EXTENSIONS OF REMARKS

GREEN THUMB PROGRAM IN VIRGINIA IS A NOTABLE SUCCESS; WORKERS ASSIST IN FLOOD RECOVERY WORK AT DOUTHAT STATE PARK

HON. WILLIAM B. SPONG, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Wednesday, October 1, 1969

Mr. SPONG. Mr. President, the green thumb work program for the elderly has met with wide approval and success in Virginia. The efforts of green thumb workers have resulted in beautified park areas, new hiking trails, more attractive roadsides, and other improvements to public facilities.

During the recent disastrous floods in Virginia's James River Basin, green thumb workers provided valuable assistance in rescue and cleanup operations at Douthat State Park, near Clifton Forge.

The workers have been commended by Mr. A. R. Crutchfield, chief ranger of the park, for their help in cleaning roadways and bridges leading to stranded campers. Mr. Crutchfield said they rebuilt two wooden bridges washed away by high water, and cleaned debris from the culverts.

Mr. President, the August issue of the Virginia Highway Bulletin, a monthly publication of the Virginia Department of Highways, contained an article discussing the virtues of the program. The information on the success of green thumb will be of interest to Senators. I ask unanimous consent that it be printed in the RECORD.

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

OPERATION GREEN THUMB

In an age of governmental programs often referred to unkindly as giveaways, it is refreshing to find one that has been received as enthusiastically as Operation Green Thumb.

Not that it is as well-known as it should be. Only fourteen states, including Virginia, are currently participating in the program; the states, in addition to Virginia, are Arkansas, Indiana, Kentucky, Minnesota, Nebraska, New Jersey, New York, Oklahoma, Oregon, Pennsylvania, South Dakota, Utah, and Wisconsin.

The program is designed to give retired farmers a chance to supplement their Social Security income by offering them employment and training on public projects as gardeners, landscapers, nurserymen, and highway maintenance men. Though any public agency may become a sponsor of the program, there are at present only three Virginia agencies participating—the Department of Highways, the State Division of Parks, and the Newport News Division of Parks. Several agencies, however, are cooperating in the program—the Virginia Office of Economic Opportunity, the Commission on Aging, the Virginia Farmers Union, the Farmers Home Administration, and the Virginia Employment Commission.

The program was conceived by the Farmers Union and operates under a grant from the U.S. Department of Labor. Tony T. Dechant, president of Farmers Union and Green Thumb, has pointed out that to many of the Green Thumbers the program has meant "the difference between staying in their own homes and leading their own productive lives or being dependent on the state or their children."

The average age of the 2,000 Green Thumbers now employed is 68. The average income, before the program, was $900 per couple, but Green Thumb gives each one an opportunity to earn up to $1,500 a year—that, of course, being the amount that one is permitted to earn in addition to full Social Security benefits.

The Green Thumbers are everywhere doing a notable job. Hard workers all their lives, they take a tremendous pride in their work and the contribution they are making to their communities. As one observer said: "These older workers seem to put something extra into their work. People in the community notice it. The cooperating agencies recognize it." The program has been so successful that a similar program, for women, has been created through the efforts of the Commission on Aging, called Green Light, it started on August 1 in the Newport News area, where a group of six women are employed in community service.

In Virginia there are ten Green Thumb projects, employing 140 men who work three days a week, eight hours a day, in seven-man crews. There are also two part-time administrators—a state director and a field supervisor.

The projects sponsored by the Highway Department are located in Lee, Washington, Pulaski, and Brunswick Counties. Typical of the projects is one that took place along 25 miles of US 58 and Route 70 in Lee County. Here brush and trees were removed to enhance the beauty of the roadsides and to improve sight distances on mountain curves. In Washington and Pulaski Counties, Green Thumbers pruned, fertilized, and cared for shrubbery along the entire length of Interstate 81 in the two counties. In Washington County, work was conducted in two nurseries owned by the Department, and in Pulaski County 6,000 small pines destroyed by a fire were replaced with pine seedlings. In Brunswick County, shrubbery was planted and trimmed and grass was cut along US 58.

The Virginia Director of Operation Green Thumb is Bennie I. Draper, Jr., of Blackstone, and the chairman of the advisory committee is Robert L. Dirks, of the Virginia Office of Economic Opportunity. Highway Department members of the committee are Craig S. Romaine and R. E. Greene (alternate), associate landscape engineers.

Mr. Romaine is so impressed by the program that he hopes it will encompass many more projects next year (most of the projects are carried on between May and September). He says that the Green Thumbers really earn what they are paid and that they are contributing vastly to the better economy of our rural communities.

JACKSONVILLE, FLA., CELEBRATES FIRST ANNIVERSARY AS CONSOLIDATED CITY

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. BENNETT. Mr. Speaker, today, October 1, marks the first anniversary of the Consolidated City of Jacksonville and Duval County, Fla. Jacksonville has given proof again that our Nation's citizens can fight "City Hall"—and win.

A few short years ago Jacksonville was a city in decline. Its urban ills had surfaced for all to see. They included the all-too-familiar corruption in local government, skyrocketing taxes, a disaccredited high school system, rising crime rates, water and air pollution, and an imbalance of city-county population, to name a few.

Outraged citizens took a long, hard look. And then they took action.

In January 1965, a two-sentence manifesto was drawn up and signed by 23 of the city's most influential business and civic leaders assembled by the Jacksonville Area Chamber of Commerce. It called for sweeping governmental reforms and became the driving force behind the eventual merger of city and county governments. As a result of this citizen action, a blue ribbon committee was appointed and given the legislative mandate to study the subject of local government in its entirety and to make appropriate recommendations for its improvement.

Ultimately, a "blueprint for improvement" was presented, which called for a single countywide government with a "strong mayor" and a 19-man council. Also recommended was a consolidated countywide police force under the supervision of an elected sheriff, a nonpartisan, nonpaid elected school board, plus a consolidated, elected civil service board.

On August 8, 1967, Duval County voters went to the polls and made political history. Consolidation won by a 2-to-1 margin. Following the vote for consolidation, an election was held for the new government's officials. With but a few exceptions, the "old guard" was passed over in favor of new political faces.

Consolidation went into effect on October 1, 1968. The new city limits embrace 827 square miles, making Jacksonville the largest city in land area in the United States.

Described as a "businessman's kind of government," Jacksonville now operates along corporate lines, seeking maximum efficiency at the lowest cost available.

Consolidation has won for Jacksonville, the Department of Housing and Urban Development—HUD—regional and national awards for "outstanding contributions to intergovernmental relations." And in March of this year the inspiring citizen action which brought about the government reform was rewarded with the coveted "All America City" award presented by the National Municipal League and Look magazine.

The enormity of the achievement in Jacksonville has prompted newspaper editorials from coast to coast. May I quote from just a few:

We often refer to the "backward South," but the voters of Duval County, Fla., were forward-looking enough to merge the county into the city of Jacksonville. If voters of the four-county metropolitan Cleveland area would do likewise, we would all benefit immeasurably.—The Cleveland Press.

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Jacksonville and Duval County have consolidated their areas and governments in a move for efficiency and economy that might provide thought-food for other governmental units, including Chicago and Cook County.—Chicago Daily News.

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Jacksonville-Duval and Portland-Multnomah do not have identical problems, but some are common to muncipalities throughout the nation. How the Florida consolidation works out will be watched with interests in many States.—The Portland Oregonian.

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Jacksonville's spirit of coordinated governmental thinking offers much to emulate.—The Atlanta Journal.

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The Jacksonville consolidation is a considerable feat in municipal government. There is no doubt that the Jacksonville example offers a real challenge to other metropolitan areas. And in our own community, the desirability of extending city limits to encompass areas which normally and logically belong to the city should be pursued.—The Birmingham (Ala.) News.

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With Detroit and other Michigan cities facing the same cash crisis in the struggle to provide adequate services—police, fire, schools—the story from Jacksonville seems to have some relevancy.—The Saginaw (Mich.) News.

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Waycross and Ware County, as well as other communities, should keep a close watch on the new consolidated government. Jacksonville may, indeed, be setting the pace for the cities of tomorrow.—Waycross (Ga.) Journal-Herald.

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The Jacksonville-Duval County consolidation as a pattern of local government will be worth watching.—The Austin (Texas) Statesman.

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The Jacksonville situation sounds somewhat like the one here. Consolidated government is the wave of the future, and something that some day must come to Knoxville.—The Knoxville (Tenn.) News-Sentinel.

May I take this opportunity to extend heartiest congratulations to Mayor Hans G. Tanzler, Jr., and all 505,000 citizens of Jacksonville on the first anniversary of their "bold new city of the South."

CAMPUS DISORDER

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Wednesday, October 1, 1969

Mr. BYRD of Virginia. Mr. President, the Wall Street Journal of September 30 contains a thoughtful editorial on the subject of campus disorder. The editorial makes the point that while some disruption is bound to occur, the prime need is for firm control within the academic community.

I ask unanimous consent that the editorial be printed in the Extensions of Remarks.

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

TOWARD A HOUSE IN ORDER

Campus disruption may mar the new academic year as it marred the old, but we doubt that the trauma will be quite so acute. The academic community seems to be getting a grip on itself.

Given the juvenile militance of some students, it's hard to see how all outbursts can be prevented. The first few weeks of the academic year have been reassuring in that regard. Presumed students staged a hit-and-run raid roughing up staff members at the Center for International Affairs at Harvard University. A Marine Corps recruiter was splattered with paint at Cornell University. At the University of Michigan students seized a building in support of demands for a student-run bookstore.

We hold some hope, though, that there will be no general repetition of the truly sickening thing about last year's campus riots, which was not the outrages by adolescents but the weakminded response by responsible adults. Students would seize buildings and manhandle deans, and learned faculties would debate and divide on demands of amnesty. Criticism was often directed not at the students who initiated violence but at the deans who were forced to resort to police to quell it.

The Michigan incident, where administrators called police to arrest more than 100 demonstrators, will be the first test of whether that mood will continue this year. Perhaps significantly, the first comments by faculty members tended to support the administration.

Regardless of the outcome at any given campus, there is plenty of evidence that summer has given administrators time to think and plan, and time for university disciplinary procedures to take hold. While the real trick is to put the conclusions into practice, by and large the results of the rethinking seem to be sound.

Recent declarations by the trustees of Cornell are particularly interesting, since that was the scene of the worst capitulation last year—caving in to a group of armed black militants occupying Willard Straight Hall. The trustees now declare such common sense as, "There can be no such thing as a nonviolent building occupation. The every act is a threat of the use of force."

Even more significantly, the Cornell trustees singled out the heart of the problem: "Had discipline at Cornell been enforced over the last two or three years, simply by fair but firm adherence to the disciplinary code and the judicial system in force, a tragic event of the dimensions of the Willard Straight incident might well have been avoided."

Despite Cornell and other well-publicized instances of hesitation, in fact many universities have enforced their disciplinary codes far better than they have been given credit for. The Chronicle of Higher Education recently surveyed 28 campuses that suffered disruption last year and found that more than 900 students had been suspended or expelled. Another 850 had been placed on warning or probation that could result in harsher penalties upon a second offense.

Dartmouth and Harvard have disciplined faculty members who egged on demonstrators. Thus there is warning that disaffected professors cannot necessarily promote revolution at no risk to themselves.

These are all highly salutary steps, and it is important that those of us who have criticized the initial vacillations recognize how far the universities have gone in the directions we have advocated. We would not be surprised if the turn toward hardheadedness does take a lot of steam out of the protests, but some will probably continue. In these times of instant communication, it will be easy for a few spectacular outbursts to obscure a quite different general trend.

Certainly the record over the summer is enough to suggest that further intervention by state and Federal authorities is not what is currently needed. Academic freedom is threatened both by capitulation to mobs and by outside intervention. If it comes to a choice, intervention is no doubt the lesser evil, but that point has by no means arrived.

The way to avoid such a choice of evils—as these columns have been stressing throughout—is for the academic community to assert its own discipline and protect its values. It has now made creditable progress toward doing so.

The general community need not fear to criticize whatever backsliding may appear, but at the moment the appropriate thing is for the rest of us to stand back and give the universities time to reap the benefit of their start toward putting their own house in order.

ELECTION FINANCING REFORM BILL

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. CONABLE. Mr. Speaker, reform of any sort is always a subject of great public interest, a large amount of political oratory but all too often little real activity. During this session of Congress, oratory has been replaced by action a number of times, and frequently the activity has been directed at changes which are necessary in our method of governing ourselves. Recently this House approved a resolution to amend the Constitution to alter the way we elect a President. The movement to reorganize the legislative branch of Government will soon have public evidence of the willingness of Congress to reform itself when the Rules Committee reports its recommendations for change. Activity on these two subjects has been needed for a long time, and I am encouraged by the steps that have been taken.

There is a third aspect of our method of governing ourselves which has received a good deal of attention in the past and needs to be considered again—changing the law regarding limitation and disclosure of campaign spending. The present law is hopelessly inadequate and offers almost no real regulation on the subject, for reports of spending can be easily avoided through a variety of subterfuges, and disclosure of campaign costs is more a voluntary act than one in compliance with the law.

The legislation I am introducing today, the Election Financing Reform Act of 1969, is aimed at enforcing full disclosure of campaign costs and limiting the total amount which may be spent during an election campaign. The present limits on campaign spending, if absolute, would be unrealistically low, but they are easily avoided and have become only a small encumbrance having only the effect of adding a little more confusion to an already confusing aspect of our electoral process.

This bill proposes a limit on the amount a person may contribute to political campaigns in a year with strict criminal sanctions to enforce the limit. A person may contribute $50,000 in the aggregate with a maximum of $10,000 to a presidential candidate in any election, general or primary, and a maximum of $5,000 to any Senate or House candidate in any election. The terms "election,"

"campaign contribution," "campaign expenditure," "candidate," and "political committee" are defined so that effective enforcement of the law will become a greater possibility than it is now.

Other aspects of campaign financing subject to criminal sanctions are certain contributions of Government contractors and promises of benefit for political activity. Stronger limitations, also in the form of possible criminal penalties, will be placed on the candidate himself, especially in respect to use of funds for personal purposes. The bill will make a candidate responsible for all expenditures in his behalf by requiring him to authorize specifically all contributions and expenditures. This is the only reasonable means of enforcing the law regarding campaign expenses as it removes the possibility of any candidate claiming that the expenses of his campaign were totally unknown to him. By careful definition of terms it is still possible for a person actually to be subject to a draft although it will not be as frequently claimed.

To make full disclosure a reality I have provided for administration by an independent regulatory agency separated physically and politically from its subject of regulation. This body, the Federal Election Commission, will be charged with receiving reports of campaign contributions and campaign expenditures made by political committees, candidates and certain individuals. It will have wide investigatory powers and the power to impose administrative sanctions for violations of the election law including ordering full public disclosure, an order in the nature of a cease-and-desist order and civil penalties up to $25,000.

The bill would require registration of all political committees, including intrastate political committees, which anticipate receiving contributions of $1,000 or which actually receive $1,000. Once registered, these committees will be subject to stringent reporting requirements as will the candidates whose campaign they are financing. In addition to filing with the commission in Washington, candidates will additionally have to file with the local Federal district court so that this public information is fully available to the persons most interested in it.

I am concerned with the emphasis which is increasingly placed on great wealth in election campaigns and I have inserted sections into the bill which attempt to limit the cost of elections and prevent the large donor from dominating a campaign. I have set a limit of 25 cents per person in the electorate as the measure of the maximum that may be spent in an election. For an average congressional district, this would mean that a candidate could spend over $100,000 but could not receive more than $5,000 from any one source. In recognition of the importance of the primary election, and the disadvantage which might result from a flat campaign spending limitation, I have separated the primary from the general election so that candidates for House or Senate seats would be able to spend 25 cents per person in a primary and the same amount in a general election. Because presidential politics are constructed in a different way, the 25 cents per person limit applies only in the general election with a different formula applicable to State primaries. The small States should be able to assert the same great national impact they have in past presidential primaries, so I suggest a limit which is not strictly tied to population. A candidate may spend the higher of either 25 cents per person in the State or 1¼ cents per person in the Nation; a maximum, depending on the State, of between $2½ million and $5 million.

These limits are high in comparison to the present limits set by law and in comparison to the amounts reported each year. Both the present limits and the present reported amounts give an inaccurate picture of the cost of running a campaign, as the weakness of the existing law allows most spending to go unreported. This bill provides a means of showing the true cost of campaigning and a means of limiting campaign expenditures.

We have long delayed the reform that is necessary in our election law. But the willingness of this Congress to examine and to change other deficiencies in our system of elections indicates to me that perhaps this needed change will be made as well. Information on the candidate's financial support and how this support is being used will be helpful to any voter seeking to make accurate assessment of the candidate's merits.

This is a matter of protecting the integrity of the electoral process and giving fairer representation to our constituencies. This bill will allow Congress to honor its intentions and the aims of the laws now governing elections by making the standards which are publicly proclaimed the standards that are actually honored—the opportunity of any qualified person to seek election regardless of wealth and the right of the public to be informed of campaign costs.

NATIONAL COUNCIL OF JEWISH WOMEN RESOLUTION ON A NATIONAL COMMITMENT TO EDUCATION

HON. JACOB K. JAVITS

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Wednesday, October 1, 1969

Mr. JAVITS. Mr. President, at its August 25th national executive committee meeting in New York City, the National Council of Jewish Women adopted a resolution on "A National Commitment to Education." This organization, now in its 76th year, has chapters throughout the Nation and has long been in the forefront among those seeking to meet the educational needs of our Nation's young people. I ask unanimous consent that the NCJW resolution be printed in the RECORD.

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

A NATIONAL COMMITMENT TO EDUCATION

The National Council of Jewish Women commends the House of Representatives for its action in increasing greatly needed appropriations for education by one billion dollars and thereby recognizing Federal aid to education as one of the nation's highest priorities.

Through Council members' personal involvement in education, both as volunteers and professionals, they have come to realize that because needs in education are so overwhelming and local resources so overstrained there must be a continuous commitment on the part of the Federal government to provide financial support to education.

We urge the Senate to support the appropriation voted by the House and demonstrate its commitment to meeting the needs of the nation's children. We urge the President to authorize the expenditure of the appropriated funds because we feel that in the allocation of funds within the total Federal budget education should have highest priority.

AIR COLLISIONS

HON. FRANK M. CLARK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. CLARK. Mr. Speaker, I am submitting a copy of a column carried in the News-Tribune, Beaver Falls, Pa., by William Northrop, on the subject of air collisions. As a former pilot of light aircraft myself I believe that Mr. Northrop's remarks have a great deal of truth in them and deserve consideration. Certainly something must be done about these collisions but not at the expense of driving out general aviation.

The material follows:

AIR COLLISIONS

(By Bill Northrop)

As a private pilot who does a bit of flying, even around some big airports, I've got to add my two cents worth to the present so-called discussion of air-collision problems. I say so-called discussion, because actually there isn't much discussion. The talk is about getting rid of general aviation so the big jets can have the sky safely.

So, to begin with lets start with some statistics—like there are over 100,000 general aviation planes to 2,500 commerical jets. Included in general aviation are things like Lear Jets, Jet Commanders, big twin engines, some four engined models, light twin engines, and high performance single engine. The little Piper Cub is a thing of the past. Most of these general aviation craft are well equipped electronically, and many of the general aviation pilots well-trained. The pilots don't run around looking for jets to ram.

Even with this many planes in the air, the air traffic problem is centered mainly around the big airports. And this congestion is caused by the commercial airline companies who insist on scheduling all the flights at a handful of times. Like at LaGuardia airport New York where 16 airliners are all scheduled to take off at 5 p.m.

Furthermore, the problem isn't so much the small plane as the big plane which is moving at 250 miles an hour even when it's within sight of the airport. Also as the jets become bigger and faster, they need more room, not to get away from small planes, but simply because they can't turn as sharp. This swings them over small airports at low altitudes. So, who's infringing on whom?

An interesting fact is that Van Nuys, California airport which is for general aviation only, is the second busiest airport in the United States. Yet, air collision problems there aren't critical, nor are air traffic delays. This tells something, I'm sure.

Now, let's get to the problem of air collisions. They happen, which is tragic. But, it's not all at the doorstep of the light plane and the student pilot. If anything, the crash in Indianapolis was a freak. Remember other air collisions?—between two airlines over New York City, between two airliners over Grand Canyon, both under radar control. And the one in Asheville, N.C., both were under radar control and instrument flight rules (the private business pilot was experienced as the airline pilot in this instance). The flight controller gave questionable instructions in that one. Then there's the prop airliner that rammed the small plane near Chicago after disregarding the air controller's warning about traffic dead ahead.

The point is that it does happen and it happens under all sorts of circumstances and it isn't just a matter of light planes getting in the way of the big birds.

So, let's turn to safety in general, the FAA screams about air safety and wags a finger at general aviation. But . . . what about Bradford, Charleston, Cincinnati? Airliners went down on the approaches to these airports mainly because the FAA hadn't installed an instrument landing system, or as in the case of Cincinnati, the system wasn't operative.

Furthermore, to soothe the public's ears and the politicians, the FAA requires fully loaded jet liners in some areas to reduce power shortly after take-off and make a steep turn in some areas. Yet, this is a critical moment in flight and any engine failure will send this jet plunging to the ground.

In addition, the FAA maintains a whole gang of major airports that are inadequate and even unsafe for the big liners of today. And the problems within the air traffic control system? Well, that's a whole separate story.

What I'm saying is not that there shouldn't be safeguards to prevent air collisions, but that you can't dump the whole blame for lack of air safety on general aviation. Nor are there simple cures to this particular problem such as putting all planes under so-called positive control, or requiring all planes to have a device known as a transponder which sends positive signals back to a radar scope.

You can't drive general aviation out of the skies anymore than you can drive pleasure boats, or pleasure cars off the waters and the highways. Besides, general aviation flies more passengers than commercial carriers each year just because of the number of planes there are, and there are more business owned and operated planes than there are airliners.

There's room for all. In fact there's more room than you would imagine, and there are some solutions that would get the air separation we need. But it won't be done by finding a scapegoat.

THE AUTUMN MIGRATION OF HAWKS

HON. J. CALEB BOGGS

OF DELAWARE

IN THE SENATE OF THE UNITED STATES

Wednesday, October 1, 1969

Mr. BOGGS. Mr. President. The migration southward of flocks of numerous varieties of birds is a certain and compelling sign that the warmth of summer will, before long, become the chill of winter.

One of the most accessible and enjoyable places from which to study this annual sign of the rhythm of nature is the Brandywine Creek State Park, near Wilmington, Del. This park offers to visitors a picturesque variety of scenery along the historic Brandywine Creek, plus the likelihood of spotting as many as eight migrating species of eastern hawks during the next several weeks.

A most interesting article about the park and the hawks was published in the New York Times of September 28, 1969. I ask unanimous consent that the article be printed in the Extensions of Remarks.

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

HAWKS STAGE A SHOW OVER DELAWARE

(By Victor Block)

ROCKLAND, DEL.—Dedicated bird watchers and nonexperts alike who want to marvel at a once-a-year spectacle are now heading, binoculars in hand, for 433-acre Brandywine Creek State Park, three miles northwest of Wilmington.

There, where Brandywine Creek meanders between three-covered mountain ridges, the annual fall hawk migration will be in full swing well into October, with members of some species being sighted as late as mid-November. Only the broad-winged hawks, which are on their way to Venezuela for the winter, complete the major part of their fly-by during September.

Eight species of Eastern hawks make their way southward along the mountain chain, which creates thermal currents or updrafts. These rising columns of warm air enable the birds to soar effortlessly as high as two and one-half miles, where they are still visible as specks in the sky.

FLIGHT PATTERNS

Larger, more mature birds take advantage of these updrafts to rest as they glide, waiting for younger hawks to catch up. When they do, as many as 100 hawks can regroup, peel off into a narrow flight pattern and disappear from sight within 30 seconds.

At other times, scores of broadwings may be spotted flying at tree-top level, while marsh hawks dart down into marshy areas along Brandywine Creek to search for food.

On a good day—one that is cool and breezy, or following a flight-postponing rainy spell—hundreds of hawks can be spotted and identified. They include the red-shouldered and red-tailed hawk, the osprey, the sparrow hawk and the pigeon hawk, which makes its way southward from its summer habitat in Canada.

DARKEN THE SKY

In addition, a variety of other birds may be seen by patient watchers. Three species of blackbirds—the redwing, grackle and cowbird—occasionally darken the sky over the area, so dense is their migration flight. Turkey vultures may be seen soaring overhead. During October, thousands of geese join the parade.

Two other East Coast locations—Hawk Mountain, northeast of Harrisburg, Pa., which is the first ridge of the Appalachians, and Cape May, N.J.—are widely known as hawk lookouts. But neither offers the complete program that is available at Brandywine Creek State Park, which is situated almost exactly between the two other hawk watch areas. The park was opened to the public last April.

The first stop in the park suggested by Charles Mohr, the director, is the Delaware Nature Education Center and its many exhibits. An automatic slide display, which visitors can activate, offers a brief but comprehensive explanation of sights that can be seen in the surrounding woods and fields. A narrated half-hour slide program, conducted at 1:30 P.M. on Saturdays and Sundays, gives a more complete description of the hawk migration, including a short course in spotting markings, silhouettes and flight patterns. The information makes almost anyone an "instant expert."

SELF-GUIDED TOURS

A guided tour of one of two nature trails that meander through the grounds follows the slide program at 2 P.M. on weekends. A self-guided tour follows well-marked woods trails and uses brochures available at the center to describe sights along the way.

While these aspects of the program provide much in the way of information and enjoyment, most fall visitors spend the bulk of their time at the hawk watch, which is near the Education Center. Standing behind a stone fence at the top of a gentle hill affords a good view of the nearby mountain ridge. It is a choice seat for the spectacular display.

Seeing a flock of broadwings circling directly overhead, or a pair of slenderwinged sparrow hawks performing aerial acrobatics, the neophyte may relate to a nearby guide his belief that hawks are considered destructive killers of chickens, game birds and harmless animals. The guide will quickly assure him that most species of hawks feed primarily on rodents and insects.

STOMACH STUDY

This was proved, in part, by a United States Department of Agriculture study of the stomachs of more than 5,000 hawks, which showed their favorite foods to be rats and mice, insects, snakes, frogs and small birds. Even the birds that fall prey to the powerful beak and talons of hawks are primarily those that are weakest, all part of nature's plan to maintain a wildlife balance. These facts are among those that led the Delaware Legislature to approve a bill last June to protect all birds of prey.

DIRECTIONS TO PARK

To reach Brandywine Creek State Park, cross the Delaware Memorial Bridge and turn north on Interstate 95 into Wilmington. Take U.S. 202 north for one and one-half miles, then turn left onto State Route 141. Turn right onto Rockland Road and bear right after crossing the bridge over Brandywine Creek.

Two other places of interest nearby are the Henry F. du Pont Winterthur Museum, the grounds of which are adjacent to Brandywine Park, and Longwood Gardens, across the state line in Pennsylvania.

ELECTION REFORM

HON. CHARLES E. CHAMBERLAIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. CHAMBERLAIN. Mr. Speaker, the electoral college, which for the greatest part of our history has not operated as intended, was originally conceived to meet conditions when communications were slow and difficult—when there was no modern two party system throughout the country and no mechanism for nominating candidates—and when a principal concern was to get quarreling ex-colonies, fresh from the failure of the Articles of Confederation, to agree on an effective national executive. Our political institutions have since grown up around and in some ways in spite of the present system. Their continued growth and stability, I am satisfied, now require a different, more viable procedure.

The State Journal of Lansing, Mich., in an editorial appearing September 20, adds its voice to those seeking reform in a brief, perceptive statement which I commend to the attention of my colleagues:

ICE FINALLY BREAKS ON ELECTION REFORM

The surprisingly quick passage of an electoral reform amendment to the Constitution in the U.S. House Thursday is an encouraging step toward overhauling the outmoded presidential election system.

The amendment, calling for direct popular election of the president in place of the electoral college system, is the most reasonable way to assure that the vote of every citizen has meaning.

Ever since the founding of this country, the electoral college system has left the door open to the possible election of a person who has not received a plurality of the public vote.

Secondly, the electoral college system makes it possible for a presidential election to be decided by the House of Representatives where political maneuvering again could bring the election of a man who ran second best in the popular vote.

The present amendment in Congress provides direct election of the president at the polls. If no candidate receives at least 40 per cent of the popular vote, then there would be a runoff election between the top two vote-getters. This would still assure a plurality winner.

Some have argued that the runoff provision could still lead to election of a minority president—one who has received less than 50 per cent of the total vote. But this has been true many times under the electoral system and is almost impossible to avoid when there are more than two major candidates in the presidential race.

The House amendment still has a rough road ahead in the U.S. Senate and in the nation's legislatures. But in a nation where almost every other public elective office, federal, state and local, is decided on the basis of plurality—it is logical that the most important one of all be brought in line with the times.

