving from Western Europe and Japan. The granting of credit is a recognized and established means of doing international business. Our Government should

[1] Source: International Trade Analysis Division, Bureau of International Commerce, U.S. Department of Commerce.

[2] East European trade referred to in this paper is defined as trade between the non-communist world and the U.S.S.R., Poland, Czechoslovakia, Roumania, Hungary, Bulgaria and East Germany.

recognize it as such and, accordingly, authorize the Export-Import Bank to provide guarantees permitting U.S. corporations to obtain commercial financing for Eastern Europe.

4. The President should recommend to the Congress that the Export Control Act be amended to encourage trade rather than to restrict it. Specifically, the Export Control Act should be modified:

a. so that it restricts exports only of goods which have *"direct military applicability."* The present language of the Act restricting exports which may have "potential military and economic significance" is too broad and the emphasis is upon the prevention rather than the encouragement of trade. The Office of Export Control has frequently used this wording to prohibit the export of such items as wigs and artificial beards, the military significance of which is somewhat difficult to comprehend.

b. so that many items on the restricted list are removed to make it conform essentially to the COCOM list being applied by the countries of Western Europe and Japan. Many of the present U.S. restricted categories of items have no strategic or military importance and the list only penalizes American business since these items are available from our allies. Adjusting the American restricted list of categories to conform with the COCOM list would have the immediate effect of permitting U.S. firms to export items now being exported from Western Europe and Japan. It would have the additional benefit of avoiding the issue of extra territoriality which has been a serious irritant to foreign governments who regard it as interference with their sovereign rights.

c. so that no financial or credit restriction is placed upon export of goods and services which are authorized under the Act. This would permit the Export-Import Bank to grant guarantees for financing of items authorized by the Act.

d. so that special carrier and port restrictions are removed, thereby permitting increased shipments of U.S. grain and other commodities to Eastern Europe. For making such concessions, the U.S. should seek similar concessions from the East European governments.

e. so that it is not necessary for an exporter to apply for a special license unless it is likely that an item may be used for military purposes.

5. The President should direct the Secretary of Commerce to establish a new division of trade expansion under the Assistant Secretary for Domestic and International Business to permit trading in peaceful goods with communist countries. This division would have the task of encouraging U.S. companies to export their products to Eastern Europe and to establish joint ventures in the East European countries.

6. The President should direct the Secretary of Commerce to establish industry wide committees, comprised of representatives of a cross section of American business for regular consultations concerning policy and administration of export controls and ways of expanding East-West trade.

We believe the above recommendations on East-West trade are in the national interest and, if implemented by the New Administration and the Congress, would have a positive effect on trade with these countries and a long-range impact on U.S. relations with this important area of the world. This committee wishes to state that it will support the decisions taken by the Administration and Congress and employ its efforts to further these policies and actions.

This paper and its recommendations were unanimously approved by members of the New York Committee on East-West Trade (Regional Committee for the Promotion of East-West Trade) at its meeting held in New York on January 8, 1969.

NEW YORK REGIONAL EXPORT EXPANSION COUNCIL, COMMITTEE FOR PROMOTION OF EAST-WEST TRADE: MEMBERS

Chairman: Tino Perutz, Managing Director, OMNI Division, C. Tennant, Sons & Co., of New York, 100 Park Avenue, New York, New York.

Vice Chairman: William E. Knox, President, William E. Knox Associates, Inc., 200 Park Avenue, New York, New York.

Executive Secretary, New York REEC: Arthur C. Rutzen, Director, New York Field Office, U.S. Department of Commerce, 26 Federal Plaza, New York, New York.

Theodore C. Barreaux, Program Director, American Management Association, 135 West 50th Street, New York, New York.

George H. Bookbinder, President, Rand Development Corporation, 420 Lexington Avenue, New York, New York.

William Bynum, Chairman of the Board, Carrier Corporation, Carrier Parkway, Syracuse, New York.

Dudley T. Colton, Vice President & General Banager, Johns-Manville International Corp., 22 East 40th Street, New York, New York.