DICKEY-LINCOLN PROJECT

HON. WILLIAM D. HATHAWAY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. HATHAWAY. Mr. Speaker, the time for House consideration of the current fiscal year's Public Works Appropriations draws near, Mr. Speaker, and, as it does, the familiar clamor generated by New England's private electric utilities is heard anew in the halls of Congress.

The private utilities are concerned that some $807,000 of public works funds recommended by President Nixon for the Dickey-Lincoln School hydroelectric project in Maine may be approved by this body.

They are concerned, Mr. Speaker, that, for the first time in history, the Northeast will receive the same inducements for reducing the cost of electricity as those which, for years, have benefited the Northwest, the Southwest, the Southeast, and the area surrounding the Tennessee Valley Authority.

They are concerned that, after years of self-indulgence at the expense of the good people of New England, their monopolistic stranglehold will be broken.

They are terrified at the prospect of competition.

And so, the volume of their protestations is raised again, as it has been in all of the 4 years since the project's authorization in October of 1965. The volume is great, because it is financed by a monopoly to which money means nothing—the costs of the large-scale lobbying campaign are simply tacked onto the electric bills of the people being exploited. The protestations are pervasive, because they are voiced by an interest group whose political persuasion and control far exceeds its actual contribution to the society of New England.

It is regrettable, Mr. Speaker, that the good people of New England command neither the influence, the money, nor the relentlessness to mount a lobbying effort of their own. For, surely, they are aggrieved.

The fact that New England's electric power consumers pay the highest electric rates in the Nation is irrefutable. Equally so are the facts that residential consumers pay nearly 35 percent more than the national average, that commercial consumers pay up to 50 percent more, and that industrial consumers pay over 60 percent more.

Prices like these should guarantee New Englanders the very best electric power service available anywhere. But, as we recall the power blackout of 1965 and look to the threat of a more serious failure during the oncoming winter, we know that the opposite is closer to fact. We know, too, that, in spite of the utilities' announced plans to increase their production of electric power, demand will continue to far exceed available supply.

Compared to the present level of New England's electric power costs, the Dickey-Lincoln project, would save consumers more than $9 million a year. Little wonder, then, why the vast majority of New Englanders favor its construction. Little wonder why the private utilities are so vehemently opposed.

Mr. Speaker, it is time that the great Northeast, where the fight for equity began two centuries ago, is finally accorded the same equities as those enjoyed by nearly every other section of the country with regard to the provision of electric power. It is time that this gilt-edged investment for the Northeast and the Nation is finally approved. It is time, insofar as the development of power resources is concerned, that New England is at last brought back into the Union.

I submit that it is the responsibility of the House of Representatives to assure that it is—to assure that equity is restored to a deserving citizenry. I respectfully request of my colleagues, therefore, that when consideration of the Dickey-Lincoln School hydroelectric project reaches the floor of this body, it be given their support and final approval.

REAR ADM. JOHN HARLLEE

HON. THOMAS N. DOWNING

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. DOWNING. Mr. Speaker, recent weeks have seen an able public servant and strong advocate for a vibrant merchant marine leave Government service. I refer to Rear Adm. John Harllee who resigned as chairman of the Federal Maritime Commission September 1, having served with the Commission since 1961.

Originally appointed by the late President John F. Kennedy, Admiral Harllee was sworn in for his second term by President Johnson on July 20, 1965. That term was the first 5-year term granted on the Commission. Admiral Harllee served continuously as Chairman from August 26, 1963. His total Government service was more than 34 years.

He is the son of the late Mrs. Ella F. Harllee and the late Brig. Gen. William C. Harllee, U.S. Marine Corps, retired, and is a graduate of Western High School, Washington, D.C., and of the U.S. Naval Academy, class of 1934.

Admiral Harllee was stationed at Pearl Harbor at the time of the attack. During World War II he commanded Motor Torpedo Boat Squadron 12 and served as chief staff officer of the PT organization in the Southwest Pacific. Among his awards were the Silver Star and the Legion of Merit with Combat V. Motor Torpedo Boat Squadron 12 received the Presidential Unit Citation for 6 months of action under his command.

After the war he served with the Navy's Congressional Liaison Unit—on a special assignment for Congressman John F. Kennedy, commanded the destroyer U.S.S. *Dyess*—which won the division competition during the year it was under his command; and graduated with the grade of excellent from the senior course at the Naval War College.

During the Korean conflict, Admiral Harllee was executive officer of the cruiser *Manchester* and was awarded the Commendation Ribbon for conduct in action. He commanded Destroyer Division 152, including a month's tour as commander of the surface ships on the Formosa patrol. He served as chief of staff of Destroyer Flotilla 3 and commanded the attack cargo ship U.S.S. *Rankin*, which while under his command won more awards than any other naval vessel during the period 1957–58.

In 1959, Admiral Harllee voluntarily retired from the Navy and joined the Ampex Corp., Redwood City, Calif. In 1960 he was granted a leave of absence to devote full time to the presidential campaign. He became chairman of Citizens for Kennedy and Johnson of Northern California. After the election he became vice president of E. I. Farley & Co., New York City, a position he resigned in 1961 to accept appointment to the Federal Maritime Board—and later to the Commission.

Admiral Harllee was awarded the Man of the Year Award by the New York Foreign Freight Forwarders & Brokers Association, the Golden Quill Award by the Rudder Club of New York, the Order of Maritime Merit by the San Francisco Port Authority, the Honorary Port Pilot Award of the Port of Long Beach, Calif., and was cited by the Federal Bar Association for his work in maritime law. Admiral Harllee is also an

honorary member of the Delta Theta Phi Law Fraternity. He was a member of the Administrative Conference of the United States from March 26, 1968, to September 1, 1969.

Admiral Harllee is married to the former Jo-Beth Carden of Texas and San Francisco. They have one son, John Harllee, Jr., a 1963 graduate of Harvard University and a 1968 graduate of Georgetown.

I know that all of us who love the sea and who admire the men who sail it wish him well in whatever future endeavor he chooses.

HEAVY RESPONSE RECORDED IN COUGHLIN POLL

HON. R. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. COUGHLIN. Mr. Speaker, recently I conducted a poll of the citizens of the 13th Congressional District of Pennsylvania to determine their opinions on vital issues we face as a Nation. Because of the wide interest in public opinion samplings and the significance of the response, it is appropriate to report the result in the CONGRESSIONAL RECORD.

A majority of those responding ranked the end of the Vietnam war first in terms of national importance. Sixty-two percent favored President Nixon's policy of gradual withdrawal.

Almost two-thirds opposed deployment of the anti-ballistic-missile system.

More than half favored cutbacks in military spending, and there was substantial support for reduction in space and agriculture programs.

Seventy-seven percent felt the reduced tax surcharge for 1 year was justified as an anti-inflation measure or if accompanied by tax reform.

There was strong support for pollution and open space laws, permitting voluntary prayer in public places, direct popular election of the President, and stronger laws against obscene material.

My district, adjoining to and northwest of Philadelphia, is roughly 18 by 36 miles and comprises a good cross-section of the Commonwealth since it includes crowded urban areas, less densely populated residential sections, and rural communities and farmlands.

In an effort to reach as many citizens as possible, more than 175,000 questionnaires—not printed at Government expense—were mailed to households and boxholders. Before the August 15 deadline for tabulating, a total of 32,176 individual responses was received. These were carefully tabulated under statistical procedures guaranteeing a minimum of error.

The return of about 18 percent is high and the response shows an increasing degree of citizen concern. Each person who answered the questionnaire and provided his name and address will receive a copy of the results—also not printed at Government expense.

The results:

1. Please rank the following 1, 2, 3, 4, 5 and 6 in terms of National importance:

End of Vietnam war	1
Urban problems	5
Tax reform for middle income and elderly	4
Inflation and cost of living	2
Crime and unrest	3
Other	6

[Following answers in percent]

2. In Vietnam, do you favor? (one only)

Immediate withdrawal of all U.S. forces, even if it means North Vietnamese takeover	20
Nixon policy including gradual U.S. troop withdrawal and South Vietnamese responsibility for war	62
Escalated military pressure on North Vietnam	13
None of the above	5

3. On the proposed anti-ballistic missile system (ABM), do you favor? (one only)

Deployment of limited system at cost of about $7 billion	22
Deployment of a more extensive system at a higher cost	9
Continued research and development while redirecting funds to meet domestic needs	47
Elimination of any ABM	19
None of the above (specify)	3

4. In which of the following should we cut expenditures? (More than one, if any.) (Totals more than 100 percent, because more than one answer possible.)

Military programs	53
Antipoverty programs	24
Space exploration	41
Foreign aid primarily for humane purposes	27
Low income housing and slum clearance	11
Crime prevention and control	4
Transportation, ground and air	15
Agriculture programs	45

5. Do you feel a reduced tax surcharge for 1 year is justified? (One only.)

As an anti-inflation measure	31
If accompanied by tax reform and/or tax sharing with State and local governments	46
Under no circumstances	15
Other (specify)	8

6. Should college campus unrest be met with? (More than one, if any.) (Totals more than 100 percent, because of combinations.)

New Federal laws	27
New State and local laws	29
College authorities using existing laws	75

7. In electing the President, do you favor? (One only.)

Direct popular election	75
Awarding electoral votes in proportion to candidates' votes	11
Awarding electoral votes by congressional district	5
Present system	9

8. Do you favor voting at age 18?

Yes	45
No	47
Undecided	8

9. Do you favor stronger laws against obscene material?

Yes	68
No	24
Undecided	8

10. Do you favor constitutional amendment to permit voluntary prayer in public places?

Yes	78
No	17
Undecided	5

11. Do you favor further Federal laws to protect our natural environment such as legislation on air and water pollution, and open space?

Yes	95
No	2
Undecided	3

Party preference by percentage:

Republican	71
Democrat	25
Non-Partisan	3
Other	1

Ages of those responding by percentage:

18–21	2
21–35	27
35–50	37
50–65	25
65-over	9

THE FARM PRODUCERS INCOME

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. ZWACH. Mr. Speaker, as a member of the House Agriculture Committee, I am very much interested in improving the income of our farmers. Time and again, we have heard the complaint of high food prices and that the farmer is receiving a good price—this is not true.

Sylvia Porter, in an article in the Minneapolis Tribune, September 11, writes on the plight of the farmer in regard to the prices he receives for his products. Miss Porter's article certainly clears the air as to who receives the biggest percentage of our food dollars.

I am happy to share the facts of Miss Porter's article with my colleagues by inserting it herewith in the CONGRESSIONAL RECORD:

THE FARM PRODUCERS INCOME

(By Sylvia Porter)

With Food costs now rising at an annual rate of more than 7 percent and meat prices alone rocketing at a rate of near 12 percent a year, how's the farmer doing?

Poorly. As he usually has fared in recent years, poorly.

Just chew on these facts:

Of the $89.5 billion we spend on foods originating on farms, only $28.9 billion goes to farmers. The rest, $60.6 billion, goes to the maze of middlemen who store, transport, process, package, advertise and sell food to us—and to the government in the form of business taxes and to lenders in the form of interest.

Specifically, for every $1 we spend on milk, the farmer gets only 50 cents. For every $1 we spend on bread, the farmer gets 14 cents. For every $1 on oranges, he gets 22 cents; for onions, 27 cents; for potatoes, 33 cents; for cornflakes, a tiny 9 cents; for frozen peas, 17 cents; for margarine, 25 cents.

The average net income on a U.S. farm dropped between 1966 and 1967, according to the latest statistics available, to $4,526. And this is in the face of a dramatic increase in farm productivity to the point where today's farm worker supplies enough food to feed 42 persons, nearly double the 23 he fed a decade ago.

The U.S. farmers' costs of interest, taxes and wages are rising at nearly 3 percent a year—almost twice the rate of rise in food prices he is being paid.

Today, less than 5 cents of every dollar we spend on everything goes to the U.S. farmer for food—vs. 10 cents as recently as 1949.

So who is the winner? The food retailer—the man or woman we see across the counter? Not according to a recent study of profits by New York's First National City Bank. The bank reports after-tax profits of leading chain food stores at an average of only 1.1 percent of sales. It shows the percentage among food processors ranging from 1 percent for meat packers to 3.2 percent for bakeries.

Who are the winners in the food industry, then?

Since 1959, our total food marketing bill has risen about 44 percent to last year's $60.6 billion. This table, based on Department of Agriculture figures, shows you which of the middlemen got the biggest percentage increases of our food dollars during this period.

Source	Share in 1968 Bill	Percent rise since 1957–59
Laborer	$27.3	53
Transporter	4.6	15
Corporation after tax profits	1.8	71
Depreciation	2.2	57
Business taxes	2.3	92
Advertising	2.0	67
Rent	1.7	55
Interest	.5	150
Repairs bad debts	1.2	71
Other (including packaging)	15.0	22

MILITARY JUSTICE ACT OF 1968 SAVES MANPOWER

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. BENNETT. Mr. Speaker, the results of the first month of the Military Justice Act of 1968 have just been formulated by the Army Judge Advocate General Corps. I was privileged to be a House sponsor of this legislation which passed in the 90th Congress—Public Law 90–632.

Maj. Gen. Kenneth J. Hodson, the Army Judge Advocate General, has given me the following report, and I believe it should be brought to the attention of the Congress and the Nation. I congratulate General Hodson and his associates for the fine and dedicated work they are doing for the serviceman and our country:

MILITARY JUSTICE ACT OF 1968 REPORT

I. Percentage analysis:

(a) General Courts-Martial where accused requested trial by the Military Judge alone—72%.

1. General Courts-Martial trials by military judge alone involving pleas of guilty—76%.

(b) Special Courts-Martial in which a Bad Conduct Discharge was adjudged where one was authorized—100%.

1. Bad conduct discharge tried by military judge alone—100%.

(c) Special courts-martial to which a military judge was detailed—53%.*

1. Special courts-martial where accused tried by military judge alone—97%.

2. Special courts-martial tried by the military judge alone where accused pleaded guilty—81%.

(d) Trials by special court-martial where accused waived the right to qualified counsel—38%.

(e) Trial where qualified counsel were requested but not available—none.

II. Manpower savings analysis:

Based on August Rate for Military Judge alone and FY 69 case totals:

(a) 232,352 man hours per year saved at 53%* rate for detail of MJ to SPCM.

(b) 383,440 man hours per year could be saved if military judges were detailed to 100% of the SPCM.

REVENUE SHARING

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. VANDER JAGT. Mr. Speaker, the attention of the Nation recently has been focused on President Nixon's revenue sharing plan. For this reason I call to the attention of my colleagues a statement given to the press on September 15, 1969, by Donald D. Cook, president of the National Alcoholic Beverage Control Association, offering a proposal for revenue sharing which I believe should receive serious consideration. The statement of Mr. Cook follows:

REVENUE SHARING

(By Donald D. Cook)

Ladies and Gentlemen, to introduce myself, I am Donald Cook, Director of the Ohio Department of Liquor Control, but it is as President of the National Alcoholic Beverage Control Association that I welcome you this morning to our Press Conference.

Our Association has always received outstanding cooperation from the Press, and we deeply appreciate your taking the time to be here with us.

To get right to the subject matter, let me say that we have called this press conference, in conjunction with President Nixon's recently announced program of revenue sharing, to offer a startlingly simple, yet practical suggestion as to a possible source of revenue sharing with the states.

Specifically, what is proposed is the refund to the states of the 10.50 federal excise tax levied on distilled spirits on a per proof gallon basis or an approximate total of 790 million dollars. (Incidentally, a wine gallon is just a standard gallon of measure, whereas a proof gallon describes the strength of the alcoholic beverage which, in this country, means 50 percent of alcohol by volume. In other words, a bottle at 100 proof would be 50 percent alcohol.)

Briefly, ladies and gentlemen, the National Alcoholic Beverage Control Association is an association consisting of the states responsible for the purchase and distribution of approximately 30 percent of the total volume of all alcoholic beverages sold in the United States or approximately *one and three-quarter billion dollars.*

Eighteen Control States, representing one-third of the population of the United States, are affiliated with us, plus Montgomery County, Maryland, which also operates as a dispensary system.

As you know, President Nixon and several leaders of Congress have proposed a sharing of Federal taxes with the states as a block grant—with no strings attached. This is precisely what our proposition suggests—a return to the states of revenue which has already been paid by the citizens, for use as may be determined by the local governors and legislatures.

Speaking as the President of the National Alcoholic Beverage Control Association, I can tell you that we have been a constant supporter of relief to the states as currently proposed by the President. We see this current proposition as simply a further step in looking ahead to the future—a step which is indicative of the ever-present awareness by our State Officials of national as well as local problems— a new partnership between the states and the Federal Government.

It is in line with President Nixon's thinking in regard to the need for more funds to restore the states to their proper rights and roles in the Federal system, and to enable local officials to effectively exercise leadership in solving their own problems, which moves us to propose the return to the states of the $10.50 federal excise tax which is levied on distilled spirits as *one source* of revenue which can be considered.

We are going to make every attempt to implement this program during this current session of Congress and today we are requesting our Senators and the Chairman of the Senate Finance Committee to permit us to testify or file a statement to this effect.

We believe the existing tax bill, presently before the Senate Finance Committee, should be amended to include this program, which in our judgment is the most equitable way of returning to the people any given amount of taxes paid by the respective citizens of the states.

The Control States and the approximate amount of potential revenue resulting from the recapture of federal excise tax of $10.50 per proof gallon on distilled spirits, are as follows:

(In millions—1968)	
Alabama	$32,225
Idaho	7,184
Iowa	27,225
Maine	14,239
Michigan	125,843
Mississippi	18,797
Montana	9,643
New Hampshire	23,867
North Carolina	65,526
Ohio	128,749
Oregon	27,245
Pennsylvania	143,004
Utah	8,266
Vermont	10,350
Virginia	67,911
Washington	51,839
West Virginia	17,055
Wyoming	5,166
Montgomery County, Md	5,700
Total	789,834

THOMAS NEWTON FROST

HON. WILLIAM LLOYD SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. SCOTT. Mr. Speaker, one of my constituents, Tom Frost of Warrenton, Va., died recently. He was a member of the general assembly of Virginia for a long period of years and a very affable and friendly gentleman whom the people of his legislative district had returned to Richmond many times.

The Fauquier Democrat, a weekly newspaper published in his home town of Warrenton, wrote an editorial which expresses the feeling of esteem in which he was held by the people of his area.

We will miss Tom and I would like to insert at this point in the RECORD the editorial from the September 25, 1969, edition of the Fauquier Democrat:

"MAY I HELP YOU?"

The state Superintendent of Public Instruction Dr. Woodrow W. Wilkerson told Warrenton Rotarians on September 11 that Delegate to The General Assembly Thomas Newton Frost, of Warrenton, also a Rotarian, "is always there to lend a helping hand."

Dr. Wilkerson said, "I don't know where Tom Frost finds all the energy which he seems to possess in abundance."

At 64, Tom Frost was putting out the energy which few men, age 24, possess. Last Monday night he attended a meeting of the Fauquier Hospital board, on Tuesday night he met with the Fauquier County Democratic Committee, and on Wednesday he was the guest at a formal banquet.

There at least you would have expected him to relax, take it easy. Not Tom Frost. Surrounded by doctors of medicine, he spent much of the evening trying to interest them in moving to his district to relieve the doctor shortage here.

By Thursday night, Tom Frost was dead.

He should have paced himself, of course, tried to do less, delegate more of his work to others. But to Tom Frost, service was too personal a matter to delegate. He tried, as he had all his life, to do it all himself.

Some were determined for special reasons that Tom Frost would never do them a favor. They failed. It was so natural for him to be helpful where he thought help was needed that everyone in the community was to some extent his beneficiary.

The cynical would say he was building up an account payable on election day. But the instances are legion where Tom Frost's giving yielded him no return whatsoever. Few knew that—among many others—he befriended a convicted felon and helped him over rough times when the convict got out of jail. That man, by law, could not vote, and he had no voting relatives.

Tom Frost also was too simple and direct a man to fall into the awkward habit of many modern would-be professionals who identify themselves on the phone by saying, "This is Mister ---------." To Tom Frost and all who met him and heard from him he was plain Tom Frost. And the simple self identification was followed immediately by the question, "May I HELP You?"

Throughout his county, his district and the Commonwealth, more than the question will be missed.

DREW PEARSON

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. SCHEUER. Mr. Speaker, 1 month ago, on September 1, Drew Pearson died. The man, the legend, the institution were as remarkable as they were controversial, and their passing marks the end of an era.

Drew Pearson meant many things to many people—an indefatigable, muckraker and ferret to some—a kind, wise, urbane, philosopher to others—a thoughtful commentator on the deep-running tides in our domestic and international affairs to still others. To me—old friend and three decades ago Pearson's legman—perhaps his finest scoops and most explosive exposés were those he chucked in the wastebasket and never printed. These were the exposés about public officials caught in flagrant dilecto—who were retiring, resigning, not running for reelection, dying of cancer, where no useful purpose would be served by shattering careers already terminated by time, tides, and events. For Pearson was totally devoid of personal vindictiveness. He was simply a news-behind-the-news professional who determinedly trod the news trail where the evidence led.

On Thursday, September 4, there was a morning memorial service for Drew Pearson at the Washington Cathedral. I believe my colleagues of all shades of opinion and holding in memory a variety of associations with Drew Pearson and his 40 years of journalistic distinction will be moved and touched by the remarks made at the memorial service by his stepson, Tyler Abell; by his longtime partner, Jack Anderson; and by his old friends of many years, Senator Wayne L. Morse and the Honorable Walter Washington, Mayor of Washington, D.C.

The remarks follow:

DREW PEARSON MEMORIAL

(By Tyler Abell)

In the beginning God created the heaven and the earth.

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

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

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

I was with Drew at the end, but the end was the beginning. Drew lived—and lives—in the future. He never thought about how bad things were or how sad a situation was; he pushed his thoughts to what should be done and how the world could be better.

His body quit him when its time was up. He didn't die because his heart quit; his body simply couldn't slow his spirit down any longer.

The ashes of his body will be left where things grow, on his beloved farm, where there is a spring every year, the cows, calves and the beans are ripe for picking in September.

He spent his last days on the farm he loved, and his spirit was so strong even his doctors didn't realize how weak his body was. He didn't complain about being sick; he talked about getting well. He talked about helping people. He talked about mistakes being made in government. He didn't want to know why he was sick; he wanted to know how to get well . . . how to make the world well.

We didn't know it was the last morning for his eyes to enjoy the beautiful view of the Potomac from the terrace of his home, but it couldn't have been a more beautiful morning. The sun was warm; the sky was clear; the river was full; the trees and grass as green as we had ever seen.

He sat on the terrace and read the newspaper. Intermittently we talked of a column he planned to write. He hoped, he said, that in a day or two he could start taking some of the burden off Jack.

After a time, he decided that before it got too hot, he would like to have a drive around the farm—as he had done the previous day.

He walked to the car, and I drove him first to the dairy barn where the silo was being filled—from which the cows would feed while they gave milk through the winter.

Then we went to the bean field where we had stopped the day before and where a few pickers were already in the fields. Melvin, who had driven with us, got out to explain that the beans wouldn't be ready until next week.

Drew said he thought he'd better go back. He didn't complain; he just said he needed to lie down. A few minutes later he was back in bed, and only then did I realize that his body was having far more trouble than his spirit would admit.

The breathing was heavy; we gave him oxygen and made him comfortable. Mother called the doctor, but Drew was asleep when the ambulance came.

Just when his spirit left his body behind, no one will ever know exactly, but leave, it did. The body which had served so well for so many years could no longer keep up.

The spirit of Drew Pearson continues free in the land, as it has for so long, a free spirit seeking freedom for all.

PEARSON MEMORIAL

(By Jack Anderson)

There are no words that, in two minutes, can capture the past 22 years, no words that can describe my deep feelings for Drew Pearson. To me, he was a giant, a man of courage and conviction, yet never without compassion. He who believes is strong; he who doubts is weak. Drew had the strong convictions that made him a master of those who were weak and wavering. I searched the scriptures, I thumbed through the classics for the right words to say here this morning. I finally selected these words from Edwin Markham:

God give us men! A time like this demands
strong minds, great hearts, true faith
and ready hands;
Men whom the spoils of office cannot buy:
Men who possess opinions and a will;
Men who have honor; men who will not lie;
Men who can stand before a demagogue
and damn his treacherous flatteries
without winking;
Tall men, sun-crowned, who live about the
fog in public duty and in private
thinking.

Such a man was Drew Pearson.

APPRECIATION FOR LIFE OF DREW PEARSON

(By Hon. WAYNE L. MORSE)

We gather at this memorial service, as free men and women, to express our reverent appreciation for the life of Drew Pearson. It was a life which, in keeping with his Quaker background, was dedicated to the service of mankind according to the dictates of his conscience. He was more than a Journalist; he was a humanitarian; he was a citizen-statesman.

Born to Quaker parents in Evanston, Illinois, on December 13, 1897, Andrew Russell Pearson lived most of his boyhood in Swarthmore Pennsylvania, where his father was Professor of Speech. After his graduation, in 1919, from Swarthmore College, having been an editor of the college newspaper and wearing a Phi Beta Kappa key, Drew Pearson walked forth into the world with his conscience as his guide. He volunteered for two years of service in Serbia to supervise the American Friends Service Committee post-war relief program in Balkan villages.

Often, over the years of my friendship with him, I heard Drew discuss the influence of his work for the American Friends Service Committee upon some of his later views on foreign policy. It brought him into a close and affectionate understanding of the Slavic people. They expressed some of their appreciation of his dedication to helping others help themselves in recovering from the ravages of war by naming a Serbian town, Pearsonovitch, in his honor.

It was the American Friends Service Committee that was the forerunner of the Peace Corps of which Drew was a staunch supporter. In fact, some of the advisors who helped to set up the Peace Corps were selected from the American Friends Service Committee with which Drew continued to maintain a close association, in support of all its work.

To fully appreciate this great American's public service we should never forget that

he was a Humanist. Influenced early in his life by spiritual teaching that, although there is much about immortality that we do not know, there is a very real immortality of influence resulting from practicing spiritual values in person-to-person relationships.

Drew Pearson applied his spiritual beliefs. He was one of the organizers and a long-time president of the Washington, D.C., chapter of Big Brothers, devoted to combating juvenile delinquency. The Big Brother concept of One-Man-One-Boy relationship, as a means of graduating potential delinquent boys into responsible citizenship, is one of Drew's legacies to our youth.

Drew Pearson liked young people. He had faith in them. He helped them in many, many ways about which the general public knew very little. Sometimes we were privileged to look into the mirror reflecting his love and understanding of children when one of his columns took the form of a letter to his grandchildren. Those letters also portrayed the gentle, human qualities of this great man.

For a number of years, he made an annual practice of taking troupes of professional entertainers, including the popular Harlem Globetrotters, to visit American overseas bases at Christmas time.

In 1952, he organized a committee called "Americans Against Bombs of Bigotry" to combat the bombing of schools and places of worship that had resulted from racial and religious intolerance. Drew Pearson was largely responsible for raising the money to rebuild the Clinton, Tennessee, schoolhouse. In 1953, he organized the "Americans Conscience Fund" to assist victims of racial bigotry. These are among the legacies of his humanitarianism.

In public affairs and politics, Drew Pearson's brilliance, courage, and devotion to our system of constitutional self-government inspired millions of Americans throughout his great career. His acts of courage were countless.

When the Ku Klux Klan was in the heyday of its post-war revival, Drew waged a powerful radio campaign against it, climaxed by his famous broadcast from the State Capitol in Atlanta, Georgia. It was in that speech, on July 21, 1946, that he answered the dare from the Klan to come to Georgia.

His innumerable clashes with dishonest and corrupt officials at all levels of government demonstrated a courage rooted in sincerity, conscience, and conviction. The record of his service to his generation and all to follow is a significant part of this period of American history.

He recognized the truth of Jefferson's comment that a Democracy can be no stronger than the enlightenment of its people. He deplored the growing trend toward government by secrecy and executive supremacy in our nation. His muck-raking of the concealment of facts from the American people by departments of the executive branch—frequently including the White House itself—produced some of his most penetrating columns. The concealment by members of Congress of their conflict-of-interest, financial manipulations made him a crusader for years in support of effective and meaningful public-disclosure legislation which would give the people the facts about the sources and amounts of income not only of all members of Congress, but members of the Judiciary and Executive branches in the higher-pay brackets.

It is frequently said that Drew Pearson helped keep many public officials honest. He did. Most public officials are honest, and Drew often said so in his columns. Unfortunately, there is a small minority that yields to temptation now and then. Another group might become wayward if it were not for the possibility that, should they leave the straight and narrow, they might read about it in the column of Pearson and Anderson.