Joseph F. Condon, Vice President, Parsons & Whittemore, Inc., 200 Park Avenue, New York, New York.

G. M. Garbarino, Director of Foreign Operations, Westinghouse Electric International Co., 200 Park Avenue, New York, New York.

Collingwood J. Harris, Executive Director, Institute of Airline Marketing, 109 East 36th Street, New York, New York.

Richard F. Kelly, President, Richard F. Kelly Company, 117 Liberty Street, New York, New York.

William S. Kingson, President, Durham-Huntingdon Ltd., 866 United Nations Plaza, New York, New York.

George R. Moore, Manager, Cargo Sales Service, Pan-American World Airways, Pan-American Building, New York, New York.

Clifford B. O'Hara, Director of Port Commerce, The Port of New York Authority, 111 Eighth Avenue, New York, New York.

Maurice Sonnenberg, Investment Consultant, 580 Fifth Avenue, New York, New York.

John O. Teeter, Vice President, Pfizer International, Inc., 235 East 42nd Street, New York, New York.

George C. Wells, Vice President, Union Carbide Corporation, 270 Park Avenue, New York, New York.

William H. Winfield, Consultant, 21 Owenoke Way, Riverside, Connecticut.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. 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.

ADJOURNMENT UNTIL TUESDAY, FEBRUARY 4, 1969

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate today, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon on Tuesday next.

The motion was agreed to; and (at 2 o'clock and 40 minutes p.m.) the Senate adjourned until Tuesday, February 4, 1969, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate January 31, 1969:

POST OFFICE DEPARTMENT

Elmer T. Klassen, of Massachusetts, to be Deputy Postmaster General.

James W. Hargrove, of Texas, to be an Assistant Postmaster General.

Kenneth A. Housman, of Connecticut, to be an Assistant Postmaster General.

David A. Nelson, of Ohio, to be general counsel of the Post Office Department.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Gerard C. Smith, of the District of Columbia, to be Director of the U.S. Arms Control and Disarmament Agency.

U.S. ATTORNEYS

Richard A. Dier, of Nebraska, to be U.S. attorney for the district of Nebraska for the term of 4 years vice Theodore L. Richling, resigned.

Allen L. Donielson, of Iowa, to be U.S. attorney for the southern district of Iowa for the term of 4 years vice James P. Rielly, resigned.

DIPLOMATIC AND FOREIGN SERVICE

Albert W. Shorer, Jr., of Illinois, a Foreign Service officer of class 1, new Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo, to serve concurrently and without additional compensation as Ambassador Extradordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea, to which offices he was appointed during the last recess of the Senate.

IN THE NAVY

John W. Warner, of Virginia, to be Under Secretary of the Navy.

Frank Sanders, of Maryland, to be an Assistant Secretary of the Navy.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 31, 1969:

DEPARTMENT OF COMMERCE

Rocco C. Siciliano, of California, to be Under Secretary of Commerce.

IN THE COAST GUARD

The following-named officers of the U.S. Coast Guard for promotion to the grade of rear admiral:

Capt. Joseph J. McClelland.

Capt. Helmer S. Pearson.

Capt. Chester A. Richmond, Jr.

DEPARTMENT OF JUSTICE

Richard G. Kleindienst, of Arizona, to be Deputy Attorney General.

Jerris Leonard, of Wisconsin, to be an Assistant Attorney General.

Richard W. McLaren, of Illinois, to be an Assistant Attorney General.

William H. Rehnquist, of Arizona, to be an Assistant Attorney General.

William D. Ruckelshaus, of Indiana, to be an Assistant Attorney General.

Johnnie M. Walters, of South Carolina, to be an Assistant Attorney General.

Will Wilson, of Texas, to be an Assistant Attorney General.

DISTRICT OF COLUMBIA COMMISSIONER

Walter E. Washington, of the District of Columbia, to be Commissioner of the District of Columbia for a term expiring February 1, 1973.