His contributions to the foreign affairs of our nation put us forever in his debt. In 1947, Drew Pearson helped symbolize the need for free nations to join in feeding a weakened Europe, by staging the Friendship Train. The Christian Science Monitor called it "one of the greatest projects ever born of American journalism".

He donated thousands of dollars of his own money, endless time and energy, to get the train rolling across the United States. Seven hundred carloads of food and other supplies, worth 40 million dollars were collected by patriotic Americans and sent to France and Italy to promote the cause of friendship.

Democratic leaders of France and Italy stated that this meaningful, symbolic gesture in support of friendship helped in their contest with Communism. You will remember that, in 1949, they sent the "Merci Train" of 40-and-8 cars, and an Italian car of gifts, chiefly of valuable paintings, to our country. Drew Pearson was selected by them to take charge of the distribution of the gifts to cultural centers in the United States.

In 1951, he helped launch the Freedom Balloon campaign, operated by the Crusade for Freedom, which reached behind the Iron Curtain with air-borne messages of liberty and encouragement. He also organized the Democracy Letters to Italy in the election of 1948 which was credited with helping defeat Communism in Italy in that election. In 1953, he proposed the "Food for East Germany" program which was supported by the Eisenhower Administration.

These activities of Drew Pearson in foreign policy, I mention to emphasize that we pay tribute at this memorial service to a great American who was dedicated to the cause of peace. Many of his columns, speeches, and radio programs warned of the danger that war only produces more war when nations, for whatever reasons, engage in unilateral, military interventions, and when they escalate armament races—particularly nuclear weapons of world destruction.

He argued that our defense guard must not be let down, but that multilateral negotiations under the aegis of international tribunals offer mankind a greater hope for world peace than resorting to the law of military might. Firm in this belief, Drew Pearson served his country as a Journalistic Statesman, traveling throughout the world, talking to high government officials, urging the escalation of diplomatic intercourse in the interest of peace-making rather than military containment productive of war-making.

He was welcome in many Latin-American countries and greatly helped to improve relations between the United States and Latin American countries. He was an effective supporter of economic, educational, health, and cultural aid to Latin America and a critic, rightly so, of military aid in large amounts. Military juntas and dictatorships of one brand or another received the lancing cuts of his sharp criticism. He particularly deplored the growing influence of the American military in Latin America in co-operation with military juntas and dictatorships.

In 1959, he attended the Atlantic Conference in London as a delegate and was a member of the President's Food for Peace Committee in 1961.

One of his greatest services to our country, in his capacity as a private citizen, was his trip to Moscow in 1961. He spent two days with Chairman Khrushchev at his summer home on the Black Sea discussing United States-Soviet problems. He wrote a series of columns on his talks with the Russian leaders, which received worldwide attention.

At this memorial service we pay tribute to the legacy of national and world statesmanship that he has bequeathed to us. We thank him for his courage and dedication to the dictates of his conscience. We honor him for putting into practice the principle that in a Democracy there is no substitute for the full, public disclosure of the public's business. In keeping faith with that principle, his conscience directed him to follow the facts as he honestly believed them to be. Whenever he found that he had been misinformed or had committed an error in judgment he again followed the dictates of his conscience and sought to ameliorate the wrong caused by his mistake.

Drew Pearson's escape from typewriter, editors, politicians, conferences, interviewers, and telephones was his farm in Maryland overlooking the Potomac River. There he could become completely absorbed in his farm hobby. He called it that, but it was, in fact, a substantial operation. Nevertheless, it provided him with the diversion, relaxation, and exercise he said he needed, and the opportunity to indulge his appreciation of fine animals and his love of nature.

He was a remarkably good farm manager. He was a good judge of cattle and horses, and a very keen David Harum trader. I frequently thought there was nothing he enjoyed more than to negotiate a profitable David Harum trade on livestock, machinery, or hay, particularly if I was on the short end of the trade. Some of my most enriching conversations with him were when we tramped over each other's farms and shared views on whatever came to mind.

He never took himself too seriously, and his roguish sense of humor was a source of delight to all who knew him well. A most prized possession of any who received one was a gift-enclosure card attached to a package of his own brand of frozen pheasant, the card showing Drew sighting a flying pheasant, with all the feathers falling off and only the carcass frozen in mid-air with the caption, "You got the bird".

One of the great sources of strength that helped sustain him over the years has been his beloved and loyal family. His lovely wife, Luvie, has been his intellectual counterpart, courageously standing beside him as he has faced difficulties, sharing with him their mutual successes. Their children and grandchildren have filled their home with much happiness and gratification. Drew's two sisters also have shared a close relationship with him and his family. To all of his loved ones, we, gathered here, extend our deep sympathy and share in their sense of loss.

He seemed so indestructible, as though he would go on forever slashing away at wrongdoing. It is difficult to imagine the American scene without him. We shall always remember him as one of the great citizen-statesmen of our generation whose brilliant record of accomplishments has strengthened us all as well as the history of our nation.

Pearson Great Humanitarian

(By Mayor Walter Washington)

I direct your attention to the 23rd Psalm—

The Lord is my Shepherd; I shall not want. He maketh me to lie down in green pastures: He leadeth me beside the still waters. He restoreth my soul: He leadeth me in the paths of righteousness for His name's sake. Yea, though I walk through the valley of the shadow of death, I will fear no evil: For Thou art with me; Thy rod and Thy staff they comfort me.

It was my great privilege to have labored in the vineyard with this great humanitarian. In his lifetime, Drew Pearson led many young people out of the shadows and into the sunlight, out of fear toward courage, away from evil into happy useful lives. As the moving spirit of the Big Brothers movement he had a miraculous gift for communicating the force of his own dreams to others to the end that countless little brothers were helped by bigger brothers to surmount the obstacles in their path toward adulthood.

His deep belief in his fellowmen gave strength to all who worked with him to

alleviate social ills and to improve the quality of life of the downtrodden. He believed and helped others to believe in freedom, equality, justice and opportunity for all.

The citizens of the Nation's Capital—the capital of the free world as he described it—now humbly pray that he be granted peace everlasting and that the blessings of the Lord rest upon his family.

SOUTH EL MONTE RESOLUTION CRITICAL OF ADMINISTRATION HANDLING OF SMOG ANTITRUST SUIT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. BROWN of California. Mr. Speaker, the City Council of South El Monte, Calif., which is located in the 29th Congressional District, has joined the lengthening group of municipalities critical of the Justice Department action to settle behind closed-doors the antitrust suit brought against automobile manufacturers charged with conspiring to limit development of effective smog controls.

In the accompanying letter to the resolution, South El Monte City Administrator John F. Lawson, Jr. emphasized that "the South El Monte City Council and citizens stand 100 percent" behind the efforts now being made to have the Justice Department rescind its request for a consent judgment and press instead for a full open public trial.

The people of South El Monte recognize the importance of this issue, and I commend them for their action in passing this resolution:

RESOLUTION No. 69-1185

A resolution of the City Council of the City of South El Monte urging the Justice Department to reverse its decision regarding anti-pollution control devises

Whereas the United States Justice Department has announced its decision to settle out of court a suit charging that four major United States automakers conspired to delay introduction of effective anti-pollution control devices; and

Whereas an appeal to this decision must be filed within thirty days of the date of that decision which was rendered September 11, 1969; and

Whereas a personal appeal on the part of Congressman George Brown has been made to the citizens of Southern California to demand this appeal since Southern California residents have been subjected to ever increasing amounts of air pollutants at a rate that seriously threatens both human health and the complete delicate ecology of the area;

Now therefore be it resolved by the City Council of the City of South El Monte that it be demonstrated to the Courts, Justice Department, and President of the United States that California citizens will not be satisfied with this out of court settlement; and

Be it further resolved that the Federal Legislature, Courts, Justice Department and the President of the United States be immediately urged to protect the residents of California by demanding a drive for effective air pollution abatement.

Dated this 25th day of September, 1969.

Ayes: Allen, Duncan, Stiles, Vargas, Shapiro.

Noes: None.

Absent: None.

MAX M. SHAPIRO.
Mayor.

Attest:

MARY E. VAN DYKE,
City Clerk.

WE HAVE NEEDED A NEW FRONTIER

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. TEAGUE of Texas. Mr. Speaker, a recent Huntsville Times editorial has reviewed briefly our national space effort following the flight of Apollo 11. Here, in one of the major space centers of the Nation, these people have been close to the development of our national space program for the past decade. This thoughtful editorial reviews the values and benefits which have accrued from our manned space flight program and looks to the future. The editorial follows:

WE HAVE NEEDED A NEW FRONTIER

No matter what great deed is done, a certain number of people have always been around to declare that for various reasons it never should have been attempted. The pioneer moon landing of Apollo 11 is no exception, even though it is unquestionably one of those turning points which will profoundly influence the future destiny of mankind.

What does U.S. space achievement mean, and where should we now direct our efforts? These are questions that will be argued across the land and in the highest levels of government.

To complete the $24 billion moon landing and exploration program 9 more flights to the moon are scheduled. But even as Apollo 11 left its launching pad, pressure against the U.S. space program built in many areas.

A spokesman for a leading Negro civil rights group, protesting America's ". . . inability to choose the proper priorities," said the money spent to land a man on the moon could have wiped out hunger for 31 million poor people in the U.S. But to infer that the kind of concentrated effort and expenditure of funds, which brought success to the space program, could bring the same kind of results in solving social problems is no more valid than comparing elephants and eels. The two problems are just not the same and cannot be solved in the same way. One concerns organizing and directing technical know-how to solve highly complex problems of engineering, navigation, chemistry, electronics, etc., most of which can be calculated down to an infinite number of decimal places.

On the other hand, social welfare, poverty, hunger, employment, ways of life, motivation and behavior are all involved in the question of poverty or of hunger, and as yet the human mind and spirit cannot be calculated or controlled by any computer. As one newspaper commentary put it, ". . . the human problems which most need to be solved are least likely to be, in eight years or eighty. And the chief reason is that, for both good and ill, you can't engineer the human spirit like a Saturn rocket."

In terms of earthly human welfare, of what particular worth is the Apollo 11 flight and the space effort in general? This question is most often answered by asking another: Could there be any security for the people of the Western world if the USSR or eventually perhaps China stood on the moon while the United States did not have such capabilities in space? The disastrous implications of this have been considered so fully in the press and by the people of the United States as to need no additional discussion, and U.S. competence must extend into future space developments, whether they be orbiting space stations, moon colonization or interplanetary travel.

It must also be realized that our national ability to create jobs and to fund both private and government efforts to upgrade the opportunities and living standards of all our people depend upon the continued capacity of American enterprise to innovate, to grow, to create new industries, new wealth and employ even greater numbers of people. The technological breakthroughs in new products, new materials, whole new technologies and techniques of training, management and manufacture, characteristic of the space program, have contributed immensely to this capacity and will continue to do so.

Finally, one of the most significant contributions of the space program has been to bring together in a common effort some of the most creative minds and personalities in the nation. They are the kind of people who might have been found leading covered wagon trains, pushing the first railroad across the deserts and mountains of the western United States, or associated with men like Thomas Edison, Charles Lindbergh or the many others who in their lives advanced beyond the known boundaries of accomplishment.

The U.S. has needed a new frontier. Exploration and going beyond what was done before has been the history, the genius and the inspiration of our people. We cannot solve our earthly problems without national pride or the confidence and spirit to excel in whatever we do. More than anything else, the opening of the frontiers of space may profoundly influence the strengthening of these qualities in the hearts of the American people.

FORMER UNDER SECRETARY OF HEW GIVES KEYNOTE ADDRESS AT N.F.R.W. CONVENTION

HON. ROGERS C. B. MORTON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. MORTON. Mr. Speaker, last Saturday it was my privilege to attend the 15th biennial convention of the National Federation of Republican Women in Washington, D.C. It was my special pleasure to be present for the very fine keynote address which was delivered by my friend and constituent, the Honorable Bertha Adkins, Under Secretary of HEW during the Eisenhower administration.

Miss Adkins has had a very distinguished career in service to her community, her State, and her country. I am pleased to include in the RECORD the text of her remarks to the Republican women:

KEYNOTE SPEECH

(By Hon. Bertha Adkins)

I have been allotted twenty minutes for this keynote speech. It will not take me that long to say what I have to say.

Girls, this country is in a very unhealthy

condition. War, riots, rebellion on the campuses, runaway inflation, bitterness among our people, do not indicate a healthy nation. It is up to the women—all ages, sizes, colors, backgrounds—to restore its strength. It is the women who nurse the sick, provide the right diet, and give tender, loving care to their families. If we love our country—and I think we do—we must use all of these skills *now* to return our nation to its position of leadership in a world at peace, at home and abroad. This is not time for pettiness, for foolish feminine flutterings, for nostalgic longing for the past, nor for hysterical recriminations. We must find out the causes for our illness and begin proper medication now. We must make the seventies a decade of response, responsibility and republicanism if we want the future of our country to be strong and secure.

RESPONSE

Our First Lady, Pat Nixon, has given us the emphasis we need. It is in our volunteer services in our own communities that we exert the greatest influence in solving national problems. If each separate community eliminated prejudice in personal relationships, had equal opportunities for individual development, controlled environmental health, and emphasized spiritual values—our national problems would vanish. Pat Hitt is promoting this approach in her job as Assistant Secretary of Health, Education and Welfare. Elly Peterson is bringing to our national political leaders the programs of assistance in the ghetto areas which she so successfully inaugurated in Detroit. Gladys O'Donnell, our Federation President, is encouraging our Republican Clubs to take Leadership in community action programs. But only you can really make this a decade of response.

This is the time to reach out to all women—especially the young women who are looking for action—to organize them to work for common needs. And I do mean WORK. Your club meetings should be planning sessions for ACTION—not just an occasion to read minutes, gripe about the status of things, have refreshments and go home. In the present day vernacular, find your "thing" and do it. I know that the young women of today will respond to your encouragement if you show that you are making your community a better place in which to live. We are often discouraged by the news accounts of rebellious youth. But I know that there are more of our youth who want to be constructive than destructive if we older people give them opportunity to do so.

RESPONSIBILITY

We are all too aware, however, that response without a sense of responsibility can be destructive. Extremists of both the right and the left have action programs, but these are not what we need for our national well being. We have seen action in the past decade from the New Frontier to the Great Society, but what are the results? Layer upon layer of government bureaucracy have been created. But are our problems being solved and growing smaller? More and more money has been spent, but has inflation been halted and the value of our dollar strengthened?

Let's look at the welfare programs. All of us want to help people who are in need. All of us want to help families remain together. All of us are willing to pay taxes to help children have proper food, clothing and shelter. All of us know that training is essential if workers are to become a part of our present economic society. Are our present welfare programs succeeding in these objectives? The answer is no. President Nixon, therefore, has proposed changes in the welfare programs which will help train people to take jobs and become self-reliant while still keeping their families together. He has also proposed that the Federal government share with the states and local communities some of the funds collected in the federal taxes so that local tax loads may be alleviated and needs of the people across the country be met on a more equitable basis. This is showing a sense of real responsibility to the entire nation.

All of us know that our tax laws must be revised to make a more equitable sharing of our tax burdens. The House of Representatives has already passed a bill which would bring many desirable changes. But the loss in revenue to the government is such that deficit spending seems inevitable, and that adds more fuel to the fire of inflation. So President Nixon has asked the Senate to take a longer look at the House proposals and make the tax cuts less drastic. As a single person I shall welcome relief. Single persons have long carried more of the share of taxes than they should be expected to bear. But I know that if I want my government to provide certain services and be strong, I must support it with tax money. I have also seen what inflation does to the value of my retirement income. I support President Nixon in his responsible view of taxes.

President Nixon is cutting government spending in non-essential programs in an effort to halt inflation which is a danger to every man, woman, and child in this country. This is again putting a sense of responsibility ahead of personal popularity.

Response and responsibility must go hand in hand.

REPUBLICANISM

Let me say here that I do not hate all Democrats and love all Republicans. Some of my best friends are Democrats. In fact, my mother's family are Democrats. I know that often in the press Republicans are pictured as being dull while the Democrats are amusing. It is true that our national conventions last year showed great contrasts. I do not think that riots and bloodshed such as we saw at Chicago are amusing. Do you? After over ten years of a Democrat controlled Congress and eight years of Democrats in the White House, is their record amusing? The people did not think so in 1968 and there are reasons why.

Let's look at the record in Vietnam. At the end of 1960, there were 800 military advisers in Vietnam from the United States sent by President Eisenhower at the request of the South Vietnamese Government to help them train their own people to fight the Communist forces threatening to take over their country. By the end of 1961, there were 3,200 *troops* sent by President Kennedy and by the end of 1963 he had increased that number to 16,300 troops. By the end of the Johnson administration in 1968, there were over 500,000 troops from the United States in Vietnam. This all is a matter of record. Now, thankful citizens of all political parties applaud President Nixon's orders to begin bringing our boys home and his efforts to end the hostilities there.

It is a fact that the Democrats have had a working majority in both Houses of Congress for almost 16 years. The committee chairmen have positions of leadership based on seniority, as you know. These men have been around there for a good long time. They know quite well how to get legislation on the floor. They know quite well how to bottle up legislation in committee. What is the record? Three months of this fiscal year have passed and they have not yet passed one bill funding the government departments. Our government is paying its day-to-day obligations on "emergency" measures. Would you call this efficient?

Last May, President Nixon sent proposals for much needed changes in our military draft system, which so vitally affects all of our young people and their planning for the future. What has Congress done about them? Nothing.

Some Democrats in the Congress say that they are waiting for the President to make recommendations before passing legislation. But they can move quickly when they want to. The House passed tax bill proves that this year. And I cannot remember that there was any dragging of the heels last year when Congress raised its own pay. The truth of the matter is that the Democrats are so busy fighting themselves that they have no real leadership. Despite their greater numbers they cannot enact legislation without Republican assistance in vital matters of national interest. The civil rights legislation of 1964 would never have been passed without the help of Senator Dirksen. But I think the real reason behind the do-nothing session of 1969 is the fact that elections of 1970 are influencing the Democrats to postpone action until next year no matter how essential it is for the country to have action now. The Democrats believe that the voting public have short memories. Action next year, therefore, will be fresh in people's minds.

I have more confidence in the people of this country than that. So I say we Republican women must start looking now for candidates to run for Congress—candidates who will be qualified, able, dedicated, and electable. We do most of the election work in the precincts anyway, and we should help choose the candidates for whom we can work with great enthusiasm. I wish the men appreciated us more. At least, I wish they showed their appreciation more actively in supporting well-qualified women for both elective and appointive posts in government. We have some wonderful Republican women in Congress—Margaret Chase Smith in the Senate, Margaret Heckler, Florence Dwyer, Charlotte Reid, Catherine May in the House. But 15 years ago there were twice that number of Republican women in the House. In appointive jobs it is apparent that the women must wait their turn. The patronage boys at the White House are very busy getting men into jobs. They are working so hard that the other day they named four men for three places! But I am sure they will eventually get to the girls.

Of course, we care more for our country than we do our personal feelings. We have helped elect Republican Governors. We have helped elect men and women to our state legislatures and local governmental posts. But we need to do more and we can do anything we put our hearts and minds to doing. Let us rally our forces now to make the seventies a decade of response, responsibility and republicanism and restore our beloved country to a land of Peace, Prosperity and Progress.

CORRESPONDENT JIM LUCAS WINS MARINE AWARD

HON. ED EDMONDSON

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. EDMONDSON. Mr. Speaker, I was delighted to learn that Scripps-Howard Military Reporter Jim G. Lucas is the recipient of the 1969 Distinguished Service Award given by the Marine Corps Combat Correspondents Association.

This was good news to me. Our entire family considers Jim a close, longtime friend, and all Oklahoma is proud of him. He was born and reared in my district in Oklahoma, and started his career in journalism working for our hometown paper, the Muskogee Daily Phoenix. Jim became a military writer as a Marine combat correspondent, and received the

Pulitzer Prize for his coverage of Marine actions in the Pacific in World War II.

Since World War II, Jim has served as a war correspondent and military writer for Scripps-Howard, and he has served with distinction. He wrote for many months from Vietnam, and his reports and his perspective on the war in Vietnam have earned him the highest respect and acclaim—especially among combat veterans who have served in Vietnam.

In addition to his Pulitzer Prize, Jim has received many additional awards, including the Ernie Pyle award of the Overseas Press Club, which Jim has won twice—the only repeat winner in the history of that award.

I know, though, that Jim will find a place on his wall for this Distinguished Service Award of the Marine Corps Combat Correspondents Association. It is a high honor, and Jim has always had a special feeling for the Marine Corps since he went to the Pacific with the Marines in World War II.

YOUR OPINION, PLEASE: 1969

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. BRAY. Mr. Speaker, some problems faced by the American Republic may change, and some may remain constant. But one thing that never changes is the interest in these problems, and the opinions held on them, by our citizens.

I find that the overwhelming majority of contacts I have with my constituents, by letters, wires, phone calls, and personal meetings, show a very high degree of knowledge on these problems. In addition, constituents' opinions and observations frequently give me new perspective and insight, which is very helpful and vitally important to anyone in the Congress.

An opinion poll, I have found, is an extremely useful supplement to these other contacts for both Congressman and constituent. For the constituent, it generates new interest in the issues of the day and encourages him to make his sentiments known to his elected representatives in Washington. For the Congressman, it gives him the added benefit, of incalculable value, of new angles and approaches to these same issues.

I know some questions are very difficult to answer with just a "Yes" or "No" but when a vote comes up in the Congress, these are the only answers open to Members. I have found that these polls do generate additional comments in the form of accompanying letters, where those responding to the poll expand and amplify on their checked poll card replies.

The major issues in my poll this year are among those most widely discussed and debated in our Republic. The answers have all been mentioned, by various sources, at one time or another. The replies will be tabulated, the results inserted in the CONGRESSIONAL RECORD, and a copy of the results sent to all those who were polled.

I have sent such questionnaires each year for many years, and I am asking this year, again, for "Your Opinion, Please." The questions follow:

YOUR OPINION, PLEASE: 1969

	Yes	No
1. Do you favor construction of an anti-ballistic-missile system?	( )	( )
2. Do you favor a federally financed guaranteed annual income?	( )	( )
3. Do you favor expansion of trade with East European Communist countries?	( )	( )
4. Should the Federal Government assume total responsibility (administration and costs) for all welfare programs, and let states, cities and local units drop them?	( )	( )
5. On student disorders at universities and colleges:		
(a) Stop Federal aid to students convicted by civil court or disciplined by school authorities for disorder	( )	( )
(b) Stop Federal aid to schools where administration fails to curb disorders	( )	( )
(Please check one in each of the following)		
6. Which of the following world "hot spots" do you think holds the greatest danger to world peace?		
(a) Vietnam	( )	
(b) Middle East	( )	
(c) Russian-Chinese Frontier	( )	
7. In Vietnam, should we:		
(a) Continue present course: limited military action and peace talks in Paris	( )	
(b) Pull out of peace talks; push for military victory (but no nuclear weapons)	( )	
(c) Immediate and unconditional U.S. withdrawal	( )	
8. How do you assess the present overall course of the Administration?		
(a) Too far Left	( )	
(b) Too far Right	( )	
(c) About the course I prefer	( )	

PICO RIVERA URGES ATTORNEY GENERAL TO CHANGE DIRECTION ON SMOG SUIT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. BROWN of California. Mr. Speaker, on Monday, the City Council of Pico Rivera, Calif., sent a letter to Attorney General John Mitchell urging that the Justice Department reverse its direction in the current air pollution antitrust suit brought against the major car manufacturers.

Pico Rivera is but one of many Southern California cities who have criticized the Nixon administration for the way it has sold out the right of all citizens to have a clean and healthy atmosphere.

I commend the action taken by the leaders of Pico Rivera, and I now insert their letter into the RECORD:

CITY OF PICO RIVERA,
Pico Rivera, Calif., September 29, 1969.

The Honorable JOHN H. MITCHELL,
Attorney General of the United States, Justice Department, Washington, D.C.

DEAR MR. MITCHELL: On behalf of the Pico Rivera City Council, I would like to urge you to not drop the suit against the auto manufacturers for conspiring to restrain and delay the development and installation of smog control devices.

We are of the opinion that the information gathered by the Federal Grand Jury after meeting for 18 months in secret session should be made public, and that the Justice Department carry out its obligations to those of us suffering from air pollution primarily caused by vehicle exhaust emissions.

Your cooperation will be appreciated.

Respectfully,

FRANK TERRAZAS,
Mayor.

THE POWER OF PRAYER

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1969

Mr. GAYDOS. Mr. Speaker, Americans have always been a praying people, our Founding Fathers saw fit to write into the Constitution a provision guaranteeing us the right to worship God in our own way.

These men, having just fought a bloody conflict to win freedom, knew well the power of prayer. They had learned there are times when God alone can provide the strength needed to overcome certain crises. Other Americans have learned the same truth in two world wars, Korea, and Vietnam.

But, as a people, we also have a tendency to take many of our freedoms for granted. We do not get alarmed until we are threatened openly with their loss.

Seven years ago that was the case. The Nation's God-fearing majority reeled under the sudden shock that the Bible and prayer in public schools had been declared unconstitutional by the U.S. Supreme Court.

The reaction was immediate. Public officials at all levels of Government were besieged with expressions of dismay and disbelief at the ruling. Here in this House many amendments have since been proposed to restore this constitutional right. Similar legislation was proposed in the other body. To date these efforts have been to no avail.

And what has happened in the 7 years since the Supreme Court's decision? Crime has soared at an almost unbelievable rate in practically every city in the country. Near the top of this list is the city which stands as a symbol of this God-fearing and freedom loving Nation—Washington, D.C., the Nation's Capital. Who here can stand proud in the face of what we know to be shameful truths?

We have watched the Nation's stockpile of morals become depleted. Nudity and obscenity, once found only in the books and films circulated in back alleys

and gutters by degenerates, now have found acceptance on the legitimate stage under the guise of art. Novelists now win accolades for whatever new bit of sordidness they foist upon the public in the name of literature. Films for the family have all but disappeared. In their place we are shown celluloid commercials on illicit sex.

Drugs and narcotics drag 7,000 Americans each year down the path to addiction and self-destruction. Yet people sitting in our higher halls of learning actually have defended the use of dope for young Americans.

Law and order has been bent under the rulings of the same Supreme Court. Repeated decisions give rise to the opinion the rights of society are not to be considered on the same level as the rights or will of the individual.

I submit, Mr. Speaker, much of this rejection of morals and esthetic values can be traced to the lack of a strong religious belief in our Nation's young. They, in many cases, are rebelling against ethnical values, human cultures, and civilization.

The question "Where have we failed?" has been asked many times by many people. The Cleveland Chapter of the American Hungarian Federation has as good an answer as any I have heard to that question.

The chapter has declared a well balanced society cannot be uprooted by senseless rioting as long as it remains morally strong and united. But such a society cannot exist, it observes, unless the society is grounded in the belief in the Creator and unless prayer and religion are allowed to exercise their proper function in schools and public life.

Americans, reluctant to give up their religious right they had held for so long, now are attempting to circumvent the law and the Supreme Court.

Some of them have tackled the issue head on. School board in the city of Clairton in my district, the 20th Congressional District, acted boldy and decided to reinstitute prayers and bible reading in the schools. Other cities and school boards have followed Clairton's lead, although not by the same approach.

One of the most unique schemes was cited in an editorial of the Daily News, a newspaper which circulated in the Clairton area. The writer, John M. Orr, explained how student Netcon, N.J., are getting the word.

They get it, Mr. Speaker, through no less a medium than the CONGRESSIONAL RECORD. Each day the RECORD contains the prayer given by the chaplains of the House and Senate and these are read to the Netcong students as "messages from Congress."

Mr. Orr raises a most interesting question in his report on the Netcong prayers. He asks if any governmental agency has the authority to ban the reading of the RECORD, a publication of the Federal Government.

Furthermore, Mr. Orr states, the Supreme Court ruling on prayer was wrong and by being wrong the Court now finds itself being overruled by the only power higher than it in this society of ours—the people!

The people have spoken. They have for 7 years. It is time to quit talking and act on the many bills submitted to the House which would permit prayers, on a voluntary basis, in public schools and public buildings.

RHODESIA'S SIDE OF THE STORY

HON. W. E. (BILL) BROCK

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1969

Mr. BROCK. Mr. Speaker, following the elections in Rhodesia last summer, the American public was subjected to a large amount of hostile commentary directed against the leadership of this small, proudly independent people. In the interest of presenting both sides of the story, and because of its merit and factual content, I submit the following editorial, originally printed in the June 21 issue of the Chattanooga News-Free Press, for inclusion in the RECORD. I commend it to the attention of my colleagues:

SO WHAT DOES IT MEAN TO US?

So they held an election in Rhodesia. What's it to us? Isn't Rhodesia a little country, thousands of miles away? How are Americans affected?

We are involved in the welfare of Rhodesia because Rhodesia is a staunch anti-Communist nation in Africa, where Russian, Chinese, Algerian, Castro and other Communists are seeking to promote revolution. We are involved because Rhodesia wants to be our friend but our leaders have chosen to act as though Rhodesia were an enemy. Rhodesia has been chosen by domestic and international politicians to be a whipping boy in cheap racial politics—that may prove to be very expensive to the cause of freedom.

The country of Rhodesia in Southeastern Africa was settled as an English colony. It is about the size of California, is a beautiful land rich in minerals and agriculture potential and marked by cities more modern than Chattanooga.

The "issue" that usually is involved in discussion of Rhodesia pictures a few whites "oppressing" a majority of blacks. That is not the true picture at all.

The white population, mostly English in background, is about the size of the population of greater Chattanooga. The black population is about equal to that of the state of Tennessee. (There are, in addition, Indians and mulattos.) There is no question that the minority of slightly fewer than a quarter million whites runs the country, while the more than four million blacks and others have relatively little voice. But it still is not a situation of racial "oppression."

Most of the blacks, or Africans, as the Rhodesians call them, still live in a Stone Age culture. Most have mud huts with thatched roofs, except in modern settlements developed by the white government. There are, however, a few black millionaires who live in great style. The Europeans, as the whites in Rhodesia are usually called, are the primary entrepreneurs, the operators of farms and mines and factories and businesses—and the government.

To have it otherwise would be something like it would have been if a handful of American colonists had turned the government of the embryonic United States over to the wigwam-dwelling, buffalo-hunting, skin-clad Indians who had not developed an advanced culture. If we had done such a thing in America, obviously our country would not have survived. If the racial politicians throughout the world should force "one man, one vote" rule on Rhodesia, obviously that country would not survive, to the detriment of its black inhabitants as well as whites. It should be remembered that the Africans in Rhodesia enjoy a higher standard of living than the blacks in any other country in Africa—including the black-ruled ones—with the exception of South Africa, which is white-ruled and the most advanced nation on the continent.

Rhodesia does not deny blacks the right to vote. Voting is based on a combination of three standards: education, property ownership, earnings. Africans and Europeans are measured by the same general standards. Obviously, because they are backward, the Africans have a minority of the voters. There are perhaps 80,000 Europeans eligible to vote and about 10,000 others, of whom two-thirds are African blacks.

Rhodesian society is integrated. Go into the main hotel in Salisbury, the capital of Rhodesia, and you may see more integration than in most American cities.

The issue is not really race but ability and advancement.

In our country, however, this is widely misrepresented, even though Africans hold seats in Rhodesia's Parliament.

President Lyndon B. Johnson made a play for black American votes and kowtowed to black pressures in the UN by declaring by "executive order" a U.S. trade boycott against Rhodesia. Though our Constitution does not give a President power to pass criminal laws, the LBJ order that still stands threatens a 10-year prison term and a $10,000 fine for anyone who trades with anti-Red, friendly-to-America Rhodesia. Meanwhile, we trade with Russia and other Communist countries that aid in the killing of Americans in Vietnam.

Rhodesia declared its independence from Britain in 1965 just as the American colonists did in 1776—only Britain was not powerful enough or otherwise inclined to fight the Rhodesians. Rhodesia wanted to keep ties with Britain. But British appeasement of the international racists made this impossible. So Rhodesia declared itself a republic. The election yesterday one-sidedly supported the policies of Prime Minister Ian Smith.

Rhodesia is important to us because Rhodesia is our friend—in spite of what we have done to Rhodesia, because Rhodesia is a stronghold against Communism, because we are doing wrong that Americans ought to demand be corrected.

But our policy drifts on. Under the LBJ trade ban, vital U.S. purchases of the Rhodesian chrome we need have been cut off—while we buy lower grade chromite ore from Communist Russia at $6 a ton higher price.

Isn't it time to stand with our friends and against the Reds and quit the sort of foolishness we have engaged in regarding Rhodesia and so many other countries?

A CONVERSATION WITH CHIEF JUSTICE EARL WARREN

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. WALDIE. Mr. Speaker, last June many of my colleagues in the Congress marked the retirement of Chief Justice Earl Warren with words of high praise and fond recollection for the tremendously significant accomplishments of the Supreme Court which he presided over and guided with courage and dedication.

At that time I said:

The Court has taken the ideals of this Nation down from the walls where we have kept them inscribed to be pointed at with pride on ceremonial occasions and has put flesh and blood upon them.

Mr. Speaker, the Chief Justice has revealed a great deal about how that "flesh and blood" applied to our ceremonial ideals in a most candid and spontaneous interview he granted Morrie Lansberg, editor of McClatchy Broadcasting of Sacramento, Calif.

Mr. Speaker, I consider this interview to be a remarkable and historic recollection by this Nation's 14th, and possibly its greatest, Chief Justice.

I am grateful for the opportunity to submit it for inclusion in the CONGRESSIONAL RECORD:

A CONVERSATION WITH CHIEF JUSTICE EARL WARREN

INTRODUCTION

Morrie Landsberg, editor, McClatchy Broadcasting, interviewed Earl Warren in connection with his retirement, on June 23, 1969, as the 14th Chief Justice of the United States. In the quiet of the book-lined study of the U.S. Supreme Court, the former California district attorney, attorney general and governor reviewed, on film and on tape, his 50 years of public service—the last 16 as the Chief Justice. But mostly the conversation traced Warren's momentous years on the court and its landmark decisions under his leadership.

The hour-long interview was broadcast June 25, 1969, over all McClatchy radio and television stations; radio KOH, Reno; KFBK, Sacramento; KBEE, Modesto; and KMJ, Fresno; and KOVR–TV, Stockton-Sacramento, and KMJ–TV, Fresno.

The exclusive interview granted by Warren in connection with his retirement was intended for Californians; it was done without preparation on his part and without knowledge of the questions to be asked. But the interview immediately attracted national attention and brought many requests for printed copies. What follows are the complete questions and answers of McClatchy Broadcasting's A Conversation With Earl Warren.

Question: Mr. Chief Justice, you have devoted more than 50 years to the law as a young legislative clerk, as District Attorney, as Governor, as Attorney General, and as Chief Justice of the United States. In what significant ways would you say the administration has changed over the past half century?

Answer: Of course, the principles of the administration of justice have changed very little. We have the same constitution, generally speaking, the same substantive law, but of course the size of our population, the number of crimes committed, the number of judges who administer the law, and all of the personnel that is essential to do that have greatly changed the manner of administering the law and that change has brought with it a great many problems that didn't exist. Judges formerly had a rather leisurely life, but these days they are pressed for time in everything they do, and pressed as much as they may be, there is always a backlog that distresses a judge and retards the administration of justice. This is one of the common problems that we must face in the near future.

Question: Are you saying, sir, that we are not spending enough money on the courts?

Answer: I am saying that courts are not adequately staffed, that they are not using modern methods of administration. I am not speaking of the judging process, because the judging process now, I guess, is the same as it was in the time of Solomon. The human element of judging is still present, but in the administration of it, there are so many complications now, so many ramifications, that it calls for business methods just as much as any business does, and unless we adjust to modern conditions and modern necessities, we are going to have serious backlogs that retard the administration of justice.

Question: Way back in 1925, in your days as a prosecutor, you were quoted as saying, "If people have money, they are likely to escape punishment." To what extent would you say our justice is class conscious today?

Answer: Well, that is a rather abstract statement, but just the same there is a lot to it. The person without the means of investigating his case and without having a skilled lawyer is at a disadvantage that a person of means would not be at, and naturally that is reflected in the number of people who are convicted and many times from the punishment that they receive.

Question: But have there been changes since 1925 which have made legal counsel more available to the poor?

Answer: Oh yes! Since I have been on this court, the court has determined that everyone is entitled to a lawyer. If he cannot afford it himself, the state or the nation, whichever it may be, must furnish counsel for him. But the problem is to get counsel who will work on the cases and do the things that are necessary to see that a man's rights, whatever they may be, are fully protected.

Question: Mr. Chief Justice, in recent years critics have contended the Supreme Court decisions coddle the criminal and encourage crime. What do you say to this from your perspective?

Answer: I am of the opinion that the decisions of the courts, and I am speaking now of this court in particular which has established the guidelines for the courtroom, have in no way adversely affected the prosecution of crime. Certainly, every man is entitled to a lawyer. No man, whether he is rich or poor, whether he is educated or uneducated, is qualified to go into a courtroom knowing nothing of the law or its procedures, is qualified to defend himself in a time of crisis such as that. He is entitled to someone who can look at his case objectively, study it, and study what his rights might be and then present it to the court. I think great advances have been made in recent years, but still there are many parts of the country where even the assignment of counsel is not done with any great degree of seriousness. Perhaps they will appoint someone to represent a man in the next half hour and they will go through a trial in a day and it will be all over. That is not representation and thoughtful lawyers and the bar association and defendants' association are working very diligently on that now to see that every man gets the proper representation of his rights, whatever they might be. A man might be guilty and confess his guilt and admit his guilt, but still he has certain rights in the courtroom that ought to be presented to the court in determining what the punishment should be.

Question: There are people who feel the court's critics overlook the fact that the rights of individuals—all individuals—are involved in these decisions. Do you agree?

Answer: Oh yes! There are so many people who believe that, for instance, any decision that might help a man who is charged with being a communist is coddling communists. Of course, that is not true, but a man, whether he is a communist, or a fascist, or a klu klux klanner, or whatever it might be, is entitled to have his rights protected in the courtroom and if his rights cannot be protected in the courtroom, the rights of no one can be secure.

Question: Do you feel that the police techniques have actually been improved as a result of court decisions?

Answer: I think that the work of the police has been improved through the years. I think it is on a higher standard now than it was when I first went into the law enforcement business almost 50 years ago and I am very hopeful that it will continue to improve through the years. The third degree, for instance, was a common thing 50 years ago and in the enforcement of the law, one had to watch it very carefully to see that it was not committed. But I think comparatively few law enforcement officers now are addicted to the third degree and it is because the courts have abhorred that kind of conduct and have said that if it is indulged in by the police then a man is not given a fair trial. Therefore his conviction cannot stand and certainly that is in the interest, not the particular defendant alone, but in the interest of everyone.

Question: Recalling your experiences as District Attorney of Alameda County and Attorney General of California, would you say the court's decisions have made police work more difficult?

Answer: I suppose one can honestly say that if you follow rules in any business, your work is more difficult than if you just are left to your own devices, some of them even brutal devices, but not more difficult in the sense that they should not be performed. But if, instead of beating a prisoner to get a confession from him, he is given a lawyer and given an opportunity to talk to him and then the police are enabled to talk to him after that . . . is a rule that . . . it is just so much a question of common humanity that nobody should want to avoid it.

Question: Mr. Chief Justice, from your days as Attorney General of California, you have consistently complained about the lack of support given law enforcement authorities. How serious do you consider the problem today?

Answer: If anything, I consider it more serious today than it was then because the police today have a tremendous problem, greater than it was even in the days when I was District Attorney and an Attorney General when we had the bootlegging, the rum running, the hijacking and all of those things. It was a very lawless era, but nothing like it is today. The police have a tremendous problem today and they are entitled to all the support that the public can give them; I mean support when they do right, not when they do wrong; support when they follow the rules of jurisprudence and not when they violate them. But today we see crimes committed on the streets in the presence of a great many people and the police are not able to find a witness who is willing to come and testify. We read of other crimes committed in the presence of a great many people and no witness—no one will even inform the police that a crime has been committed. That is not upholding the law. The police are entitled to respect and assistance because most of them are good people and are carrying a terrific burden, and they are entitled to the support of the public at all times.

Question: Mr. Chief Justice, the late Chief Justice Felix Frankfurter said in 1946, if I may quote, "It is hostile to a democratic system to involve the judiciary in the politics of the people." Have you ever felt that the Supreme Court's jurisdiction should be limited?

Answer: Well, it is very much limited and always has been and, of course, judges when they take the bench are supposed to detach themselves from politics, I don't mean become disinterested because every American citizen should be interested in politics, but a judge should detach himself from active politics and it has been my experience that most judges with whom I have ever come in contact have obeyed that rule.

Question: Did you feel in the early phase that the court was going it alone in protecting civil rights and liberties?

Answer: Well, there was a long time, from the 1870's until 15 years or so ago, that Congress passed no laws affecting the civil liberties of the people. That was not entirely the fault of the Congress because the court itself had, in those early years, put some limitations upon the acts of Congress. But because there were no laws passed during that time and because problems involving civil rights were developing, the only refuge people had was in the courts, and the only law that the court could apply was the broad principles of the Constitution and that made a very, very difficult situation for the courts and we were very much alone at that time. But since that time, Congress has passed a number of civil rights laws which encompass a great many of the civil rights and I am sure that will mean the work of the courts will be easier now than it has been in the past.

Question: Were you at times impatient that state and federal officials were not responsive enough in the desegregation matter?

Answer: In some parts of the country, yes. One couldn't help being impatient when he would see the orders of the court flaunted and just not obeyed in any sense of the word, and where illegal things were changed in form, but not in substance and carried on. Of course, one feels frustrated at that, but there are so many things that have happened to encourage one who has been in this field that I think on the whole, much progress has been made.

Question: I know the court doesn't try to run a popularity poll, but do you feel there has been a general acceptance by the public of recent decisions on such matters as desegregation and civil liberties?

Answer: That is very difficult for me to say, but I think in the main, the people of this country recognize that the great American ideal is that everyone shall be entitled to equal protection under the laws and while they might disagree with the application of it in something that irritates them particularly, still they have the consciousness that it is not only the law, but that it is right. I think in that sense the American people are in favor of the overall objectives of the Fourteenth Amendment of the Constitution of the United States which guarantees those rights.

Question: How does the black separation movement fit in with what is being achieved or what people are trying to achieve in civil liberties?

Answer: Well, of course the separation movement is the opposite of equal protection. You see, this is the very thing that was stricken down in the desegregation cases. The old separate, but equal doctrine which existed for a period of some 50 years, or so we thought, had been abolished, but the idea of having separate institutions now and separate governments, and so forth, is the antithesis of equal protection under the laws.

Question: Do you see it creating some problem for this country?

Answer: Oh yes, of course it does. These problems are great that we are going through; well, I don't have the answers for them. I do believe that in the long run the principles of our Constitution will prevail because they're of the experience of the ages and Americans are reasonable people and on sober second thought they invariably decide the thing not only in the right way, but in a humane way too. So, I think we are on the way to progress even though we abhor many of the things that exist at the present time.

Question: Do you think the militants are trying to push us too far, too fast?

Answer: Well, militancy is always too fast, but the militancy is taking so many different forms these days it is impossible to discuss it in any brief interview.

Question: Would you say, Mr. Chief Justice, that American justice has been completely desegregated?

Answer: Oh no, by no means! There aren't 20% of the school children in the south that are in desegregated schools. The same situation exists in some of our northern cities. The black people do not have work opportunities that white people have. They're still having problems in voting in some parts of the country, and no we just haven't put all of our force behind giving people equal rights and that, to me, would be the answer to many of our problems. When the American people, as a whole, recognize that we have, in the past, been wrong in depriving certain minorities of their constitutional rights and when we make the decision to see that they will, in the future, have these rights, then I think we're on the way to solving most of our domestic problems.

Question: What would you list, Mr. Chief Justice, as the Supreme Court's most important decision in your 16 years here? Was it the school desegregation or reapportionment?

Answer: I think the reapportionment, not only of State legislatures, but of representative government in this country is perhaps the most important issue we have had before the Supreme Court. If everyone in this country has an opportunity to participate in his government on equal terms with everyone else, and can share in electing representatives who will be truly representative of the entire community and not some special interest, then most of these problems that we are now confronted with would be solved through the political process rather than through the courts.

Question: Would this apply mostly to the South?

Answer: I remember the first case we had, the Baker vs. Carr case, came from one of our northern states and that the legislature in that state had been the same for over 60 years in spite of all the territorial changes. The group that was in power kept the legislature apportioned just exactly as it was over 60 years before, although the State Constitution said that the representation should be equal, but they paid no attention to it. The courts, prior to Baker vs. Carr, said that it was the business of legislatures and not of courts. This court held that the question of whether a person was having equal protection of the laws was a judicial question and we had the right to decide it and we held that the legislatures must give equal representation to everyone. That was where the expression "one man one vote" came into being and, of course, it just isn't state legislatures, but it has been expanded to the Congress and expanded also to local government. If it's right on one level of government, of course, it's right on all levels of government, and in that sense, I think, the case which all the other reapportionment cases followed is perhaps the most important case that we have had since I have been on the court.

Question: In another area, you said awhile back that pornography was the court's most difficult area. Why is that?

Answer: It's the most difficult area for the simple reason that we have to balance two constitutional rights with each other. Of course, the state and national government have a right to have a decent society and have the right to make the laws and regulations that will keep it a decent society. On the other hand, we have the First Amendment which says Congress shall pass no laws abridging the right of speech and the press and religion, and so forth, and the question is how far can people go under the First Amendment which gives them freedom of speech without offending the right of the government to maintain a decent society, and when you have those two things coming together, you find it very difficult to write a verbal definition of what obscenity is. I know that in many communities in the past, they have had boards of censorship and the experience that was had under them was atrocious. I recall that in one southern city, the censorship board—board of censorship—ruled that a motion picture which showed little colored children and little white children playing in a school yard was obscene. I remember, also, another instance when in Chicago the police board of censorship, in spite of all that goes on in that great city, held that Walt Disney's picture of a vanishing prairie which showed a mother buffalo giving birth to her little one in a snow storm was obscene. Many other instances of things of that kind show how far boards of censorship will go in determining what is obscene and what is not obscene. When it comes to writing a definition, it is very difficult to do it. The court has done its best, but the people on both sides of the question will stretch it just as far as they can and make tremendous problems.

Question: Do you think that the people who peddle pornography sometimes have gone too far?

Answer: Oh my goodness yes! Some of the things that go through the mail, some of the things that are sent to my home are just unspeakable and under no decision of this court are they justified, but still nobody seems to do anything about it.

Question: Is it up to the postal authorities or is it a weakness in the law?

Answer: Well, I don't like to point the finger at anybody, but it is a question of law enforcement and those who say that the Supreme Court has put its approval on obscenity are just not aware of the facts because the court has not done that. The court has specifically said that obscenity is not protected under the free speech clause of the constitution. The only question involved is what is obscenity, and I haven't seen anyone who has been able to write the definition for obscenity that juries can follow that has been fairly satisfactory.

Question: Is one of the problems the fact that anti-pornography laws vary from state to state?

Answer: I am not so sure that's true. I think the states are rather uniform in what they are doing these days, but it's a difficult phase of the law to enforce. Policemen don't like to do it, prosecutors don't like to prosecute them, judges don't like to determine what is obscene and what isn't obscene, and there is just a general inclination for everybody to do nothing and blame somebody else.

Question: Mr. Chief Justice, if we can get into the field of politics, looking back, would you rather have been President?

Answer: Well, I never was infected, really, with the fever to be President. I was in a few primary elections and I was perfectly willing to be nominated if there was any chance to be nominated, but I never felt that there was any real chance of my being nominated. It was only an outside chance and had I been nominated, of course, I would like to have been elected and served as President, but I never felt the loss of it.

Question: That was in 1952. As I recall, the major weapon of your campaign was free orange juice from the California delegation headquarters.

Answer: Well, I suppose we did campaign with orange juice.

Question: Well, back in 1948, Harry Truman said of you. "He is a Democrat and doesn't know it." What was your reaction to that when you first heard that?

Answer: Well, inasmuch as he was speaking to Democrats at the time, I thought he couldn't have made a better campaign speech for me. I was running for governor about that time, but I am very fond of President Truman. I think he was a great president and a very fine human being. I serve on the Board of Directors of his library now and I have agreed to serve on the Board of Overseers of his peace center that is to be es-

tablished in the Near East, so I am sure he said it with no malice and I didn't consider it as being a malicious statement and it didn't hurt me any either.

Question: Mr. Chief Justice, would you favor the proposal that has been debated in California for tuition at the University of California?

Answer: No, I would not. Public education in California has had a great history and a great tradition and it started with the idea of no tuition on any level, either in our public schools or in our state colleges or in our University of California. The University of California and our state colleges have grown great in estimation throughout the world and it's because we have taken in people of all economic levels. I believe that if we charge tuition we're cutting down the opportunity of people in certain economic levels to get the education that they should have. People who have means can always find a college to go to, but those who have little or no means have a very difficult time. I have heard it said that they come as freeloaders to the university if there is no tuition, but that isn't true. It costs a student about $2,000 a year to go to college, or to the University of California, even if there is no tuition. I believe because we have grown great in the tradition of no tuition and because our state is big enough and rich enough to provide free education for all of our people, we should retain the no tuition idea.

Question: Mr. Chief Justice, do you believe the Bill of Rights would be ratified if it came to a vote today?

Answer: I think probably that there would be a great debate over some of them because we have never taught our youngsters in the schools, or today are we teaching them in most of our colleges where the Bill of Rights came from, why it is there, and what its purpose is in society. There are a lot of thoughtless people who feel that we don't need any more Fifth Amendment, we don't need any more jury trials under the Sixth Amendment, and we don't need protection as to free speech and freedom of the press and freedom of religion, but I do believe that on sober second thought after a great debate, the American people are wise enough to retain those rights which have made this country the greatest in the world.

Question: Do you believe there is not enough foundation in the basics of what the Bill of Rights stands for?

Answer: Well, I would teach more of it in the public schools and I'd teach more of it in the universities and I'd teach more of it in the law schools than they do. I also think our Bar Associations should interest themselves more than they have in the past in discussions as to the merits of the Bill of Rights.

Question: You believe there is not enough foundation in the basics of what the Bill of Rights stands for?

Answer: That is right. People don't understand what they are, they're just a group of words to a lot of people until they affect their particular interest and then, of course, they are interested. I remember one time talking to a newspaper man when we had the loyalty oath fight at the university, if you remember that many years ago. I was Governor then and Chairman of the Board of Regents at the University of California and I was of the opinion that it was not only a destructive thing, but it was a silly thing, this oath, because it wasn't provided by statute. Anybody could take it and then laugh at having taken it, and the only people who would refuse to take it would be people who couldn't in conscience take an oath of that kind. All of them having taken the oath to support and defend the constitution of the United States, none of them objected to that, it was just this test oath that they objected to; and I talked to a newspaper man one time who was quite hostile at the position I took in opposition to the loyalty oath. I said to him, "Well, let me ask you a question: Now, suppose the Congress was to pass a law saying that before you could use the mails that you would take the test oath to the effect that you were not a communist, that you would not write anything communistic in your newspaper before you put it in the mail. What would you think of that?" And he said, "Well, you know what I would think of that." And I said, "I believe I do, but what would you think of it?" "Well," he said, "I would be against it." I said, "Why?" He said, "Well the first thing you know if we did that, there would be some bureaucrat in Washington telling us that what we were writing was communistic and they would be censoring what we were writing." I said, "You just made the case for these professors at the university because they felt that if they took a test oath like that, there would be somebody in Sacramento that would be looking into their work and saying to them, what you're saying is communistic or subversive in some other respect and, therefore, you must not teach it." And he said, "Oh well, it's much ado about nothing, let's forget it."

Question: You said in 1947, by the way, that our form of government is on trial today. To what extent would you say that our government is on trial?

Answer: I think that all free governments are on trial and perhaps always will be. You know we had, I say we, but the world had many democracies before the birth of Christ and around the Mediterranean Sea and very few of them lasted very long for the simple reason that the people became tired of governing themselves. They relaxed, they took no interest in their government, they let other interests step in, and they fell prey to some kind of authoritarian government. The only one that lasted was Rome, and it lasted for 1,000 years because Romans were proud of their citizenship, they participated in it and were thoroughly willing to govern themselves, but the rest of them all died. Our country is young by historical standards; it won't be 200 years old until about seven years from now, and in history, that is a very short time and we are still learning day by day how to govern ourselves. If we ever lose the impetus to do that, if we ever become lackadaisical and leave it to somebody else to govern us, if we ever forget the Bill of Rights which came to us in a hard way over the centuries of Anglo-Saxon law, then we're in danger. And we are on trial, always, and we are on trial before the world to see what we can do with this government of ours. The better we make it the more contented our people are, the more equal life is for people in this country, the more assuredly it will be sustained indefinitely.

Question: Mr. Chief Justice, what are some of the forces which challenge a free society today?

Answer: I think that perhaps the most important force is the force of apathy. When the people are not interested in their government, when they're not willing to participate in it and do the things for the general welfare that our institutions complicate, we are really in danger then. And that, I think, stems from the fact that so many people are unaware of the historical background of our institutions, how they came into being, why they came into being, and so forth. I have no fear at all of our future as long as people are interested in government. No matter how they disagree, as long as they are interested in government, and will have the great debate in order to get things established, I have no concern about the future at all. American People in the aggregate are wise and they're good and they will decide things in the right way if we can get everybody interested in the affairs of government.

Question: Have you ever felt that we were headed toward totalitarianism in this country?

Answer: Well, there have been some things that if permitted to be extended would tend toward totalitarianism, but I don't think that we are in any immediate danger of going into totalitarianism. However, erosion is a terrible thing, you know, and government can erode just by a succession of little things that happen just like a hillside. Those are the things that put us in danger, because when the erosion becomes noticeable, the weakness has developed and then it is very difficult to restore the virility of the government. But we have a great, growing virile country and there is no reason why anybody should become discouraged or become discouraged because we are not progressing, nor should they became apathetic because we progressed as far as we have because we still have a lot of problems and we must be after them all the time. The free way of life is not the easiest way of life to live by a long ways. If we are going to be free, we have to work for it and it's been said in the past, and I'm sure it's true, that every generation must re-establish its own freedoms and I believe that, because otherwise one generation could erode the freedoms that the others have built up until the next generation couldn't restore them.

Question: What do you say, Mr. Chief Justice, to critics who say that the court, by its decisions, has dealt a death blow to state's rights?

Answer: Oh, on the contrary, I think that the Supreme Court has established state's rights. What does reapportionment do, but establish state's rights? It establishes in the states the power to govern themselves and most of the problems that we have today in our big cities, for instance, we find they are there because the states have done nothing about them. And the reason they couldn't do anything about them was because most of their legislatures were controlled by interests that were not interested in the preservation of our cities. Now that they are freed from those restrictions, I am sure that the states will do something about cities and won't just look to the Federal government to have everything done for them. Most of this concentration of power that you find in the government, Federal government, comes from the fact that the states have not themselves done their job and they look to the Federal government, therefore, to do it for them. Once the Federal government does it for them, of course, it has to build up a big bureaucracy in order to administer these programs; so I think in all respects, I can't think of anything that this court has done to destroy state's rights. Now, of course, the term state's rights is abused very, very greatly. I suppose in some parts of the country when we compel the desegregation of schools that we are interfering with state's rights. We are not interfering with the rights of the people in those states because we're guaranteeing to the people the right to have those rights on an equal basis. But as far as I can see this court has not, in any sense, entrenched upon the Tenth Amendment, which reserves to the states and to the people the rights that are not delegated to the Federal government in the Constitution.

Question: There are some going around the country now saying we are really a federation of sovereign states. Is that the way you see history, Mr. Chief Justice?

Answer: Again, they use terms in ways that are not realistic. The states are not sovereign because the sovereignty is in the United States government. We have a supremacy clause in the Constitution which says that the laws of the United States are supreme and that makes the sovereignty, but the sovereignty in our country is really in the people through their representative form of government, both in the Federal government and the State government. There was never any indication in the constitutional convention that the states were sovereign, that's a

word that has been added to it. They have autonomy to a great extent and they have just as much autonomy now as they had then, and probably more, but they never were sovereign after the Constitution of the United States was adopted. They were under the Articles of Confederation, but when the Constitution of the United States was adopted, the sovereignty was in the United States of America through the people.

Question: Mr. Chief Justice, you once said there should be compulsory retirement for all public officials, but didn't specify any age. Do you have any further views on this now?

Answer: I still believe that compulsory retirement is a good thing because in my opinion the strength of our institutions depends on infusing new blood into them all the time and I don't like to see people stay in public office too long. But I do want to see the compulsory retirement in all branches of the government, not just in the judiciary. That, I would be opposed to. I have been opposed to it all along because people who don't like the decisions of the Supreme Court are very free to say yes, we ought to have compulsory retirement, but they don't want to apply it to themselves. In the Congress they have chairmen of committees who are 80 odd, and one of them recently into the 90's, and those men are all powerful. I think if we are to have compulsory retirement in the courts, we ought to have it in the congress as well, and I'm in favor of having it in both.

Question: Do you have any suggestions for a retirement age?

Answer: Oh, I don't have any definite age. I suppose 70 or 75, somewhere in that range. I'm over either of them now, you know.

Question: You're 70????

Answer: 78.

Question: Mr. Chief Justice, what are your future plans? Will you write memoirs or teach or concern yourself with the administration of justice?

Answer: One thing I will do is to keep busy. That, I must do. I have been busy all my life and I have been in the public service now, counting my time in the Army, 52 years in August, without a day out of the public service. They have been vigorous years too, every one of them, and I couldn't stand to be idle. I'm not leaving just to go fishing or something of that kind, but there's so many things that can be done, there are so many causes in the world today, that one need never lack one that he can really work on.

Question: Mr. Chief Justice, what was your reaction to the clamor by your critics for your impeachment?

Answer: Oh, they have a right to do that. I believe that criticism is a proper function in government. No one should be above criticism and while one would rather be praised, I guess, than blamed, I have never had any ill feelings for anyone who criticized the court or even who suggested my impeachment. Although, they knew that there were no grounds for it and it wasn't possible, but they have a right to do it and I have never had any feelings against it.

Question: Do you think there is a better understanding of the court today than there was, let's say, 5 years ago or 10 years ago?

Answer: No, I can't say, because we have no measuring stick. You see, the court is in a position where it cannot fight back. It never can answer its critics and when all the public hears is one side, one never can tell what lodges in their minds and what they think.

Question: The statement has been made that the court, under your leadership, made laws instead of interpreting the Constitution. What do you say to that?

Answer: Well, I think that no one could honestly say that the court makes no law. It doesn't make it consciously, it doesn't do it by intending to usurp the role of Congress, but because of the very nature of our job, when Congress says that everyone is entitled to the equal protection of the laws and it enacts no legislation on a given subject, and we have a case in this court in that area, we are left to interpreting the constitutional section one way or the other. We make law. It couldn't be otherwise, but we don't do it for the purpose of usurping Congress' function because Congress can do as it did in the last few years in the Civil Rights area, pass some very important civil rights acts and those acts have made our work immeasurably easier because all we have to do now is say what did Congress mean when it said this, and it said that, and it said something else. Before Congress had said nothing and we had to decide whether it came within that broad language of the Constitution, that everyone is entitled to due process of law and to the equal protection of the laws. Now, normally when we interpret congressional statute, if we misinterpret it, it is of no great significance because Congress within a few days can enact a new law to state exactly what they do mean, but when you come to dealing with constitutional questions, then, of course, it's different. Congress can't overrule our opinions on the Constitution. But sure, we have to make law. When two litigants come into court, one says the Act of Congress means this, the other one says the Act of Congress means the opposite of that, and we say the Act of Congress means something—either one of the two or something in between. We are making law, aren't we? Not because we want to invoke our power as against the Congress, but we have to interpret it and whatever way we interpret it we are making some law. But to recognize that as to statutes, if Congress doesn't believe that we interpreted their law properly they can change it overnight if they wish to do it.

Question: Someone once said, Mr. Chief Justice, that the Warren court, as he put it, will rank in history as the court of the people. Is that the way you'd like the court to be remembered?

Answer: I would like the court throughout its history to be remembered as the court of the people. No one can say how the opinions of any particular court or any particular era will stand the test of time. All one can do is to do his best to make his opinions conform to the Constitution and laws of the United States and then hope that they'll both be so considered in the future.

CONGRESS HAS CHANCE TO END WAR

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. MOSS. Mr. Speaker, the McClatchy newspapers of California has taken a close look at Senator CHARLES GOODELL'S proposal for ending the war in Vietnam. On Monday of this week, an editorial in the Sacramento Bee concluded:

Goodell's move should spur something long overdue: A new assessment by the people's representatives in Congress as to the U.S. role in Vietnam, and by extension of this policy, in all of Southeast Asia:

I offer this editorial to my colleagues as food for thought:

CONGRESS HAS CHANCE TO END WAR

U.S. Sen. Charles E. Goodell, Rep-NY, in his first major move as a junior senator, has presented Congress with the opportunity of ending a war it never had a chance to declare in the first place.

His proposal to deny the Pentagon funds to continue the Vietnam war offers a sounding of congressional opinion which has not occurred since the hapless Gulf of Tonkin resolution, used by the Johnson administration to escalate U.S. military efforts in Vietnam.

Undoubtedly that resolution would not have carried with the force it did had the Congress known what subsequent probings of the matter have revealed. New evidence suggests American ships were not actually engaged with North Vietnamese craft in the episode which sparked belligerent reaction. In any case, the amorphous circumstances of that night are so unclear, upon deeper study, as to make the Tonkin resolution reckless brashness.

Implicit in the war-declaring power of the Congress is the power to grant or withhold money in the pursuit of war. Goodell stands upon firm enough constititutional ground.

In considering his proposal, the Congress naturally would weigh President Richard Nixon's response that rigidly to set a timetable of withdrawal would lead Hanoi to halt all negotiations in Paris because the U.S. was abdicating the field, anyway.

Congressmen could weigh that against the point that if U.S. withdrawal is not on a systematic and definite basis, the South Vietnamese are unlikely to expedite the necessary reforms—both civilian and military—enabling them to take over their own battle.

Goodell's move should spur something long overdue: A new assessment by the people's representatives in Congress as to the U.S. role in Vietnam, and by extension of this policy, in all of Southeast Asia.

PROBLEMS OF WATERBORNE COMMERCE

HON. THOMAS N. DOWNING

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. DOWNING. Mr. Speaker, in a keynote address before the annual convention of the Federal Bar Association before the Council for Transportation Law, Fontainebleau Hotel, Miami Beach, Fla., Wednesday, September 4, 1969, Commissioner George H. Hearn of the Federal Maritime Commission made an excellent presentation of Commission and court decisions which was most meaningful to all who are concerned with problems of waterborne commerce. I include the address in the RECORD in order to share it with others who doubtless will find it of interest:

PROBLEMS OF WATERBORNE COMMERCE

It is a privilege and honor to have been invited to address the 1969 annual convention of the Federal Bar Association, and particularly a personal pleasure to appear with this distinguished panel of friends and associates. While contemplating the function of a keynote address, I realize the difficulty of attempting to comment briefly on each of the areas to be discussed by our panelists; and I concluded as to the virtual impossibility of that approach. Consequently, I thought I would bring to the attention of this professional group a problem that has been a continuing impediment not only to Interamerican Transportation but to overall United States foreign waterborne commerce. I therefore thought a presentation of Commission and court decisions which may foster

international cooperation and result in removal of that impediment in the foreseeable future would be a helpful beginning to the panel discussion today.

As you know, in 1961 the President's Reorganization Plan No. 7 separated the promotional and regulatory functions of the Federal Maritime Board. The promotional functions were vested in the Maritime Administration of the Department of Commerce. The regulatory jurisdiction was given to the newly created Federal Maritime Commission. As a member of that Commission I consequently do not participate in the exercise of promotional responsibilities.

This is not to say, however, that the functions and activities of the Federal Maritime Commission have no bearing on the well being of our merchant marine industry. By specific statutory language and by the overall authority delegated by Congress to the Commission, it is empowered to take positive action to prevent certain activities prejudicial to our maritime industry and to our commerce in general.

An example of the specific authority to protect our merchant marine industry is Section 26 of the Shipping Act of 1916. That section empowers the Commission to investigate situations in which it appears "that the laws, regulations, or practices of any foreign Government operate in such a manner that vessels of the United States are not accorded *equal* privileges in foreign trade with vessels of such foreign countries or vessels of other foreign countries . . ."

And I emphasize the word "equal". The concept of equality is the touchstone of the authority of the Federal Maritime Commission to prevent undue detriment to our commerce.

The shipping laws of the United States do not discriminate as to flag. Our ports are open to the flags of all nations who may wish to participate in our foreign waterborne commerce. Such participation may not be indiscriminate, however, or without obedience to our laws. Foreigners who seek to profit from our foreign commerce have no greater or lesser rights than those which attach to our own citizens who seek their livelihood in the same manner.

This principle, of course, applies equally to individuals and nations. No person who profits from the commerce of the United States and who is protected by our laws should expect to do so on terms different from those imposed on any other person; and as the merchant marine industry of a nation contributes to its national economy, the nation must recognize the ramifications of that economic contribution. A nation cannot expect to enjoy the benefits of participating in another nation's commerce without assuming the attendant obligations.

These principles cannot be disputed. There can be no gain without investment, no privilege without constraint. In the present context no country can permit a vital aspect of its economy to rest in the unfettered hands of those whose interests are not at stake. This is especially true of a country which, like the United States, has 95% of the cargo in its foreign waterborne commerce carried in foreign bottoms.

The foreign merchant fleets which have served our trades so long and well have not done so for the sole benefit of the American economy. The owners of those fleets are businessmen who make decisions based on commercial considerations. What is good for their balance sheets, however, may not always be good for ours or, certainly, for our public interest.

Yet, despite the need of the United States to regulate its foreign waterborne commerce, and despite the profitable market foreign carriers find in our trades, they are not content. Sometimes they even are uncooperative toward our efforts to keep the trades functioning fairly and smoothly. There is a continual flow of complaint toward United States regulatory policies and practices in foreign trade; and from time to time these are sweetened by the crocodile tears of the foreign carriers bemoaning their inability to turn a profit in our trades because of our regulation.

But the next day the weeping is replaced by pleas for assistance against yesterday's partner in tears—the other foreign flag carrier who is now discriminating against a fellow foreigner.

If our trades are so unprofitable, then let the money-losing shipowners ply other trades; but no, they stay on and strive to continue their profitable participation in our trades. They go so far as even to struggle for the maintenance of the *status quo* in shipping practices, for fear, perhaps, of encroachment on their domains by other carriers utilizing advanced techniques.

Such action is not, however, in keeping with the public interest; and the Federal Maritime Commission is not in existence to protect vested interests at the expense of the public good. Indeed last year the Commission had occasion to speak on this subject in a famous case known as the *CML* Case. It involved a dispute over through intermodal rates between Container Marine Lines and the North Atlantic Westbound Freight Association conference. The Commission said:

"Traditional methods of transporting cargo are rapidly being replaced by the growth of new techniques and transportation systems. The Federal Maritime Commission . . . has sought to facilitate, wherever possible, the implementation of improved shipping systems."

If foreign carriers wish to maintain their position in our trades they cannot always place the interests of their pocketbooks above the public interest. Again, in the *Container Marine Lines* Case the Commission stated:

"Conferences and carriers have an obligation to conduct themselves in a manner commensurate with their responsibilities as transporters of the foreign waterborne commerce of the United States . . . There comes a point . . . when self-interest must yield to the public interest, and carriers and conferences must conduct their business decisional processes accordingly."

A number of foreign carrier interests also have found these conclusions inescapable, and they are seeking to maintain the profitability of plying our trades not through immobility, but by diversifying their operations. For example, there has been a spurt of interest in through intermodal cargo movements; and three carriers, including two foreign lines, recently received Commission approval for the joint operation of ships in a LASH service between the United States and Europe. LASH stands for Lighter-Aboard-Ship, and the ships carry cargo in floating containers, or lighters, which can be loaded and discharged directly into the water by shipboard crane.

It is evident, therefore, that only through the adoption of new technologies will water transportation be profitable to the carrier and shipper alike. Consequently, all carriers, domestic and foreign, have an obligation to themselves and the shipper to keep in step with transportation advances.

The offering of the most modern and efficient transportation service is not, however, a complete satisfaction of a carrier's obligations in United States trade. As I have said today, and on many previous occasions, carriers must bear the burdens as well as enjoy the advantages of participation in our commerce. That a carrier may be offering a technologically advanced service may do nothing for the shipper who cannot avail himself of it or cannot participate equally with others.

New practices bring new problems, and all carriers must cooperate with the Federal Maritime Commission in ensuring that the benefits of new shipping techniques are available in our trades to all in equal measure.

In this spirit I hope there will be a departure from past practice. My experience at the Federal Maritime Commission leaves me amazed and dismayed at the lack of such cooperation from foreign carriers. Notwithstanding the profits they have reaped in our trades or the advantages they enjoy under our law, foreign carriers have continually eschewed obedience to our Congressional laws and policies.

Despite the array of Commission and court decisions against them, foreign carriers persist in efforts to circumvent our laws. Again I repeat that those carriers and their governments steadfastly resist the United States in its attempt to regulate the privileges it has granted them. Privileges are not without cost; and if we actively seek and then enjoy a privilege we must be willing to pay the price.

In this case the lack of foreign cooperation is astounding in view of the value of the privilege compared with the smallness of the cost. To illustrate my point let me give some brief examples.

Section 15 of the Shipping Act of 1916 mandates the immediate filing with the Federal Maritime Commission of all agreements among carriers which would authorize rate fixing or other restrictions on competition between the parties. Such agreements, often known as conference agreements, must then be approved by the Commission before they may be implemented. Approval does not, however, merely relieve carriers from penalties for acting under an unapproved agreement. A very important consequence flows from approval and endows the carriers with a very meaningful privilege. Agreements are, on approval, *ipso facto* except from the provisions of our anti-trust laws.

This is a considerable benefit to conference members, considering the American economic philosophy which takes a dim view of price fixing and similar restrictions on competition. Considering further that conferences are the dominent commercial units in ocean commerce, it seems that our Congress, in grantig the anti-trust exemption, has asked little in return.

This far reaching immunity was intended by Congress to be counterbalanced with a scheme of surveillance over the conferences to be conducted by a regulatory body now known as the Federal Maritime Commission. Under that scheme the conferences were prohibited to engage in various unreasonable and discriminatory practices, and generally require to act in a manner not detrimental to the commerce of the United States. How small a price this is to pay for immunity from our anti-trust laws! I cannot imagine the force of the outcry should the United States revoke the privilege and subject conferences to the full effect of those laws!

Yet the foreign carriers who, incidentally, dominate most conferences, and the governments of their flag either do not appreciate the privilege or are bent on defiance of our need to place limits on its exercise. No privilege can be boundless; and Congress exercised its judgment in delegating to the Federal Maritime Commission the task of ensuring reasonable exercise of the anti-trust exemption utilizing guidelines set forth in the shipping statutes.

In carrying out this function the Commission has been met at almost every turn by obstacles set up by foreign dominated conferences. By withholding relevant information, by refusing to justify rates, by acting arbitrarily against our commerce and by any other available means have the conferences attempted to frustrate the Commission's lawful duties.

In 1965 there arose a case which began rather routinely and innocently, but which mushroomed into a *cause celebre*. It is known as the *Ludlow* Case.

A conference raised its rate on jute to the United States and Ludlow Corporation, an importer, complained to the Commission. A formal proceeding was begun and the complainant sought to obtain data from the conference and its members. The Commission issued subpoenas *duces tecum* directed to each carrier covering documents located both in this country and outside the United States. The carriers refused to comply and the Commission was forced to seek court enforcement despite the clear state of the law in the Commission's favor.

In affirming the District Court decision granting enforcement of the subpoenas, the Court of Appeals said:

"The . . . contention, that the Commission is without power to issue a subpoena requiring the production of evidence from outside the United States, is surprising as a matter of common sense."

The court then analyzed the statutes and legal precedents and found the Commission clearly empowered to subpoena documents wherever located. In this manner the conference gained nothing but legal expenses and produced nought but delay for the shipper and the Commission. Obstructionism was clearly the object as the conference further demonstrated.

After the Court of Appeals decision four foreign carriers still refused to produce certain subpoenaed evidence located in their home countries—India, Great Britain and the Netherlands. The carriers pleaded that they were prevented from producing the documents by legal restrictions imposed by their respective governments. On that ground contempt relief was denied by the District Court.

Thereafter the Commission instituted a proceeding which resulted in cancellation of the conference agreement as having been carried out in a manner contrary to the public interest. The Commission concluded that the refusal to comply with valid subpoenas prevented the Commission from properly discharging its duties as established by Congress, notwithstanding the plea of legal prohibition abroad. The Commission opinion echoed *dicta* of the Court of Appeals which, in affirming the enforcement order, characterized the reluctant conference members as "the very foreign carriers that have doubtless had a hand in stimulating the attitudes of their governments."

Although the Court of Appeals set aside the Commission's cancellation of the agreement as being too severe a penalty under the circumstances, the court made one thing clear: the penalty of cancellation is available to the Commission in some cases. The court said:

"It may well be that there are some investigative proceedings where the inability of the conference to supply information would leave the Commission with no alternative but to cancel the agreement."

It should, therefore, be abundantly clear that the Federal Maritime Commission will no longer tolerate this type of obstructionism and that our courts will doubtless quickly lose patience with foreign carriers who persist in attempts to frustrate the mandates of Congress.

Although this case took three years to be finally resolved through a commercial settlement between the parties, the last chapter has apparently not been written. About two weeks ago Ludlow Corp. petitioned the Commission to issue a show-cause order against the same conference. Ludlow alleges new unlawful practices in the setting of rates on jute. I cannot comment on this new development because the matter may come before the Commission for adjudication.

Another example of a situation in which the foreign dominated conferences have evidenced this attitude is that of rate setting. In this area, too, there is the matter of the unwillingness of the carriers to produce data. Again the matter has been reviewed by a federal court, and in a landmark decision of last June the Commission was upheld in its demand for data.

In 1965 the Federal Maritime Commission began an investigation into the rates between United States North Atlantic ports and ports in the United Kingdom. The Commission was concerned with apparent rate disparities in that trade. The disparities were such that the rates outbound from the United States were higher than either the reciprocal inbound rates or the parallel Canadian rates. These disparities existed as to tariff items involving the same commodities moving in the reciprocal or parallel trades. It appeared, *prima facie*, that such disparities constituted a detriment to the commerce of the United States. Such a condition is contrary to Section 18(b)5 of the Shipping Act of 1916. That section requires the Commission to disapprove a rate which "it finds to be so unreasonably high . . . as to be detrimental to the commerce of the United States."

An extensive record was developed, but it lacked sufficient evidence to rebut the *prima facie* case; and on that basis, *inter alia*, the Commission disapproved and ordered cancelled six rates of the outbound conference because they were unreasonably high in violation of Section 18(b)5. We further ordered the conference to file lower rates on the six items with "written justification of the level of the new rates based upon cost, value of service, or other transportation conditions . . ."

The conference thereupon appealed our decision to the court saying that the Commission could not require justification of the rates. Such a requirement, it was contended, was an exercise of a rate-making power the Commission admittedly does not possess in foreign commerce.

Thus the conference declined to adequately defend its rates and then opposed a demand for justification of new rates when the old ones were found unlawful. This, it should be noted, is a conference that carries 98 per cent of the liner cargo in the trade moving outbound from the United States. I am at a loss to understand how such an omnipresent rate fixing body can expect to carry on its anti-competitive activities without restraint.

The Court of Appeals expressed similar feelings when it said:

"Certainly the United States has a right to protect its own commerce against injury by carriers, organized or not. The Commission . . . did not fix the rates. It did not use the terms 'prove' or 'establish.' It required 'justification' . . . which means an explanation with supporting data."

Foreign carriers should now be on notice that the Federal Maritime Commission and the courts will not permit rate setting on the basis of self-styled "unavailable" data. Rates must be justified and cannot be based on data withheld for any reason in another country.

I believe the carriers will be inclined toward greater cooperation in this area; for the next time the Commission's action may be more severe. Indeed the appeals court said in conclusion:

"We are inclined to think the Commission would have been hard put to fulfill its statutory duty with less disturbance of the traditional practices in the trade."

The conference attitude toward rate-making is evident in yet another confrontation between the Federal Maritime Commission and the foreign dominated conferences. This, the latest of the three matters I am bringing to your attention, has been handled short of court action so far. I speak now of certain surcharges imposed by many conferences following the longshoremen's strike of last winter. The development of this surcharge situation also has presented the Commission with an opportunity to test the willingness of the conference carriers to produce data for Commission scrutiny.

The longshoremen's strike affected our East and Gulf coasts and lasted as long as 57 days in some ports. It was the longest and costliest such strike in our history.

The effects of the strike were felt throughout our economy and not just in the shipping industry. United States export and import markets suffered at every level. American shippers could not move their goods across the docks outbound; American consignees could not take delivery of inbound cargo. Similarly, foreign shippers and consignees were prevented from having their cargo moved across our East and Gulf Coast piers.

In the shipping industry the effects were also widespread. Many ships lay idle in our ports and close offshore; numerous other ships were diverted from their scheduled routings; and the flow of money through some labor markets was sharply reduced.

It should have been clear to everyone that the shipowners were not the only ones to suffer economic losses due to the lengthy strike. Yet upon termination of the strike the shipowners acted as if they were entitled to recoup their losses even at the expense of other affected groups.

The carriers sought to recover their losses by imposing a "strike surcharge". With few exceptions the surcharge was set at 10%, thus increasing the shipper's costs by that amount.

The Federal Maritime Commission does not object to rate increases, *per se*. Carriers are entitled to be compensated for services rendered. Yet the Commission does have a statutory obligation to the public to scrutinize rate increases, especially extraordinary ones. Under Section 18(b) of the 1916 Shipping Act, all carriers subject to our jurisdiction must file their rates with the Commission; and those rates must meet the standard of reasonableness of Section 18(b)5 of that Act as I have already mentioned. In addition Sections 16 and 17 of the 1916 Act prohibit rates which impose undue discrimination or prejudice on any affected party.

Consequently the Commission began to examine the surcharges. This was done with an eye not only toward the new charges, but also in consideration of 5% to 10% general rate increases which had been recently filed by some conferences. Furthermore, the Commission's attention was sharpened by numerous protests against the surcharges received from shippers, shipper groups and even international organizations.

Close analysis of the surcharges was not necessary, however, in order to recognize a gross inequity in the new rates. A mere glance at the carriers' tariffs revealed that many carriers had imposed the surcharge only on cargo moving outbound from the United States. They had not imposed any surcharge on inbound cargo. This was startling to the Commission because the strike had made it impossible to move cargo across our piers inbound as well as outbound. The foreign shipper was prevented from marketing his goods in this country equally as the American shipper was prevented from exporting his goods.

While the Federal Maritime Commission does not deny carriers their due, such a disparity was, on its face, a detriment to the commerce of the United States. No such blatant and inexplicable disparity could stand without justification.

The Commission therefore sought justification from the carriers. We communicated with various conferences and independent carriers as to the disparity and the level of the surcharge. Generally, the response was consistent with the previous practice of noncooperation. The justification offered was flimsy and the Commission was confronted with little but delaying tactics. A few conferences and carriers did, however, remove the surcharges or postpone their effective date.

In light of these facts and the development of the surcharge situation, the Commission undertook strong action. Several further official requests for justification having failed, the Commission issued a show-cause order. The order was directed at two conferences—one inbound and one outbound—and their member lines. They were directed to show cause why they should not be found in violation of Section 15 of the Shipping Act because of their responsibility for the inequitable apportionment of a strike surcharge.

The two conferences presented a perfect example of a practice and attitude detrimental to our commerce and inimical to the carrying out of the Commission's responsibilities. Of the ten members of the outbound conference and the seven members of the inbound conference, seven served both trades—outbound and inbound.

The show-cause order produced positive results. Shortly after its issuance the Commission received a telex message from the outbound conference stating that the surcharge would be cancelled three days hence.

Unfortunately, this success may be somewhat illusory. The carriers preferred to withdraw the surcharge rather than justify it. Subsequently, other surcharges were also terminated, but most were replaced by general rate increases of equivalent amounts.

By such a tactic the conferences and carriers apparently hoped to circumvent the attack against their strike surcharges. This ploy will not avail them, however, if the general rate increases are merely the surcharges in disguise. If there remains a discriminatory inequality in the imposition of the new rates, the disparity will not have been eliminated. The Commission's request for justification of the rate increases will retain its validity and applicability. We hope that this episode can be terminated without difficulty and will not be as protracted as those involving the subpoenaed data and the dsparities in the North Atlantic/United Kingdom trade.

This, then, is our view of an attitude and practice which has been continually displayed before the Federal Maritime Commission. Foreign carriers and their governments have countered it with an argument based upon the nature of ocean-borne commerce. The foreign shipping interests say that ocean shipping is founded on the traditional and well accepted principle of freedom of the seas. This principle recognizes that ocean going vessels are subject to the laws of their home country, and no one nation can presume to make laws or establish regulations for all maritime countries.

With this we agree; but freedoms are not without bounds. A nation may impose liabilities on persons of foreign allegiance for activity beyond its borders but which results in consequences within its borders reprehensible to that nation. Thus, if an agreement is made outside the United States among foreigners, and not only is intended to but does have an effect on our commerce, then our laws may be extended to prevent such agreements from adversely affecting our commerce. An agreement which is unlawful if executed within the United States by Americans is equally unlawful although executed outside this country by foreigners if it is intended to and does have an effect within the United States.

These legal principles being unimpeachable, I cannot understand the chagrin of those foreigners who are agonized by the application of our laws to "their" conferences. Just because "their" conferences are domiciled abroad does not make them any the less "our" conferences since they engage in our commerce. And, further, I think history evidences the fairness of our laws in their enactment and implementation. Under our shipping statutes the Federal Maritime Commission shows no bias toward or against the vessels of any flag. Every ocean common carrier receives fair and impartial consideration before the Commission and in the courts of the United States.

Ocean transportation is, today, undergoing rapid change. New techniques are causing a complete restructuring of the industry which will include new groupings and new practices. Fresh accommodations will also be needed to ensure the growth of these developments to their full potential. Consequently, I hope the winds of change in ocean transportation will bring also a new spirit of international cooperation.

CONCERN FOR CRIME RATE IN WASHINGTON

HON. WILLIAM LLOYD SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. SCOTT. Mr. Speaker, the Congress has exclusive jurisdiction over the District of Columbia and I would like to share with my colleagues a letter received from a responsible citizen who lives in my district and is concerned about his daughter moving into Washington.

Certainly, the Capital City should be a model for the rest of the Nation, but I share the concern of my constituent and know that most of the Members in this House also share his concern.

Therefore, it seems incumbent upon us in our deliberations to find some method of reducing the crime rate in Washington and making it a place in which any citizen could relax and enjoy its beauty during his visit or residence therein.

The letter is set forth in full, omitting only the name and official title of the citizen concerned:

SEPTEMBER 11, 1969.

The Honorable WILLIAM L. SCOTT,
House of Representatives,
1217 Longworth Building,
Washington, D.C.

DEAR BILL: My daughter, who recently accepted employment in Washington, D.C., and who expects to be a part-time student at George Washington University this winter, recently moved into an apartment in downtown Washington. This move was entirely against my better judgment and against my recommendation. Since she had just reached her twenty-first birthday on September 1, and filled with the enthusiasm and confidence of idealistic youth, she chose to disregard both my judgment and my recommendations.

Our friends in the community and in our church all echo one chorus, "Clay, are you crazy to let your daughter move into that "jungle"? A banker friend of mine at the Rotary Club meeting yesterday said, "Clay, I am a native of Washington. I grew up there. I moved to Montgomery County in 1950 however, and I will not go back into the place at night for any reason—shows, concerts, plays—you name it".

My daughter spent approximately six months in Vienna, Austria last winter studying voice. We were never at all concerned about her welfare. Now, however, when the telephone rings in the late evening my wife picks it up with great reluctance just knowing that a voice on the other end of the line will be conveying the message that our daughter has been raped, or worse. Can a sadder day fall upon America than this?

The Congress of the United States is the governing body for the District of Columbia. The Congress of the United States, in my judgment, is the only one that can restore sanity, safety and dignity to the Nation's Capital.

I have been in the public service most of my adult life. I feel that I am a reasonable student of domestic as well as foreign affairs. I sincerely doubt, however, that there is a more pressing matter before the Congress today than the matter of restoring safety to the streets of the Nation's Capital.

I am going to make a suggestion that has perhaps been made before. I make it not out of selfish interest, but from shame as a sincere American. We are using American troops to maintain peace in Korea; we are using American troops to try to restore order in South Vietnam, and we are using American troops to protect Western Europe. Until the District Government can re-establish an adequate police force and until society can correct the ills that make of Washington a "jungle", is it not time to police the streets of Washington at night with the Marines, the Infantry or the Green Berets? As a concerned American, I know of no better use of our armed forces than to protect the Nation's Capital and the citizens of the nation when they have occasion to visit it.

The Nation's Capital holds so much that is of interest and that is dear to its citizens. The Nation's Capital holds much that is of interest to the young people in the surrounding areas. Parents not only have to become dictators and deny their children the privilege of the many benefits of the Nation's Capitol, they have to do it in shame and humiliation.

I know that Washington is perhaps no worse than many other cities in the nation. None of these however, are the Nation's Capitol. None of these hold for the people of the nation what Washington holds. The Nation's Capital is simply different and should be different.

I hope in all sincerity that I will not receive a reply to the effect that "I am not on the proper committee" or that "I will bring your letter to the attention of the proper authorities". I hope rather, that if you see fit to reply to this letter, it will be to the effect that you are going to accept your responsibility as a member of Congress and pursue this matter with all of the facilities at your command until the people of the nation can again walk the streets of the Capital at night in reasonable safety.

CALIFORNIA ATTORNEY GENERAL FEARS RISE IN DANGEROUS DRUG ABUSE TIED TO MARIHUANA SUPPLY DROP

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. CHARLES H. WILSON. Mr. Speaker, California Attorney General Tom Lynch testifying before a Senate juvenile delinquency subcommittee last week called for the Federal Government to assume broader, more direct responsibility for the control of both marihuana and dangerous drugs. According to a Los Angeles Times article on Lynch's testimony, the Attorney General contended that abuse of dangerous drugs increases in California in proportion to any shrinkage in marihuana supplies and the resulting rise in marihuana prices. Dr. Roger Smith, a University of California criminologist with research experience

in the Haight-Ashbury District of San Francisco recently testified that Operation Intercept on the Mexican border has brought about a combination marihuana drought and hashish boom in California. Smith stated that—

The marijuana gap is going to be filled by hashish importers who are a good deal more mercenary and sophisticated than the marijuana people.

All this reinforces my belief that Federal, State, and local drug control activities must be better coordinated. Independent action by separate official bodies may have unexpected deleterious effects upon the programs and projects of other concerned governmental branches. Misconceptions must be cleared up and accurate information on the entire drug scene must be widely disseminated, not only to the general public, but to enforcement officials as well. In effect, we must avoid jumping from the fryingpan into the fire.

I submit for inclusion in the RECORD the following articles:

RISE IN DANGEROUS-DRUG ABUSE TIED TO MARIJUANA SUPPLY DROP; LYNCH TELLS SENATE SUBCOMMITTEE LINKING PATTERN HAS BEEN CONSISTENT IN CALIFORNIA THROUGHOUT THIS DECADE

(By Rudy Abramson)

WASHINGTON.—Abuse of dangerous drugs increases in California in proportion to any shrinkage in marijuana supplies and the resulting jump in marijuana prices, Atty. Gen. Thomas C. Lynch told a Senate subcommittee Thursday.

The pattern has been consistent throughout this decade, he said, but it will be most dramatic in 1969, when arrests for dangerous-drug violations may surpass marijuana arrests for the first time in several years.

Testifying before the Senate juvenile delinquency subcommittee, he said:

"It is time that dangerous drugs in the illicit market be stripped of any facade which minimizes their risk, their harm and their role in drug abuse. The facade includes penalties."

LEGITIMATE DRUGS ABUSED

The dangerous-drug category includes nonnarcotic substances like amphetamines and barbiturates which have legitimate medical uses but are widely abused.

On comparing marijuana and dangerous-drug use patterns, Lynch did not suggest that marijuana laws be softened, but rather that penalties for trafficking in dangerous drugs be toughened.

Marijuana laws generally call for more severe sentences than those pertaining to the dangerous drugs. Lynch called for the federal government to assume broader, more direct responsibility for the control of both marijuana and dangerous drugs.

Neither of the drug-abuse bills now pending before the Senate juvenile delinquency subcommittee provides an adequate federal effort, he said.

"As one who has been willing to stand and be counted in my own state on these important aspects of the drug-abuse problem, I do not hesitate to point out the federal neglect in preventive education and health."

Even though the federal government has supported most of the research done on drug abuse, it has not taken steps to get the research findings into the hands of students.

A major problem for California authorities, Lynch said, is that dangerous drugs are shipped to Mexican buyers, who arrange for them to be diverted into illegal traffic without the shipments ever crossing the border.

"Last year there were six tons of these drugs seized in California by local, state, and federal agencies," Lynch said. "This is about 15 million pills and capsules. We believe that the major part of these seized drugs have their origin in export shipments to the border towns along the California-Mexico border.

HITS SHIPMENT METHOD

"This is possible because of the unsupervised method of such shipments. The drugs are 'consigned' to a Mexican citizen, but there is no requirement that delivery be made only to that person. Such a situation permits mind-bending drugs to be diverted from the foreign warehouses on the U.S. side of the border."

Lynch cited one 1967 case in which California officers bought 500,000 amphetamine tablets from a Tijuana cafe man who had ordered them from a firm in Chicago. The drugs were still in a warehouse on the U.S. side of the border.

The cafe man had used the name of a nonexistent pharmacy to order the drugs and had not been questioned by the manufacturer.

Lynch recommended that Congress consider amending export laws to give the President unquestioned authority to put restrictions on export of such drugs.

Shipments of these drugs might also be bonded, he said, to insure that they are delivered to the consignee.

The latter recommendation was also made by Mayor Sam Yorty, who testified before the subcommittee.

Questioned by Sen. Thomas J. Dodd (D-Conn.) on California's growing drug problem, Yorty said one major reason for it is "the lack of swift and sure justice, especially for those who push and sell."

The mayor strongly endorsed Operation Intercept, the stepped-up federal effort to cut off the flow of drugs across the border.

CALLS IT SURGERY

"It's surgery and surgery is painful," he said. Neverthless, "I think it is high time we made a concerted effort."

The mayor emphasized the importance of strong enforcement of marijuana laws.

"This trend toward lighter penalties will see renewed emphasis on directing the major corrective thrust toward rehabilitation rather than prevention," he said in his prepared statement. "In short, law enforcement in this field is to be replaced by the philosophy of 'learn to live with your local dope pusher.' "

"I think the proper answer is to hit the source and the distributor. If one is sincere about not giving 'youthful experimenters' police records which might adversely affect their lives in later years, then, as a first priority, let's keep marijuana and drugs out of their hands to begin with . . ."

To accept the idea that simple possession of marijuana is of no great consequence, he concluded, "is to tell our young people we do not expect them to be concerned with observing basic morality or decency."

MARIHUANA CRACKDOWN BOOMS USE OF HASHISH, EXPERT SAYS

(By Paul Houston)

Operation Intercept on the Mexican border has brought on a combination marijuana drought and hashish boom in California, a UC criminologist with research experience in the Haight-Ashbury District of San Francisco told a U.S. Senate subcommittee here Friday.

"The state's drug scene is changing rapidly, and we've now got the largest market for hashish in our history," said Dr. Roger Smith, a staff member of UC Medical Center, San Francisco, and head of a research project on amphetamine abuse.

"The hashish is coming from North Africa, and it's more potent, of higher quality and much cheaper than marijuana from Mexico," Smith told the Senate special subcommittee on alcoholism and narcotics at a hearing in the County Hall of Administration.

Smith added, however, that some marijuana continues to arrive from Panama, from such states as Iowa and Kansas, and from sailors on warships arriving in San Francisco from Vietnam.

"The marijuana gap is going to be filled by hashish importers who are a good deal more mercenary and sophisticated than the marijuana people," Smith said.

Related testimony was given a day earlier by Atty. Gen. Thomas C. Lynch at a hearing in Washington, D.C., before another Senate subcommittee. Lynch said shrinkage in marijuana supplies has led to a dramatic increase in the use of dangerous drugs in California.

Smith himself placed main emphasis in his testimony on discussing the wiedspread use in San Francisco of the amphetamine "Speed," which is the dangerous-drug category.

Most Speed available in Northern California, he said, comes from a few large illicit laboratories which produce up to 25 pounds a week at a cost of $50 to $150 a pound and a street sale price of about $4,000 a pound.

Smith described Speed as "one of the most insidious" of drugs because "one can get caught up quickly with it."

He explained, "The first experience makes you feel better than you've ever felt in your life, and the adverse effects come only after an extended period of use. To come down off the high, the user turns to barbiturates, then heroin and the progression is awful."

Smith said that of 196 cases treated at the private Drug Treatment Center in San Francisco from January to June, 1969, there were 118 involving heroin, 46 Speed, 13 barbiturates and 19 psychedelics such as LSD and marijuana. Seventy-four of the 118 heroin sufferers had used Speed first.

"So there is a definite relationship between Speed and heroin," he said, adding that "underground newspapers universally condemn Speed."

LACK OF TREATMENT

"My concern is not to titillate you," Smith told the assembled senators: subcommittee Chairman Harold E. Hughes (D-Iowa), George Murphy (R-Calif.), Peter H. Dominick (R-Colo.) and William B. Saxbe (R-Ohio).

"I'm concerned by the lack of treatment facilities and rehabilitation programs."

Smith was asked by Dominick if he believed drug laws were too stiff.

He replied, "I agree with Fort and Smith (two previous witnesses) that criminal sanctions against narcotics users must be done away with, that we should concentrate penalties on suppliers.

"If we're ever going to deal with the problem, we've got to take the romance out of it being against the law. People think they're being denied something sexual and fun, when the fact is it's miserable and rotten.

"When you deal with drug abuse as an illness, you change its image and deromanticize it."

Dominick said he was concerned that "the tenor of most witnesses here today is drugs are here to stay and we have to learn to live with them."

Smith commented, "I don't see any way of stopping them. The pharmaceutical industry is putting out thousands of drugs, and you're going to see a whole new collection in the next few years. We must develop rational attitudes on how to deal with them intelligently."

Three earlier witnesses urged the senators not to worry so much about marijuana as about what one called the "real problem drugs"—amphetamines, barbiturates and heroin.

The three were David Smith, a physician who organized the Haight-Ashbury Free Medical Clinic; Joel Fort, a physician in the

UC Berkeley school of social welfare, and Assemblyman Jess Unruh (D-Inglewood).

Smith, Fort and another witness, William H. McGlothlin of the UCLA Neuropsychiatric Institute, testified that their research and experience had convinced them marijuana is a mild hallucinogen that is not addictive, causes no great physical or psychological impairment and is not as socially harmful as alcohol and tobacco.

Smith said there had been a big switch from marijuana to amphetamine use "on college campuses, by housewives and on Wall Street.

"The absurdity of operation Intercept," he said, "is that you could seal off the borders of the United States and still have huge supplies of amphetamine available from black market Speed labs.

THE IMPORTANCE OF PRAYER

HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 29, 1969

Mr. DELANEY. Mr. Speaker, I am glad to have this opportunity to join my colleagues in recognizing the importance of prayer in our national life.

Down through the ages man has always associated knowledge with spiritual values, and in times of stress and deliberations on important issues, he has paused to seek the blessings of God.

The importance of prayer was perhaps best expressed by the Poet Tennyson in the following words from his great work, "Idylls of the King":

More things are wrought by prayer than this world dreams of.
Wherefore, let the voice rise like a fountain for me night and day.
For what are men better than sheep or goats
That nourish a blind life within the brain,
If, knowing God, they lift not hands of prayer
Both for themselves and those who call them friend?
For so the whole round earth is every way
Bound by gold chains about the feet of God.

The efficacy of prayer has been formally recognized by the Government of this Nation since its founding. George Washington first proclaimed a National Day of Prayer and Thanksgiving on October 3, 1789. Similar recognition of the importance of prayer has been regularly proclaimed periodically since that time. In 1952 Congress memorialized the President to proclaim a National Day of Prayer each year.

In their inaugural addresses, virtually every President has called upon Divine Providence to bless this Nation. Both this House and the other body begin each day's session with a prayer by the official chaplain. And the U.S. Supreme Court opens its session with its marshal praying, "God save the United States and this honorable court."

These brief examples clearly demonstrate that prayer has been widely accepted as having a proper place in our public life. I believe the great majority of the American people want prayer restored to the most important public function in which their children participate—attendance at public school. I am hopeful that a way may be found to satisfy this great desire of American parents, without offending the religious sensitivities of any citizen.

SELIG GOLDBERG: AMERICAN—HUMANITARIAN—FRIEND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. BIAGGI. Mr. Speaker, on Sunday, October 5, 1969, I will attend a dinner honoring Selig Goldberg, a personal friend, an outstanding citizen of the Bronx, and a crusader in causes humane. Mr. Speaker, I am pleased to pay tribute to him.

His mother, Sarah, was born 97 years ago in Austria and resides with her daughter, Anna. His father, Morris, who came from Russia, died in 1927. Selig's two brothers, Ben and Abe are living in Florida. He has four sisters, Bea, Anna, Rose, and Sue, who makes her home in California.

Selig Goldberg, now 65, was in the sixth grade when he left school to undertake the duties of his first job—carrying newspapers from a basement at 180th Street and Third Avenue in the Bronx. He advanced to driving a horse and wagon to deliver newspapers and later obtained a job with the New York American.

The Goldberg family moved to California in 1938, where Selig accepted employment with the Los Angeles Examiner. Unhappiness resulting from the extensive frequent travel necessary in his new job prompted their return to New York within the year.

To support his family, struggling, Selig took any job that was available. He worked at the American News Co., and then as an inspector with the New York Journal.

The opportunity to own a business presented itself and was accepted by Selig in 1947. This was the beginning of the Bronx County News. To insure success in this venture, he did any and all kinds of work—from sorting the returns to driving the trucks, and worked day and night. He always began work at 6 a.m. until the day of his retirement.

He has two sons, Stan and wife Doris have three children; Steve, Sandy, and Meryl. Mel and wife Myra have a son, Craig, and a daughter, Jan.

It is my wish—and the wish of many, many friends—for the continued good health and happiness of Selig Goldberg and his lovely wife, Ruth.

This is another shining example of the great American story told countless times. A bootstrap effort to avail one's self of the opportunity this glorious country and its way of life presents—Selig's saga of life has woven itself into the fabric of American life and history. In the process he won legions of friends simply living by the golden rule.

The world is a better place—his family, friends, and associates enjoy richer lives because of his presence. May he never leave us.

I am privileged to call him friend.

LETTER TO THE PRESIDENT

HON. WAYNE L. HAYS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1969

Mr. HAYS. Mr. Speaker, one of my constituents, Pfc. Jeffrey C. Davis, now serving with the Army in Vietnam, has sent me a copy of his letter to the President. I am sure my colleagues will agree that this is an excellent and very moving letter and I include it in the RECORD at this point:

SALEM, OHIO,
August 27, 1969.

THE PRESIDENT,
The White House,
Washington, D.C.

MR. PRESIDENT: I am a soldier, Pvt. E–2, MOS 11810, departing for Vietnam tomorrow. I am writing to you not so much as a soldier would write to his commander-in-chief, but more as a soldier would write to the visible head of his country. I am NOT writing to request your intervention in my shipment to Vietnam. I am writing a letter which I hope will express the feelings of many thousands of men who must fight and possibly die in Vietnam.

Mr. President, prior to entering the Army, I had four years of college with a major in political science. I also have held a very responsible position in the office of a large industrial firm. I have read nearly every piece of printed matter available concerning Vietnam. I have studied the culture and the history of Southeast Asia. After all of my study and after numerous conversations with responsible business men, I cannot agree with our actions of the past in Vietnam, nor can I find justification for our presence there now; however, I am an American and a soldier and therefore I serve in accordance with the laws of our country.

Now, I am faced with combat in a hostile environment. Mr. President, I will go to Vietnam and do my job as many have done before me. Each American who has served in Vietnam has received the gratitude of his country; however Mr. President, I feel that those of us who will see or have seen combat in Vietnam have a right to ask for something more.

We don't want more money or faster promotions. No, that is not the case at all. We simply want to come back to a land that is worthy to bear the title of "United States of America." We want to come back to a land where morality, not vice, is queen. We want to come back to a land where the mass medias produce education, not violence and smut. We want to come back to a land where the air we breathe and the water we use is pure. We want to come back to a land where education takes priority over space.

Mr. President, we want, upon our return, to see this land free from hatred. We want to see black and white live together as civilians in the same harmony that they died together as soldiers. We want to see every man treated as a human being. We want to see this land without poverty. We want to see this land without unemployment.

Mr. President, when we grow "short" in Vietnam, we want to look forward to returning to an America that has eliminated graft and corruption in all levels of government. We want to look forward to returning to an America where law and order is "in" and violence is "out". We want to look forward to a land where guns are not put in the hands of criminals; look forward to a land where we don't have to be afraid to walk down the street.

Mr. President, when we step off that plane

that will bring us back from Vietnam, we want to step upon a land where we will not have to fear that someday our sons will go off to war. We want to step upon a land that is respected the world over, not for its military strength and its industrial advances, but rather for its humanitarian ideas of government and justice. We want to step upon a land where all the inhabitants are proud to be Americans!

These are the things that we want Mr. President. The medals and honors of combat mean nothing to us compared to these things. So, Mr. President, I will go to Vietnam and you will remain here.

However, even though we are many miles apart, we share one thing; we are both American. That is a great bond. We both know that American ends in the words "I CAN". Mr. President, I CAN return from Vietnam; CAN YOU give me and thousands of others what we want and what we will have earned in Vietnam?

As I depart for Vietnam, Mr. President, my prayers are with you, that God may watch over you and guide you in your every action.

Respectfully submitted,

JEFFREY C. DAVIS,
Pvt. U.S. Army.

THE NEED FOR IMMEDIATE PASSAGE OF THE EXPANDED STUDENT ASSISTANCE APPROPRIATIONS AMENDMENT

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. VANIK. Mr. Speaker, cutbacks in Office of Education student assistance programs, announced by the administration during this spring and summer has brought chaos to American campuses. Not only have college administrators been faced with major budget problems and disruptions in plans, but thousands and thousands of worthy students have been denied loans and have been forced to drop out of college. Thousands of freshmen from low-income and middle-income families have had to cancel plans to begin school this fall. Many students, who have received loans in the past and were expecting loans in the 1969–70 school year were notified at the last minute that loans were unavailable. In cases, these upperclassmen in their senior year have been forced to withdraw from school.

In most cases, it appears that these students were not able to turn to private lending institutions for assistance. Because of the exorbitantly high interest rates now in effect, most students simply could not afford to borrow—or could not find sources willing to lend. The Federal Government's guaranteed student loan program, which works through private banks, has completley broken down because most banks refuse to participate in the program since they can charge—and get—higher interest elsewhere.

In an attempt to determine the dimensions of the problem, I recently wrote every college and university in my State of Ohio asking if the loan allocations which they received were adequate. The answer from 54 colleges and universities was an unequivocal "No." Except for one small religious college, all these replies from the State of Ohio indicated that the loan funds allotted to their schools were totally inadequate.

To give a better idea of the problems caused by the cutbacks in this program and the delay in Congress in passing an expanded appropriation, I would like to enter into the RECORD at this point a few sample quotes from some of Ohio's leading educators:

From Baldwin-Wallace College, Berea, Ohio:

I could tell you that at least 70 or more students have been affected by this cut.

There is one highly significant fact however, which I do want to call to your attention. More than one-half of our borrowers are planning to become teachers. For many of these young teachers this loan program has been the only open doorway to economic opportunity. At the same time the program has had a multiplier effect because of producing so many teachers. At this moment as we prepare to open our Fall Quarter on Thursday, we have upperclass students unable to return because of limited funds with which we must work. I am well aware of the bank loan subsidy bill. Psychologically, however, the students have not yet adjusted to this idea and many of them have not been in the position in the small towns to take advantage of it.

From Chase Law School, Cincinnati, Ohio:

Many banks are unwilling to participate in that [State guaranteed loan program] under the conditions of the present money market.

Dyke College, Cleveland, Ohio, noted that changes in fund allocations in August and in the fall cause almost irreparable disruptions:

How do I reverse a course of action that took place when notification of inadequate funds was first received by a student and his parents? The time for increased appropriations was last spring.

As Heidelberg College, Tiffin, Ohio, noted that—

Unfortunately, over the history of the program, funding by the government has always come very late for institutions and students to do effective planning.

Students have proven to be conscientious borrowers. We have less than 1% delinquent loans.

Kettering College of Medical Arts, of Kettering, Ohio, stated that—

Where we are really hurting is in the Nursing Student Loan Fund allotted to us. We asked for $105,000 and were only allotted $16,000. A heavy percentage of our nursing students were depending on receiving from $1,000 to $1,500 each. This is a vital area in which the need is great today.

Lake Erie College, Painesville, Ohio:

To the extent possible we substituted other types of College aid and referred students to state loan program. Nevertheless there are resident students who have withdrawn stating that they are unable to meet the cost of education here.

From Marietta College, Marietta, Ohio:

Last year we supplied loans to 288 students. This year we have enough funds for only 224 loans. There are not enough funds available to cover the loans we have promised. If additional federal funds are not provided by January, we will have to reduce second semester loans across the board or try to find College funds to put into the program. I'm sure you realize the difficulties entailed by either of these alternatives.

Mary Manse College, Toledo, Ohio:

Our students generally belong to working class families. They must assist themselves in large measure throughout college. This sudden reduction in student loans left many students without adequate resources for this year. We have had a considerable drop in enrollment. How much was due to lack of funds we have not yet accurately determined, but we do know that the cut in loans has been a great hardship for our students.

From Mount Union College, Alliance, Ohio:

In an attempt to live within the anticipated budget for 1969–70 many students, particularly seniors, who in previous years had loans were denied renewals. And almost all other loans awarded to returning students were reduced. Some students already enrolled at Mount Union have been forced to withdraw or transfer because of the financial situation. Also we have had to deny assistance to many promising freshmen who without the needed aid were unable to enroll.

From Notre Dame College, Cleveland:

As you know, our allocation for the *year* is $29,014; this is definitely NOT ADEQUATE. I have had to request this entire amount for use for the *first semester;* I just don't know what we are going to do for the second semester—I guess that I am living in faith that Congress will still give us what we need.

From Oberlin College, Oberlin:

The Department of Health, Education, and Welfare recommends that a student obtain a State Guaranteed Loan if we are unable to grant his a National Defense Student Loan. At the same time it is obvious that banks are most reluctant to grant these loans, especially in Ohio.

From Ohio Northern University, Ada, Ohio:

I would like to point out the difficulty for the Financial Aids Director in being notified of the official allocation as late as August 18, 1969.

Otterbein College, Westerville, Ohio, noted:

The official notice, coming in August, that we would receive only $70,439, left us in a real quandry. We have had to divert funds from other sources—money which should go into new equipment, maintenance, etc.—in order to meet the commitments we have made to our students.

PRESIDENT NIXON SUPPORTS DIRECT POPULAR VOTE FOR PRESIDENT

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 30, 1969

Mr. McCLORY. Mr. Speaker, President Nixon has thrown his full support in favor of a constitutional amendment for the direct popular election of the President and Vice President.

This measure which passed the House overwhelmingly a short time ago is now pending in the other body. There is deep apprehension that the necessary two-thirds vote in that body may be difficult to achieve.

The President's position is most heartening and should encourage Members of the other body who have remained noncommittal to now cast their votes in line with the President's recommendation.

It should be noted also that the President's position is in complete accord with the popular sentiment of the country.

Mr. Speaker, once again we can be proud of President Nixon's leadership on a great national issue. It is to be hoped that this leadership will be respected and supported by the necessary two-thirds vote in the other body.

THE NATIONAL LEGISLATIVE COMMITTEE, VETERANS OF FOREIGN WARS OF THE UNITED STATES, OUTLINES LEGISLATIVE GOALS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. TEAGUE of Texas. Mr. Speaker, on September 27 and 28, the National Legislative Committee of the Veterans of Foreign Wars of the United States met here in Washington to review the several hundred resolutions approved by the delegates to the Philadelphia national convention last August. It was at this convention that this 1,500,000-member organization elected Ray Gallagher of South Dakota as their national commander in chief. This veteran leader has been in office a little over a month. It is already quite evident that the Veterans of Foreign Wars is going to be a bigger and better organization before his year is over.

The national legislative committee is a good example of his selecting the best men to do the best job for the VFW and the Nation. The chairman is a fellow Texan and a man whom I have known for many years and greatly admire. He is Ted C. Connell, of Killeen, who is a past national commander in chief of the VFW.

The main purpose of the national legislative committee's meeting was to recommend a top priority legislative program for the VFW for the following year. In addition, the national legislative committee filed a report outlining the concerns of the VFW respecting pending legislation, the VA appropriation for 1970, and the status of House approved bills pending in the Senate. I commend my colleagues' attention to this report on veterans legislation:

REPORT OF THE MEETING OF THE NATIONAL LEGISLATIVE COMMITTEE, VETERANS OF FOREIGN WARS OF THE UNITED STATES, WASHINGTON, D.C., SEPTEMBER 27 AND 28, 1969

The National Legislative Committee of the Veterans of Foreign Wars, after reviewing veterans legislation in the 91st Congress together with the approximately 300 mandates approved by the delegates to our Philadelphia National Convention, submits the following report.

There are three major problem areas of deep concern to the National Legislative Committee:

1. The negative position of the Administration with respect to legislation moving forward in the 91st Congress.

2. The position of the Administration, as reflected by its Bureau of the Budget, opposing adequate funds and perosnnel to operate veterans programs.

3. The bottleneck of bills in the Subcommittee on Veterans Affairs of the Labor and Public Welfare Committee of the United States Senate, where several V.F.W. Priority Legislative Goals have languished for many months.

More specifically, your Committee found that the following bills, which have passed the House, are pending in the Subcommittee on Veterans Affairs:

H.R. 693: Provide medical benefits to veterans of the Mexican Border Campaign.

H.R. 692: Extend from the present six months to nine months the period of time that seriously disabled veterans may be cared for in a private nursing home at VA's expense.

H.R. 693: Provide that the VA may furnish outpatient treatment and any medical services necessary for seriously disabled veterans who are in receipt of the special housebound or aid and attendance allowance for service connected or non-service causes.

H.R. 693: Eliminate the so-called "pauper's oath," or statement of inability to defray hospital expenses, for a veteran 72 years of age or older, to be admitted to a VA hospital.

H.R. 693: Authorize the VA to furnish drugs prescribed by a physician for all disabilities, service connected or non-service connected, for seriously disabled veterans who are receiving the special housebound disability rate.

H.R. 2768: Eliminate the six months time limitation for veterans who are furnished nursing care for service-connected disabilities.

H.R. 3130: Furnish outpatient treatment for non-service connected disabilities as well as for service connected disabilities for war veterans who are rated as permanently and totally disabled for service-connected disabilities.

H.R. 9334: Increase the per diem rate to $7.50 where a veteran is receiving hospital care in a state home and liberalize the program generally.

H.R. 11959: Amend the education provisions of the GI Bill to allow receipt of certain additional Federal educational assistance benefits for children, widows, and/or wives of deceased veterans who died of service connected causes.

The Administration has recommended that action be deferred on the following legislation pending further study:

Increase the dependency and indemnity compensation rates for service connected widows.

Provide additional monthly payments for each child for widows in receipt of DIC benefits.

Increase insurance for those serving in the Armed Forces from $10,000 to $15,000.

Provide double indemnity coverage for Armed Forces personnel assigned to duty in a combat zone or for extra-hazardous duty.

Provide dismemberment indemnity coverage for loss of or loss of use of limbs and eyes.

Establish a Vietnam era Veterans Life Insurance Program for a permanent plan of insurance for those discharged from the Armed Forces.

Increase education and training allowance for all of the VA educational programs by a sufficient amount to offset the cost of living and cost of education since the latest increase in education training benefits.

All of the above legislation is moving forward in the 91st Congress and reflects V.F.W. national mandates.

The VA budget for fiscal year 1970 is still very much in doubt. The Administration in April, 1969 recommended the following reductions in the fiscal year 1970 VA budget:

$31,567,000 providing funds for 3,586 doctors, nurses, attendants, and other hospital personnel including operation of kidney hemodialysis units, alcohol treatment units, heart intensive care units, etc.

$11,333,000 in other categories of veterans hospital care and medical and prosthetic research.

$41,151,000 for modernization and construction of veterans hospitals.

$4,000,000 for modernization and construction of medical facilities in State Soldiers Homes.

$3,200,000 for 378 employees to contact veterans and adjudicate and process their claims.

In addition, the Bureau of the Budget in July 1969 ordered the Veterans Administration to operate with approximately 3900 fewer personnel than it had on June 30, 1969, which is causing serious staffing problems in both VA hospitals and regional offices.

It was the unanimous conclusion of your National Legislative Committee that the Commander-in-Chief of the Veterans of Foreign Wars take the following action in light of these findings, which are of such grave and intense concern to the membership of the Veterans of Foreign Wars:

The Commander-in-Chief immediately advise the President of our grave concern on these matters and urge the President to sign those legislative bills thus far opposed by the Administration and when final action is taken on these measures by the Congress.

The President be urged by the Commander-in-Chief to:

Report favorably on the legislative proposals on which the Administration has deferred action, pending studies.

Allocate all the funds the Congress appropriates to operate the Veterans Administration in FY 1970.

To reevaluate the priorities of his Administration to take into account that the Veterans Administration must be considered in the same category with the Department of Defense as a war agency and that operating funds must be made available accordingly to staff the agency so that the VA can cope with the wartime workload imposed upon it by the present military discharge rate of about one million new veterans each year.

Appreciation be expressed to the House of Representatives for restoring to the 1970 VA budget most of the funds which the Administration reduced from its April 1969 revised budget.

Appropriate action be taken by the Commander-in-Chief and the National Legislative staff to urge the Senate to pass a 1970 VA appropriation at least equal to the $7,705,192,000 passed by the House of Representatives.

An all-out campaign be inaugurated by the Veterans of Foreign Wars, calling for prompt, positive action by the Senate Labor and Public Welfare Committee and the United States Senate on H.R. 11959 and similar bills to provide increased education and training allowances for veterans enrolled under the GI Bill.

That the Commander-in-Chief advise National, Department, District, County Council, Post Commanders, and our membership of the concern of its National Legislative Committee and that our officers and members contact the President and Members of Congress urging support of pending legislative proposals carrying out V.F.W. national mandates and our V.F.W. legislative program.

It was the consensus of the National Legislative Committee that this report was needed at this time to dramatize the seriousness of veterans problems as the Committee found them during its meeting this past weekend. The recommendations made by your Committee are, in its opinion, most urgent. Time is of the essence. The Veterans of Foreign Wars must continue its leadership as the major spokesman for veterans and their families or, if deceased, their survivors.

APPOINTMENT OF HELEN DELICH BENTLEY AS MARITIME COMMISSIONER

HON. EDWARD A. GARMATZ

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. GARMATZ. Mr. Speaker, in his appointment of Mrs. Helen Delich Bentley to head the Federal Maritime Commission, President Nixon has shown unusually good judgment. A better qualified person could not be found.

An article in the Sunday Star by Miriam Ottenberg will substantiate my statement on her qualifications, and under permission to extend my remarks, I wish to include this article, which will be of interest to all Members:

TUGBOAT ANNIE OR KNOWLEDGEABLE LADY? OUR HIGHEST RANKING WOMAN APPOINTEE

(By Miriam Ottenberg)

Helen Delich Bentley, President Nixon's nominee to head the Federal Maritime Commission, has been labeled variously as a Tugboat Annie with language to match, an old-fashioned swashbuckler with hats to match and—by the President himself—a "knowledgeable lady in a man's world" who "has gained a reputation for being the best there is."

Her man's world has been on the waterfront, beginning with Baltimore, but for many years ranging over any of the world's waterfronts.

The $40,000-a-year job for which she has been nominated makes her the highest ranking woman appointed by President Nixon to the executive branch and the first woman to head a regulatory agency.

Her confirmation hearing set for Thursday before the Senate Commerce Committee's merchant marine subcommittee headed by Senator Russell Long (D.-La.) is expected to attract congressional witnesses from both Senate and House and from both sides of the aisle.

For Mrs. Bentley, a lifelong Republican, has taken a non-partisan approach to maritime affairs—giving the material she has collected to Democrats and Republicans alike, to anyone who would carry forward her campaigns for improving the port of Baltimore and strengthening the American merchant marine.

As long-time maritime editor of The Baltimore Sun, the 45-year-old blonde has talked with, tangled with, provoked and persuaded all manner of men from the lowliest longshoreman to the loftiest legislator.

Some who have felt the leading edge of her displeasure claim she has a low boiling point, a notorious temper. Others, more friendly, say that's not a volcanic eruption at all, just a tea kettle letting off a little steam.

In the course of 24 years of increasing responsibility on The Sun and ever-widening interest in national labor and transportation affairs, she has been the central figure in countless anecdotes—the dogged woman among all the men. There's the much repeated story about socking a longshoreman during a longshoremen's strike in Philadelphia when he suggested she turn her "newsy nosy nose" into a ski jump.

And the time in Oslo when her shout interrupted a conference she was covering when a Norwegian shipowner claimed he was losing money on U.S. business. Knowing full well he was making money, not losing it, she called out: "If that's true, if you're losing money, take your ships out, take them out of our service."

Back in Baltimore, they tell the story of the day she sent one of her legmen to cover a special meeting at the longshoremen's union hall called after she wrote a story of payroll padding between longshoremen's officials and management. She knew her reporter couldn't get in but she wanted him to see who was attending and she was too busy at that hour to go herself.

When the longshoremen got rough with the reporter, he ran across the street and called her. She responded by going straight to the union hall. There she stood on the street, daring them to push her off the sidewalk.

"I knew they'd come to my defense if I had any trouble," she explained. "I always felt as a whole every longshoreman is a friend. I've always felt safe on the waterfront.

SHRUGS 'EM OFF

Sometimes the stories are apocryphal but she usually shrugs them off with a grin. In a day that begins before 6 a.m. and often ends way past midnight, there's no time to trouble over trivia.

Once in a while, though, the tale emerges so distorted for one reason or another that she determines to get the record straight. Such is the tale of the four-letter word heard 'round the world.

The word was used in the course of dictating a story to The Sun from the giant icebreaker S.S. Manhattan as it ploughed its way over the top of Canada to traverse the fabled but untraveled Northwest Passage.

She doesn't deny using the word. It slipped out, she recalls, at a moment when she was tired and irritable, the phone connection was bad and she had repeated the same sentence over and over again to the man taking her story. And she's sorry.

"I knew at the time I said it, I shouldn't have and I expected to be cut in on immediately but nothing happened for 24 hours. Then Stanley B. Haas, the mission commander for Humble Oil, told us there would be no more calls to our offices.

"The press was livid at me. I told them what I'd said and I apologized. I was mortified that I had caused this. I felt if I had done it, I should pay the penalty but not everybody else."

Before the day was out, though, several of the men did get through to their offices with reports that the Federal Communications Commission had ordered a communications blackout because of the word.

When news filtered back that the FCC denied any part of the blackout, Mrs. Bentley set about finding out who was really responsible.

Finally, at Anchorage, Haas issued a statement saying Mrs. Bentley's "slip-of-the-tongue" while transmitting over Humble's facilities was reported to Humble's communications company which held the license for radio facilities aboard the vessel.

"Fearing a more severe clampdown by the regulatory agency, we apparently over-reacted and imposed the restriction without any involvement by the FCC," Haas conceded. "Communicating word restriction to the ship was difficult and obviously there was some misunderstanding and inaccuracy in the way we made the announcement aboard ship."

He regretted that so much public attention was called to Mrs. Bentley's "lapse," expressed great respect for her as a journalist and confidence that she would prove an able head of the maritime commission.

With that the incident appeared closed, but everywhere she has gone since she returned last week—including Capitol Hill—she is asked about the word.

Disturbed by the incident as she has obviously been, she has managed to refrain from saying what she must have thought more than once—that it wouldn't have been a page one happening if she'd been a Harry instead of a Helen.

For Mrs. Bentley, becoming the first woman to traverse the Northwest Passage (unless some Eskimo woman made it centuries ago) was something less than a pink tea long before the word imbroglio. At the start, it didn't look as though she would make the trip at all.

GETTING ABOARD

When she applied, she was turned down by Humble Oil, which was spending some $40 million to determine the economic feasibility of transporting Alaskan oil to the east coast of the United States by using super-tankers to plow through the frozen waterway. This could be history in the making and Mrs. Bentley was determined not to miss it.

She was told Humble Oil's public relations man had arranged for space for 10 men. There was no room for a woman. She countered with a suggestion that three or four women could occupy a room together. Nothing doing.

A few days later she tried again. This time she argued that her syndicated column appeared in 14 newspapers and that ought to be enough.

"That didn't quite go over," she recalls "so I said, 'Supposing I become chairman of the Federal Maritime Commission' and he said, 'Well, that puts a different light on it.' Two days later he gave me the go-ahead and later that same day, the White House called to say I was going to be nominated to head the FMC."

The Manhattan left Chester, Pa., Aug. 24 but there was no space for her aboard until Sept. 4 when a helicopter picked her up with some others at Thule.

It wasn't the only occasion she had to be put ashore to make room for some men.

After she had been on the ship a few days, the only woman among 130 men, she was put ashore in Resolute, the most northerly point in Canada. It was a lonely outpost but she managed to get several stories there before a plane picked her up and deposited her on a rocky beach without benefit of landing strip.

A helicopter from the ship dropped off some men and took her back.

Being shunted on and off the ship she took in stride because she makes a point of not asking any quarter just because she's a woman. She's no shrinking violet, as she's the first to admit, but she's no feminist either.

Since she's been called a Tugboat Annie, what is her image of herself? Mrs. Bentley pondered awhile before she answered that one.

"I don't really think I'm a Tugboat Annie," she said. "I'm a very plain-spoken, hard-working and I think fair-minded person . . . a twentieth century woman with a certain amount of conservatism, which undoubtedly fits in with Republican Party thinking.

"I have always felt that each person should stand on his own two feet. I've worked since I was 12, never dodged anything, nor asked for any favors. I try to meet everyone on his or her level. I don't like phonies, don't like pseudo socialites and I particularly don't like lazy people."

Since she'll be bossing 260 people at the FMC and have regulatory authority over thousands of others, what kind of people does she like?

"Genuine people," she responded swiftly, "people who are honest, people who work, people who don't shoot from the hip, people who are fair and make an effort to get both sides of the story."

Undoubtedly, she will be something new to the foreign diplomats with whom she wi have to deal in her adjudicating role. Because she will be called on to rule between American and foreign shipping interest in world trade, Mrs. Bentley was asked what her position will be.

"FAIR-MINDED"

"I think the diplomats will find that I'm a fair minded person who will give them

every consideration," Mrs. Bentley replied. "I don't believe in special favors to the American merchant marine but I'm against prejudice that discriminates against the American merchant marine."

In her dealings with the American merchant marine she has steered a course that was at once protective as a mother hen and scolding as a maiden aunt. She is passionately patriotic about building American seapower.

"One thing people don't realize is how dependent we are on the rest of the world for raw materials as well as selling our finished products," she says with crusader's fervor.

"The United States is far from being self-sufficient. It's important that we keep good working relations with all countries, who are both producers and buyers."

Acknowledging that in her new post, she's supposed to be more on the regulatory end of maritime affairs, Mrs. Bentley nevertheless adds: "Naturally, I couldn't sit aside and not do what I can to help revive the fleet which is so sorely needed to protect our commerce and trade.

"In order for us to be assured of a steady flow of raw materials and of outlets for our products, we must have a basic nucleus fleet, which as President Nixon said would be able to carry at least 30 percent of our total foreign commerce."

Building the fleet is more the bailiwick of Marine Administrator Andrew Gibson, a fact of which Mrs. Bentley is well aware, but fortunately they've known each other for years and get along well.

As President Nixon noted in announcing her nomination, she has "established a record of professional excellence unsurpassed by any maritime expert in the country".

It's been a long haul for a woman who started out just about as far away from ships and the sea as she could get. She was born in Ruth, Nev., a mining town high in the mountains.

An award, the first of many in her career, was her springboard into the outside world. It came in 1941 when the Elks National Foundation selected her as the nation's outstanding high school girl graduate and gave her their top scholarship to the college of her choice.

After attending the University of Nevada for a year she came to Washngton to work for the late Senator James G. Scrugham whose campaign she had managed in two Nevada counties before she was old enough to vote herself.

At night, she attended George Washington University but wanted to get into newspaper work so she quit Washington for the University of Missouri's School of Journalism, from which she was graduated in 1944.

"TAKE A LOOK"

After brief stints with the United Press and Lewiston, Idaho, Tribune, she got a job on the Baltimore Sun in 1945. She went from general reporting to the labor beat but in 1948, she asked for a change.

"Go down and take a look at the port," she was told. "We've had nobody there since before the war."

The look became a career. One of the first stories she covered on the waterfront dealt with some supposedly Communist sailors who had mutinied and gone up the mast.

"I wanted to talk to them so I scooted up the mast. I didn't have any better sense."

She's been scooting ever since—building the waterfront beat until it takes three people besides herself to cover it all, carrying a television program for 14 years, writing a syndicated column, getting some laws and preventing the passage of others and scooping her male colleagues on some major stories.

She campaigned successfully for the Maryland Port Authority and teamed with Representative Thomas Pelly, R–Wash., to prevent enactment of a bill requiring American flag ships to put on radio call selectors. Her stories pointed out that the device had never been perfected but a Massachusetts manufacturer had a surplus lot and persuaded his Congressman to put in a bill to sell the things to American ships.

Her stories have often carried her far from Baltimore—as far as Saigon where her account of the shipping chaos on the waterfront eventually prompted AID to send an expediter to clear up the mess.

Ten years ago, she was married to William R. Bentley, a former public school teacher who now operates an antique business. Although her managing editor worried that her new by-line might be too long to fit in a column, she nevertheless added her married name. It fits.

The Bentleys live with their six poodles in Lutherville, Md. Their house is 58 miles from downtown Washington via the Beltway. She's clocked it because if she's confirmed, she's planning to commute. There doesn't seem much doubt about that.

U.S. CHAMBER'S DESKBOOK SHOWS BUSINESSMEN HOW TO COMBAT ORGANIZED CRIME

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. FASCELL. Mr. Speaker, in 1968, a subcommittee which I chair, the Legal and Monetary Affairs Subcommittee of the House Committee on Government Operations, after extensive hearings said that—

Organized crime cannot exist in any community that is determined that it shall not exist, and which backs up that resolve with effective action. (Federal Effort Against Organized Crime: Report of Agency Operations, House Report No. 1574, 90th Congress.

In June of this year I was invited to appear on the U.S. Chamber of Commerce radio program "What's the Issue?" to discuss the organized crime problem as it relates to legitimate businessmen. At that time I said:

Organized crime is becoming a competitive force in legitimate business fields because by having illegitimate sources of revenue they have a tremendous competitive advantage over legitimate businessmen in the field.

It was recently estimated that organized crime today has a net worth of $149 billion, and that in 15 years its worth will increase to $600 billion. Obviously, a force of this magnitude, operating above the law and bent on subverting our institutions, must be defeated.

The question is: How can it be done? First, we need vigorous and coordinated law-enforcement efforts at every level of government. Second, we need an informed and active private sector which is willing to be a participating partner with government in the fight.

In 1967, the President's Commission on Law Enforcement and Administration of Justice recommended that "private business associations develop strategies to prevent and uncover organized crime's illegal and unfair business tactics."

The Chamber of Commerce of the United States has, this week, published a "Deskbook on Organized Crime." To my knowledge, it is the first self-contained, comprehensive, ready-reference book for businessmen hoping to find ways to combat organized crime. The deskbook is purposely compact and enables businessmen to recognize organized crime manifestations. It also supplies them with information on how to make those manifestations known to appropriate officials. It is an excellent work, in an area where there has been a great need.

Because the deskbook represents a meaningful step toward educating the private sector on the threat posed by syndicated crime, I recommend it to my colleagues and to all businessmen.

Following is the national chamber's announcement about the deskbook:

NATIONAL CHAMBER RELEASES BOOK THAT TELLS BUSINESS HOW TO DETECT ORGANIZED CRIME

WASHINGTON, September 24.—The Chamber of Commerce of the United States today released a 72-page book telling businessmen how to detect organized crime in their own companies.

Entitled, "Desk Book on Organized Crime," it is a compact detailed report that tells a businessman what to do if he suspects organized crime is trying to exploit his firm. The purpose of the book is to point out the symptoms of organized crime techniques to businessmen. It suggests what businessmen can do to combat these techniques, and it tells them where they can get help. It is written in such a manner that company supervisors can learn how to cope with organized crime techniques.

"Practically every type of business and industry in the United States is currently being exploited or penetrated . . . by a conglomerate of crime," the book warns.

It leads off with a description of the severity of the challenge that the organized underworld presents to the business community. It follows with a tabulated section that spells out the major organized crime threats that must be anticipated by business. The final section offers businessmen a blueprint for a counterattack against organized crime.

In releasing the book, Arch N. Booth, executive vice president of the National Chamber, said experts in the field of crime prevention, plus knowledgeable business leaders in a special study identified that of all crime, organized crime most directly and most seriously affects all business. He said the book will be helpful in protecting a legitimate business enterprise from organized crime and that it will also be helpful in protecting a businessman and his family from personal threats from organized crime racketeers.

"By and large, business has been a sitting duck for underworld sharpshooters," the book reports. How much organized crime reaps from its entry into legitimate business and industry is an open question, it continues. But it said one example is a single midwestern city where racketeers controlled or had large interests in 89 businesses with total assets of over $800 million.

The book contains a list of 87 business and industries in which organized crime has been known to be active. The list ranges from accounting, advertising, air freight, and auto agencies to vending machines, waterfront services, window washing and wire services. The book warns that the list is only partial.

The book alerts businessmen to the ways in which organized crime moves into legitimate business and industry. For example, one technique the book explains is the organized crime of planned bankruptcy fraud. The book reports the number of ways in which bankruptcy fraud is carried out.

It explains that one form of bankruptcy fraud is to set up a new company with an almost identical name and a similar address to that of a well known and highly creditworthy corporation. Capitalizing on the favorable credit rating of the well known firm,

racketeers proceed to order goods from misled suppliers. The fraudulent company then goes bankrupt without paying its bills.

The book warns businessmen to make sure credit and sales personnel are aware of such flam operations. It urges them to review dollar cut-off points for credit and to closely check credit accounts.

But beyond these good business practices the book warns that frequently victims of bankruptcy frauds are tempted to write off the account as a tax loss and be done with it. But the book urges against this practice and explains why. First, it is a disregard for the health of the business community and effective law enforcement. Second, such frauds tend to result in higher credit standards, and third, if a company appears to be so willing to be bilked once, organized crime may try a second and third time.

In addition, the book gives details on how to combat dummy or fraudulent associations, gambling, labor racketeering, loan sharking, monopoly and coercive competitive practices, illegal uses of stocks, bonds, credit cards, and illegal take-over of a legitimate business plus a number of other organized crime techniques. Editor's Note: Copies of the book are available from the News Department of the Chamber of Commerce of the United States.

JAMES L. HANBERRY—DENMARK, S.C., MAN A NATIONAL HERO

HON. ALBERT W. WATSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. WATSON. Mr. Speaker, one of the most remarkable acts of bravery in the history of this Nation occurred at the turn of the 20th century when 14 men volunteered for a human experiment by Maj. Walter Reed to find out the cause of yellow fever. Three of these courageous men were from South Carolina. Just recently, a portrait was dedicated to the memory of one of these great Americans—Mr. James Leonard Hanberry, a native of Denmark, S.C., which is in my congressional district. Mr. Hanberry passed away in 1961, almost 60 years to the day when he allowed himself to be bitten by a mosquito which carried the dreaded yellow fever.

Attending the unveiling of the portrait were members of Mr. Hanberry's immediate family, including his brother, Mr. Everett Hanberry, and the Hanberry children. A magnificent dedication address was delivered by Mr. Richard Rhame, of Orangeburg S.C.

Mr. Speaker, as a part of my remarks I would like to include a story written by Joyce Milkie and the text of Mr. Rhame's address as they appeared in the Orangeburg, S.C., Times and Democrat of September 21, as follows:

JAMES L. HANBERRY—DENMARK MAN A NATIONAL HERO

(By Joyce W. Milkie)

More than 150 people gathered last Sunday afternoon at the Salley Archives Building to pay homage to the memory of James Leonard Hanberry, one of fourteen yellow fever volunteers, whose bravery and sacrifice helped to defeat this dread disease.

Hanberry, who was honored many times during his lifetime, was born in Denmark, S.C., but lived much of the latter part of his life in Orangeburg. One of his daughters, Mrs. B. Earle King, and a number of grandchildren and great grandchildren also reside in Orangeburg.

The overflow crowd stood for more than an hour waiting for the ceremony to begin. They were there to witness the unveiling of an oil painting of Hanberry by noted Orangeburg artist, Gerald Foster. The portrait, presented to the family of Mr. Hanberry by the artist, was in turn given to the Historical Society and will be hung in the Archives Building on Middleton St., Orangeburg.

Sons and daughters, a brother, and great grandchildren of Mr. Hanberry were present as the president of the Historical Society, Mike Salley, introduced the speaker for the afternoon, Richard Rhame.

Rhame told the story of Hanberry's heroic act, also giving full credit to another Denmark man, C. G. Sonntag, who was also a volunteer. Rhame emphasized that Hanberry offered himself for this dangerous feat for one reason—"It was the right thing to do."

Hanberry was discharged from the service immediately following the end of the Spanish American War. He re-enlisted December 18, 1898 and was discharged Dec. 12, 1901, on his birthday.

On Feb. 28, 1929, the Congress of the United States ordered gold medals to be struck to present to the 14 members of Dr. Walter Reed's famous group of volunteers. Their names also appear each year on a roll of honor in the official Army Register.

Hanberry's "Congressional Medal" was one of his most highly prized possessions; it is now safely encased in glass at the Archives Building, along with other memorabilia. The fever chart showing the list of volunteers, their dates of infection by the dread disease and the fantastically soaring fevers they suffered, is also at the Archives Building.

Rhame said it was interesting to note how closely South Carolina is associated with this great feat of history.

Four of the volunteers were, of course, Cuban. Three were from South Carolina, including Hanberry and Sonntag, both from Denmark, and Levi Falk of Newberry. One man from North Carolina enlisted with the South Carolina men initially, and another, from Florida, moved to South Carolina later and is buried at Spartanburg.

"This," Rhame said, "is indeed a proud record for our State."

Mr. Sonntag is buried in Arlington National Cemetery.

The handsome portrait was unveiled by two of Mr. Hanberry's great grandchildren, Debbi and Mary Paige Hutto of Orangeburg.

Present also for the occasion was Mr. Everett Hanberry of Denmark, brother of James Leonard Hanberry; and the Hanberry children, Joe M. Hanberry of Little Mountain, James L. Hanberry of Greenwood, Mrs. H. L. Dantzler, Mrs. J. D. Patrick, and Mrs. Earle King of Orangeburg.

TEXT OF PORTRAIT DEDICATION ADDRESS

CONTRASTING RECEPTIONS

"Just a few short months ago, all the world hailed the return of the brave lunar astronauts after they unfurled the American Flag on the 'Sea of Tranquility'—it was man's first step on the moon, destined to be ordained as one of civilization's greatest feats. Accolades from the leaders of the world—homage from all the people—multitudes lining the streets of the great cities to catch a fleeting glimpse of the returning heroes. Surely such praise and adulation were deserved—a new conquest had been completed in man's never ceasing search for knowledge.

"Contrast this reception for these three brave outer-space explorers just a little less than half a year ago with the reception accorded that small group of men returning from Cuba little more than half a century ago who, with no thought—nor expectation—of personal glory, unlocked the mystery of one of mankind's greatest killers: yellow fever.

GENERALLY IGNORED

"Except in small scientific and medical circles, little was heard of the accomplishments of the Yellow Fever Commission, headed by Major Walter Reed, U.S. Army. Their return was uneventful and generally ignored by the world—their contribution to all humanity was not acknowledged for over a quarter century.

"Today, 68 years later, we honor the memory of one of those heroes whose unselfish devotion to his fellowman resulted in greater benefits to the human race, at a far smaller material cost, than the launch of a single rocket.

"And this hero we honor today was one of our own: James Leonard Hanberry.

HE KNEW HIS ENEMY

"Mr. Hanberry had known 'Yellow Jack' as a child—his mother had been a victim of it in her youth. He knew what happened when the Yellow Fever Plague descended upon the great cities in both this, the new world, and in the old world—he knew how the populations of Charleston, New Orleans, Memphis, Washington, Philadelphia, and even New York were decimated—bodies stacked in the streets like cords of wood—destruction of homes and possessions of those thought contaminated. Mr. Hanberry knew 'Yellow Jack' while serving in the Hospital Corps of the Army during the War With Spain and the occupation of Cuba that followed. And his knowledge there was an intimate knowledge as he ministered to the sick and dying at Columbia Barracks near Havana, Cuba.

"With the fearsome knowledge he had of Yellow Fever, James L. Hanberry unhesitatingly stepped forward, one of 14 men, when the call went out from the Commission for Volunteers to participate in the previously unheard of human exeprimentation proposed by Major Reed to try to determine the unknown cause of the killer disease—more deadly than the bullets of the enemy during the recently completed conflict.

GREAT RISKS, DANGERS

"Mr. Hanberry committed himself to cross a threshold fraught with greater risks and dangers than those brave men who entered their space vehicles, bound for the moon—the mission of the astronauts had the combined knowledge of thousands at their disposal: Mr. Hanberry and that small band of fellow volunteers embarked upon their adventure with little more than an uncertain hope of survival, and the knowledge of four doctors—an uncertain knowledge buoyed up by faith, trust, and confidence.

"The mosquito had been suspect by a few scientists as a factor to be reckoned with—but proof had never been established. The only sure proof had to entail the engagement of uncertain, dangerous, unpopular human experimentation, scientifically ordered and controlled. The role in the Yellow Fever drama played by the insect must be determined—if it existed. It was vital to determine whether, in truth, one victim of Yellow Fever might infect others by personal or property contact—the theory commonly accepted at the time as the primary cause of the spread of the fever.

STRICT QUARANTINE

"Major Reed persuaded the authorities to segregate, under strict quarantine, a portion of Columbia Barracks for use in the experiment. This section of the military base—apart from all the remainder—was named Camp Lazear in honor of Dr. Lazear, a member of the Yellow Fever Commission who had succumbed to the disease a short time before the start of the experiment. Camp Lazear was the focal point for all the work of the commission—it became the home of the little band of volunteers. Several huts, including the 'Pest House,' were prepared according to the specifications of the commission.

"Mr. Hanberry, and his friend, C. G. Sonntag, also from Denmark, became residents of the 'Contamination Hut' where they lived secluded for a period of three weeks, seeing only those members of the staff assigned to them in carrying out the experiment. It was a lonely vigil they kept—cut off and isolated from friends and buddies.

"While confined in the stifling atmosphere of the sealed hut, they slept in the death shrouds of deceased victims of Yellow Fever—wore the clothing of those who had died—rested on the soiled beds and handled the possessions of the dead.

"In spite of this lengthy time, exhausted mentally from the psychological strain as well as physically from the inactivity of confinement, Mr. Hanberry suffered no ill effects related to the fever; hence, it was correctly concluded that the old theory of fever transmittal from person to person was in error.

"It staggers the imagination to reflect on the wanton destruction of life and property that had occurred over the years when it was thought that the plague was passed from person to person! Man's knowledge was immeasurably enriched as a result of those three weeks of agonizing experiments endured by Mr. Hanberry in the 'Contamination Hut.'

NEXT CRUCIAL STEP

"Now it was time to take the next crucial step: actual human infection by a mosquito which had fed from the veins of a Yellow Fever victim. And James Hanberry submitted to this second ordeal with full knowledge of the probable outcome—he permitted himself to be bitten by 'Mosquito No. 13,' an insect which had been carefully documented and chronicled as it sucked the blood of patients, delirious with fever.

CONSUMING FEVER

"Three days later—on Feb. 9, 1901—James L. Hanberry was seized by the consuming fever which registered above 105 degrees. For almost one month his body was tortured with pain and racked with convulsions but, with the youthful strength engendered by his wholesome life as a boy in Denmark, S.C., he successfully withstood the seige of the disease. Mr. Hanberry gave all credit for his recovery to his doctor and nurse. It was said by Dr. Roger Post Ames, the attending physician, that—'Mosquito No. 13 that bit Hanberry on Feb. 6, 1901, stopped 200 years of confusion, bitter controversy, horror, sickness and deaths.' And it was proved that man was only the temporary host and that the female stegomyia mosquito was not only the permanent host, but was infectious as long as she lived.

"The solution for the conquest of Yellow Fever was simple, once the transmittal agent was determined: destroy the breeding places of this deadly little insect and the Yellow Plague would evaporate. The world, armed with this great knowledge, was ready for liberation and mankind has been the victor once again. Had it not been for these experiments and the brave men who volunteered to be human guinea pigs, it is conceivable that there would have been no Apollo moon experiments—no Panama Canal, which had been thwarted previously when the French abandoned their efforts in 1880 because of the disease—mankind might still be stacking bodies on the streets.

"When he was asked why he submitted to the ordeal, Mr. Hanberry stated simply: 'Because it was the right thing to do.' And that answer typifies the man as we knew him—he did it because it was the right thing to do!

HUMOR, HUMILITY . . .

"We remember this brave man for his humor—his humility—and his courtliness—a man who was instrumental in quietly serving his fellow man in a great mission—without tumult and fanfare—and without expectations of any reward.

"Mr. Hanberry did not seek the noisy throngs—his was the personality of quiet reflection. He played his part in making the world a better place for all of God's children. He voluntarily gave his body as the instrument for human experimentation—and 'Greater Love Hath No Man.'

"It was our privilege to know him—it will be our great pride to point to his portrait in this building and say to those who did not know him: 'There is a Southern gentleman who placed the welfare of his countrymen far above his personal consideration.'

LET US REMEMBER

"Let us be forever mindful of his contribution to our health and well-being—and to the health of generations in all the world for ages to come.

"Let us Remember The Maine—Teddy Roosevelt and his 'Rough Riders'—Admiral George Dewey—but, above all, let us remember James Leonard Hanberry, born in Denmark, S.C., on December 12, 1875—died on February 27, 1961."

LAW PROFESSOR CALLS FOR CHANGE IN CONSENT DECREE APPLICATION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. BROWN of California. Mr. Speaker, at issue in the controversy over the Justice Department's move to enter a negotiated agreement to resolve the pending antitrust suit against automobile manufacturers accused of retarding development of smog controls is the legal tool of the consent decree.

Recently, I received an article from the April 1968 Iowa Law Review by Prof. John J. Flynn, of the University of Utah Law School, which takes a thorough and analytical look into the use and practice of the consent judgment. In addition, Professor Flynn makes some perceptive suggestions regarding improvement of the consent decree mechanism.

I found Professor Flynn's article to be an important contribution in the smog antitrust case at point, and I now insert it in the RECORD and recommend that my colleagues give this analysis serious consideration:

CONSENT DECREES IN ANTITRUST ENFORCEMENT: SOME THOUGHTS AND PROPOSALS*

(By John J. Flynn**)

The use of consent decree in federal civil antitrust enforcement is a widespread practice. The consent decree has proved to be an efficient enforcement tool and has received an increasing acceptance as such among the states. Professor Flynn examines the content and effect of the consent decree, its growth as an effective governmental procedure, and the recurring problems involved with its usage. In conclusion, he poses some practical suggestions for maximizing the use of the decree as a regulatory antitrust remedy.

The most widely used antitrust remedy in federal civil enforcement is the consent decree.[1] There is evidence that it is also becoming a common remedy in those states which are actively enforcing their antitrust laws. Although neither the federal, nor the state, antitrust laws expressly or directly authorize the use of the consent decree as a remedial device, it has been widely accepted as the primary remedy in public civil antitrust enforcement. The history and evolution of the antitrust consent decree constitutes an interesting chapter in the development of the legal process to accommodate the task of the adequately enforcing antitrust policy with a relatively limited and static budget in an increasingly complex society. Almost like the process of creating a common-law fiction to overcome a theoretical obstacle of substantive or procedural law, the judiciary and the bar have evolved a legal process to overcome a practical obstacle of substantive and procedural antitrust law—the expeditious enforcement of antitrust policy in a judicial setting. It shall be the purpose of this article to examine the development of consent decrees as an antitrust remedy, to examine their content, and to make suggestions concerning some of the recurring problems with antitrust consent decrees.

I. HISTORY AND EVOLUTION OF THE CONSENT DECREE

The first use of a consent decree in antitrust enforcement was in *United States v. Otis Elevator Company* in 1906.[2] Apparently drawing from the analogy of settlements in private civil litigation, the Government and the defendant entered into a stipulation, with the force and effect of an injunction, dismissing their case. Since that time, the consent decree has been used with increasing frequency, to the point where eighty-seven percent of all the civil antitrust cases pursued to remedy by the federal government during the decade of the fifties were settled by consent decrees.[3]

The constitutionality and the statutory validity of consent decrees were firmly established by the 1928 decision of the United States Supreme Court in *Swift and Company v. United States.*[4] The Court held that federal courts had jurisdiction to entertain antitrust consent decrees and that the only grounds of atack available on appeal are clerical errors, lack of consent, fraud, and lack of subject matter jurisdiction. Consequently, provisions of the decree based upon erroneous factual or legal conclusions, provisions which enjoin intrastate activities, provisions which are vague and general, and provisions which go beyond the scope of the antitrust laws are barred from attack on appeal because of the defendant's consent to the decree.[5]

The use of consent decrees to terminate antitrust litigation was stimulated by the enactment of the Clayton Act in 1914. Section 5(a) of the Clayton Act provides that a final judgment or decree "rendered in any civil or criminal proceedings brought by or on behalf of the United States under the antitrust laws" is to be given prima facie effect "as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto" in private treble damage actions under section 4 of the Clayton Act and single damage actions by the United States under section 4A of the Clayton Act.[6] Incentive to enter into a consent decree was stimulated by the proviso to section 5: "that this section shall not apply to consent judgments or decrees entered before any testimony has been taken or to judgments or decrees entered in actions under Section 4A."[7] A noticeable increase in consent decrees, which should not necessarily be solely attributable to sections 4 and 5 of the Clayton Act, took place after the passage of the Clayton Act.[8]

A peculiarity of consent decree litigation under the federal antitrust laws has been the almost exclusive use of this device in government civil antitrust enforcement. Although it has been pointed out that the theoretical basis for consent decree "emerges out of the very process of litigation" and that "settlement out of court is one of the oldest of legal usages," this writer has only uncovered one reported consent decree in a private equity action under the federal anti-

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trust laws, *A. O. Novander, Inc. v. Chapel Hill Gardens, Inc.*[9] The *Novander* case should not necessarily be considered an important instance of the use of the consent decree in private litigation, since the decree was based upon a consent decree entered against the same defendant in an earlier government antitrust action.[10] There is also little evidence to indicate widespread but unreported use of consent decrees in private antitrust equity suits.[11] The stimulus of the section 5(a) proviso of the Clayton Act is, of course, not present in a suit brought under the antitrust laws by a private litigant, and private injunctive cases are not numerous.[12] Moreover, it is likely that the private litigant does not have the additional bargaining leverage present in public enforcement because he does not have the government's unlimited resources, excellent investigative assistance, threat to bring criminal charges, and trained counsel. But there is no statutory limitation upon the power of litigants in private equity actions under the antitrust laws to settle their case and obtain a judicially enforced decree by entering into a consent decree.

At the state level, the general absence of state antitrust enforcement and the lack of official reporting until recent times of what little enforcement there was has restricted the development of consent decrees as a state enforcement weapon. The Tennessee antitrust statute specifically authorizes consent decrees against cooperative marketing associations restraining or monopolizing trade,[13] and Washington's new antitrust statute provides for a general remedy called "assurance of discontinuance." [14] Aside from being a vague and ambiguous remedy, the Washington provision seems to limit relief to negative proscriptions upon past conduct and does not appear to authorize affirmative relief in antitrust consent decrees.[15]

Other states have utilized consent decrees as an antitrust remedy in public enforcement, apparently upon the presumption that the power to bring civil actions includes the power to settle the dispute by consent decree. New York has reportedly used consent decrees to enjoin coercion in the installment loan contract business,[16] to enjoin bid rigging in state construction contracts,[17] and to enjoin monopolization.[18] Texas has long utilized consent settlements in civil forfeiture cases and recently found occasion to utilize a consent decree to prevent an anticompetitive merger.[19] Hawaii obtained dissolution of a motion picture theatre chain into two chains by a consent decree following a monopolization charge,[20] and California obtained a consent decree barring publication, adoption, or adherence to price schedules for real estate brokerage fees.[21] Thus, there is some evidence of the use of consent decrees as a state antitrust remedy, particularly in those states which have been actively enforcing their antitrust statutes over a sustained period of time.

As a general proposition, however, the development of the use of consent decrees in federal and state antitrust enforcement has been a gradual process resulting in the creation of a unique remedial device used in the vast majority of public civil antitrust cases. The remedy has grown by custom and usage with little direction provided by legislatures or the judiciary, and with relatively scant attention paid to the nature and content of decrees by the bar and the academic world. The analysis here will focus primarily on the use of consent decrees as a federal antitrust enforcement tool; however, the principles are equally applicable to state utilization of this remedial device.

II. THE NATURE AND CONTENT OF CONSENT DECREES

The consent decree has been described as "[A] compromise between two parties in a civil suit; the exact terms [of which] are fixed by negotiation between the parties and formalized by the signature of the federal district judge." [22] This definition is somewhat vague, not only because of the use of the obscure word of corporate folklore "formalized," but also because it does not accurately describe the process of negotiation, the judicial implementation, and the legal consequence of consent decrees. The process of negotiation can best be described as being similar to contract negotiations. Hamilton and Till's description of consent decree negotiations twenty-five years ago is still apt:

> Questions do not have to be transmuted into the alien language of the law; the procedures ordained for ordinary courtroom use do not obtrude with their distractions. The parties meet in informal conference; no weight of intent and harm hangs heavy overhead; fact and value do not have to trickle into the discussion through the conventional rules of evidence. An opportunity is presented to a group of men, sitting around a table, to reach a settlement grounded in industrial reality and the demands of public policy.[23]

Although the context of negotiation may differ from normal business contract negotiations, the essence of what is transpiring does not differ. The parties are engaged in a bargaining process, the Government offering to refrain from formal litigation in return for the defendant's consent to a legally binding "contract," backed by the sanction of contempt, obligating the defendant to refrain from certain conduct or to engage in a certain form of conduct. The very form of the decree illustrates the contractual bargaining nature of consent decree procedure since the decree's preamble states the Government's *quid* [24] and the balance of the decree states the defendant's *pro quo*.

At best, judicial implementation of consent decrees in most cases can only be analogized to the performance of a symbolic religious rite by a high priest, or, at worst, as the performance of an important public function with the machine-like logic of a chiclet dispenser. The analogy to a symbolic religious rite is apt since the placing of the judicial *imprimatur* upon a consent decree is akin to the symbolic act of spinning a prayer wheel, sprinkling water on an individual, or slaughtering an animal on an altar. The act itself is meaningless and often done with little concern about the act, but the symbolic meaning and consequence of the act is usually of great significance to the believers. The chiclet dispenser analogy is apt since the performance usually entails the following of certain mechanical steps with no rationalization or understanding of what is being done. Thus, the court is presented with a negotiated "contract" with little or no understanding of its background, content, or consequences, and mechanically performs the rite of stamping the contract with the approval of the judiciary.[25]

The consequences of a consent decree implemented by a court's *imprimatur* have often been analogized to the effect of an injunction. It is considered to be an order of the court adopting the decree and is enforced by contempt proceedings. But the analogy limps somewhat since the defendant to a litigated decree can appeal the findings of fact and conclusions of law to a higher tribunal. A consent decree, stamped by a court with its *imprimatur*, contains none of these attributes of a litigated injunctive decree. It can only be attacked on appeal for clerical error, lack of consent, fraud, lack of subject matter jurisdiction,[26] and, apparently, failure to carry out an appellate court's previous orders.[27] In effect, therefore, the consent decree is analogous to an injunctive decree with res judicata effect since the enumerated grounds for attacking a consent decree are similar to the limited grounds for collateral attack upon a final judgment which has become res judicata.

Thus, a consent decree in an antitrust case may be defined as the negotiation of an agreement by the parties to a civil antitrust claim; submitted to and adopted by a proper judicial tribunal without explanation or understanding of the circumstances and consequences of the agreement; which is given the effect and attributes of a res judicata injunctive decree by the parties and any tribunal in the future which may have occasion to interpret or enforce the decree. For all practical purposes, therefore, consent decrees may be viewed as a hybrid remedial device with many of the characteristics of a common-law fiction.

The basic content of consent decrees may be divided into routine provisions found in almost all decrees and provisions designed to eliminate alleged violations and prevent future violations by the defendant who happens to be involved in the particular case. The preamble or introductory portion of a consent decree enumerates prior procedural steps of the parties, denial of the substantive allegations of the Government's complaint, a statement that the parties have consented to the entry of "this judgment," that there has been no trial or adjudication of any issue of fact or law, that neither party has made any admission regarding any issue of fact or law, and that no testimony has been taken.[28] At times the preamble to the decree is varied to meet the situation of capitulation and consent to a decree by less than all the alleged defendant conspirators [29] or to dismiss certain specific counts of the complaint without prejudice.[30] In at least one case, the trial court inserted as a preamble to the consent decree the background and circumstances which induced the parties to negotiate the decree.[31] But the general purpose of the preamble to a consent decree seems to be the defining of the nature of the consent decree so that no question may be raised as to the application of the prima facie case provision of section 5(a) of the Clayton Act in subsequent treble damage actions.

The first three and last two numbered provisions of consent decrees normally consist of "boilerplate" provisions. Part I of the decree states that the court has subject matter and in personam jurisdiction, and specifies that a complaint has been stated upon which relief can be granted under a particular section of the antitrust laws.[32] Part II of most decrees is a definitional section defining products, practices, or classifications of individuals involved in the text of the decree.[33] While litigants may find the exercise of defining terminology a boring task, it should be done with care since subsequent proceedings under the decree may turn upon the meaning attributed to a word or phrase in the decree.[34] Part III of most consent decrees consists of a provision defining the scope of application of the decree.[35] This section of the decree usually makes the decree applicable to the parties named in the complaint, and in the case of corporate defendants, to "the officers, directors, agents, employees, subsidiaries, successors and assigns and all other persons in active concert or participation with the defendant" who receive actual notice of the decree by personal service or otherwise.[36] No litigation concerning this phase of routine antitrust consent decree boilerplate has been discovered. It is highly doubtful, however, whether this provision of the decree would enable the Government to claim that persons, corporations, subsidiaries, and "all other persons in active concert or participation" with the defendant are legally bound by the decree in the absence of being made parties to the original complaint. Such an interpretation would violate generally accepted due process notice requirements. The primary value of inserting this type of provision, which claims too much, perhaps lies in its value as a deterrent to the legally unsophisticated director, agent,

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employee, subsidiary, assigns, and "all other persons" in active concert with the defendant.

A second section of this third general boilerplate provision in an antitrust consent decree usually consists of a declaration that the officers, directors, agents, employees, and subsidiaries of the defendant corporation, when acting in such capacity, are deemed to be one person for purposes of the consent decree. This provision may prevent a charge of intracorporate conspiracy to violate the consent decree. A more likely explanation for its inclusion, however, is the possibility that the Government believes such a provision will ease proof of corporate violation of the decree by eliminating the question of whether officers, agents, employees, or subsidiaries were acting on behalf of the corporation.

Some consent decrees have varied the "scope of application" boilerplate provision to meet peculiar circumstances. For example, some of the consent decrees designed to eliminate repetition of the price fixing conspiracy in the heavy electrical equipment industry expanded the purpose of the consent decree provision defining the decree's scope of application to include extemptions for foreign sales arrangements,[37] requirements of delivering the decree to corporate officials and employees of the defendant,[38] and requirements that the defendant establish a training program for corporate personnel to explain the meaning of the decree.[39] The inclusion of these provisions was obviously designed to avoid hardships created by the different considerations in foreign trade and to assist the implementation of the decree, particularly within the large corporations involved with their farflung and relatively independent subdivisions.

Many consent decress also contain an additional boilerplate provision designed to inform competitors, members of a defendant's distribution system, or buyers who may have been injured by a defendant's alleged anticompetitive behavior of the decree provisions. Such a provision may require mailing a copy of the decree to those with whom the defendant has existing contractual relations for the marketing of the defendant's products; [40] mailing a copy of the decree to all buyers of defendant's products within a certain period;[41] publication of the decree in trade journals where it will presumably be seen by members of a defendant's distribution system, competitors of the defendant, and customers of the defendant; [42] or distribution of the decree among the members of a defendant trade association.[43] By requiring a defendant to disseminate a consent decree internally and to all dealers, buyers, and competitors, the rights of those dealing with a defendant under the consent decree become widely known and decree enforcement may be stimulated by complaints from those who were given notice of the decree by the defendant's own hand.

Enforcement of a consent decree, however, need not depend upon surveillance by competitors, customers, or members of a defendant's distribution system. Standard boilerplate for all consent decrees is the insertion of visitation rights in favor of the Attorney General. Such a provision authorizes the Attorney General or his delegate, upon reasonable notice to the defendant and subject to legally recognized privileges: (1) access during office hours, to all books, ledgers, accounts, correspondence, memoranda, and other records in the defendant's possession relating to matters contained in the consent decree; and (2) the right to interview the defendant's officers and employees with regard to any of the matters contained in the consent decree. Abuse of the visitation power is circumscribed by the requirement that information gained pursuant to the visitation provisions of the decree may not be divulged except in legal proceedings to which the United States is a party for the purpose of securing compliance with the decree.[44] This broad visitation power is inserted in every consent decree for the obvious purpose of assisting Government enforcement of the decree. On the few occasions that the government has sought to utilize the right of visitation, however, the courts have restricted Government access to documents by holding that the Government does not have the right to make an initial selection of documents since the decree limits access to documents relevant to the decree,[45] and the Government does not have the right to be present when the defendant selects the documents relevant to the decree.[46] In effect, the provision providing visitation rights for the Government can be equated with the subpoena power and confers little power beyond the Civil Investigative Demand available by legislation.[47] The determination of what documents are "relevant" to matters in the decree permits wide flexibility and discretion to the individual making the selection of documents. While the Government may be expected to give a broad application to what is "relevant," the defendant may be expected to give a narrow application to "relevant" and thereby frustrate the practical value of the visitation provision. The only solution to this Hobson's choice is, perhaps, to allow the defendant to make the initial selection of documents in the presence of the Government. Otherwise documents the Government might consider relevant to the decree may be forever lost to flames born out of a defendant's judgment of irrelevancy.

A final boilerplate provision in most consent decrees is a provision retaining court jurisdiction for the purpose of judicial enforcement, modification, and construction of the decree.[48] In most consent decrees, this provision is not finite, there being no termination date placed upon the life of court retention of jurisdiction. Consequently, several major corporations, unions, trade associations, and individuals which have entered into consent decrees are theoretically required to conduct a part or all of their business operation forever subject to the rules and regulations of a court-entered decree and subject to contempt proceedings for violation of that decree. Although many, if not most, consent decrees are filed and forgotten by the defendants, the Government, and the courts,[49] a vast part of American industry is theoretically governed by over five hundred consent decrees—decrees without limitations in time and subject to enforcement even unto the second or third generation.[50]

An occasional decree has contained a provision for termination after the passage of a certain period of time or upon the happening of a stipulated event.[51] The termination of a decree after the passage of a certain amount of time seems to be used where a defendant is prohibited from exercising certain otherwise legal rights or market conditions may reasonably be expected to change after a certain time period.[52] Other explanations for automatic termination of a decree after the mere passage of time may exist, but the paucity of factual information surrounding the negotiation and entry of consent decrees make educated guesses hazardous at best. The almost impossible test for modification of a consent decree [53] should stimulate defendants to bargain for termination of the decree after the passage of a stipulated period of time. Except in cases where the decree restructures the entire market,[54] where extensive supervision is called for,[55] or when the recidivistic conduct of the defendant warrants the addition of the sanction of contempt proceedings,[56] the Government might also find value in automatic termination provisions. Consent decrees are just as difficult to modify for the Government [57] as they are for defendants. The Government may well find itself bound by a decree which the passage of time indicates has not restored competition.[58] Furthermore, the tendency of the Government to shift attention from an industry which has recently been subjected to antitrust investigation and litigation to another may heighten the Government's belief that since a consent decree has been entered the industry is then compelled to be on its good behavior. The general failure of the Government to enforce decrees is such a well-known phenomenon that the consent decree slap on the wrist and exhortation to go and sin no more may induce a sense of security on the part of defendants; security to sin some more while the enemy rests on its consent decree laurels. The knowledge that an industry is no longer subject to a particular consent decree may well stimulate new Government surveillance to assure that the habits of the past are not renewed upon consent decree termination.

The non-boilerplate provisions of a consent decree are as many and varied as the practices which violate the antitrust laws. The minerun antitrust violations have all been enjoined by many of the vast number of consent decrees entered to date.[59] Of course, a general prohibition to stop price fixing, group boycotts, or some other acknowledged antitrust violation usually leaves the Government with only the advantage of having an extra remedy—contempt of the court's decree. Proof of the decree violation and proof of a violation of the statute usually require the same evidence.

Many consent decrees, however, attempt to go beyond enjoining a defendant from doing what he is already required to avoid by statute. Decrees of this type seem to be drafted with a view toward eliminating the basic causes of the violation. For example, in *United States v. Standard Oil Company*,[60] six major producers of retail petroleum products were charged with restraining trade by vertical price fixing and group boycotts. The decree not only enjoined the end practices restraining trade, but sought to eliminate the factors causing the restraint by enjoining the defendants from belonging to any organization controlling west coast oil products or prices; enjoining boycotts of producers in the use of pipeline and storage facilities; enjoining purchase contracts beyond one year unless the seller is given termination rights; establishing detailed provisions governing retail dealer contracts and distributor agreements; enjoining fair trading; restricting requirement contracts on T.B.A.; and enjoining boycotts of dealers. Much of the relief was in the form of affirmative requirements designed to eradicate the pressures and means for restraining trade rather than negative prohibitions enjoining the defendants from doing something they were already prohibited from doing by statute.[61] Consequently, violations are easier to prove, and the main objectives of an antitrust equity decree, preventing future violations and rooting out the causes for past violations, are achieved.

Several decrees have gone beyond negative prohibitions and ordered affirmative relief. Divestiture [62] and dissolution [63] have not been uncommon. Other decrees have ordered patent licensing on a reasonable royalty basis [64] or on a royalty free basis.[65] Several decrees, particularly in cases involving alleged violation of section 7 of the Clayton Act, have restricted future acquisitions by shifting the burden to the defendant of proving that future acquisitions do not restrain trade.[66] Other unique provisions in recent consent decrees have included enjoining the use of fair trade agreements; [67] limiting a Clayton Act section 7 defendant to a stated percentage of a statewide market,[68] requiring the destruction of all papers and records allegedly used by a trade association to allocate customers; [69] obtaining consent to

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a limited admission that the consent decree defendant had violated section 1 of the Sherman Act for purposes of treble damage suits by state and local governments; [70] conditioning the issuance of trademark licenses upon the defendant obtaining future licensee submission to the consent decree; [71] providing a domestic agent for service of process for a foreign subsidiary engaged in alleged export restrictions; [72] restraining the use of patents to harass competition and potential customers; [73] forbidding the use of a particular delivered pricing system; [74] and requiring a defendant renting machines to send all lessees a bill of sale for no additional consideration.[75] In many of these cases, it is doubtful whether a court would have ordered similar relief and in most of these cases it is impossible to determine the effectiveness of the relief obtained since little else is ever heard of a consent decree after its adoption by a court. In all of these cases, however, legitimate questions may be raised as to whether private rights and the public interest were adequately protected by the procedures followed by the parties in negotiating the decree. As will be developed later, the procedure for negotiating consent decrees leaves affected third parties with a weak position from which to protect their rights and interests, and the bargain the Antitrust Division has presumably struck for the public interest is subject to little or no independent review by an unbiased tribunal.

III. THE CONSENT DECREE'S ROLE AND VALUE IN ANTITRUST ENFORCEMENT

The sheer number of consent decrees entered in antitrust cases and the obvious willingness of government and private litigants to seek termination of civil litigation by consent indicates that antitrust consent decrees have several inherent values. For the Government, the antitrust consent decree is a relatively inexpensive and rapid method of enforcement. In turn, more extensive enforcement per enforcement dollar may be obtained. Moreover, the Government often has the opportunity to obtain broader and more radical relief,[76] particularly in cases where judicially acceptable evidence is difficult to obtain, than would be possible if the case were litigated and subject to the rules of evidence and judicial reluctance to impose broad and comprehensive remedial relief. In addition, substantive antitrust policy may be extended in antitrust consent decree negotiations; the Government is relatively free to indulge in experimentation with antitrust remedies; future cases against the same defendant may be governed by decree provisions shifting the burden of proof; [77] particular activity within an industry may be subjected to continual supervision; and far-ranging bargaining with an industry or particular firm may be engaged in for the purpose of settling a whole range of government-business problems beyond the basic antitrust complaint, away from public and judicial scrutiny.[78]

The consent decree defendant may also obtain several advantages. By entering into a consent decree, the defendant avoids the threat of a prima facie case for treble damage actions inherent in litigated cases under section 5(a) of the Clayton Act. The relative informality and secrecy accompanying consent decree negotiations also avoids the expense, inconvenience, and notoriety of protracted litigation. A further advantage to today's image-conscious businessman and corporation is the maintenance of an antitrust-pure reputation, since the consent decree is not an adjudication of an antitrust violation. Of a more subtle nature, but often of great value, are the advantages of being able to exert political and other outside pressures during consent decree negotiations which are unavailable or highly dangerous in a court room,[79] the avoidance of business disruptions and expense by extensive discovery if a trial were to be held, obtaining concessions in the decree which might not be permitted if a full trial were to be held, escaping contractual or other obligations involving third parties,[80] and insulating practices from government attack which prediction might suggest would be considered violations in the mind of the judiciary.[81]

The courts benefit by the extensive use of consent decrees in anti-trust cases since complicated and time consuming litigation is removed from crowded trial dockets. Trial courts avoid appellate reversal because of procedural, evidentiary, and substantive errors while retaining a semblance of judicial participation in antitrust enforcement.[82]

To some extent the interest of competitors of and those associated with an antitrust defendant are protected by the Antitrust Division's policy of filing proposed consent decrees thirty days prior to the effective date of the decree. Theoretically, those affected by the decree, but not named as parties, have an opportunity to present their views prior to the formal adoption of the decree by the court.[83] These views are presented to the Antitrust Division, not the court considering the decree. Consequently, an "affected person's" interests may only be reflected in the consent decree if the Antitrust Division chooses to do so.

Th only other avenue of approach for an "affected person," not a party to the suit, is by intervention under rule 24 of the Federal Rules of Civil Procedure. Federal courts have been more than reluctant to permit intervention in the framing or modification of consent decrees. In most cases the courts have been hostile to the intervenor on the grounds that the framing of a consent decree by negotiation would be frustrated by piecemeal intervention [84] or that that Justice Department will represent "affected persons" while representing the public interest.[85] The anti-intervention stand of the courts, however, may be undergoing change if the implications of the Supreme Court's language in *Cascade Natural Gas Corporation v. El Paso Natural Gas Company* [86] are carried to their natural conclusion.

In *Cascade* the district court denied intervention to the state of California, a Southern California electrical utility, and an Oregon-Washington natural gas distributor seeking to intervene in divestiture proceedings pursuant to a Supreme Court mandate holding that El Paso's acquisition of Northwest Pipeline Corporation violated section 7 of the Clayton Act and ordering divestiture without delay.[87] Rule 24(a) of the Federal Rules of Civil Procedure states that intervention may be had as a matter of right "(1) when a statute of the United States confers an unconditional right to intervene;" or "(2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties." [88] The Supreme Court held that all three applicants were entitled to intervene as a matter of right; the state of California and the Southern California public utility under the narrower standard of old rule 24(a)(3),[89] and the Oregon-Washington natural gas distributor under the broader standard of amended rule 24(a)(2). The state and the public utility were held to be the direct victims of the antitrust violation and "'so situated' geographically as to be 'adversely affected' within the meaning of rule 24(a)(3) by a merger that reduces the competitive factor in natural gas available to California." [90] The Oregon-Washington distributor, Cascade, was entitled to intervene of right because it had "'an interest' in the 'transaction which is the subject of the action'" [91] and "the 'existing parties' have fallen far short of representing its interests." [92] Although Cascade's interest was geographically remote, the proposed divestiture plan allegedly created a new firm with substantially less gas reserves than the merged company, thereby endangering the reliability of Cascade's source of supply. If the full implications of holding Cascade's "interest" sufficient to obtain intervention of right are realized in subsequent antitrust litigation involving intervention under rule 24(a), apparently the intervenor's interest need not be as direct as those of a competitor or a direct victim of the illegal conduct being corrected in tthe remedial phase of antitrust litigation. The *Cascade* case implies that customers and suppliers of an antitrust defendant may have a right to intervene even though the effect of an antitrust decree may be indirect in its effect upon the intervenor.

In addition to showing "an interest . . . which is the subject of the action", the intervenor must show that "he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicants interest is adequately represented by existing parties." [93] This requirement should prove to be far more troublesome for prospective intervenors in antitrust consent decree proceedings. The Antitrust Division theoretically repersents the public interest in consent decree proceedings, although a recent congressional study [94] and the *Cascade* case [95] cast doubt on this theory. The Antitrust Division consistently resists moves to intervene on the grounds that the Division adequately represents the interests of prospective intervenors while representing the public interest, that the thirty-day advance filing of proposed decrees before they are entered provides adequate opportunity for third parties to present their views, that intervenors are pursuing ther own interests which may conflict with the public interest, and that intervention so complicates the consent decree process as to sacrifice the Government advantage of expeditious and economic enforcement.[96]

In *Cascade*, the Court avoided a decision on what showing an intervenor must make in antitrust equity proceedings in order to satisfy the requirement that his interest is not "adequately represented by existing parties." While noting that enforcement of a public law may also demand protection of private interests which may not be adequately safeguarded, absent intervention, by enforcement officials or judcial discretion to grant permissive intervention,[97] the Court expressly disclaimed any intention of interfering with the Attorney General's authority to settle antitrust cases.[98] The Court avoided the issue by viewing the proposed divestiture decree as a stipulation circumventing the Court's earlier mandate ordering divestiture without delay,[99] and consequently, the intervenors were not adequately represented in the formulation of a decree pursuant to the Court's earlier order.

The implications of this case, therefore, are difficult to assess. In the absence of an appellate court mandate violated by a proposed decree entered between the Government and a defendant, an intervenor must allege facts demonstrating that the Government does not adequately represent his interest. As the *Cascade* opinion points out, this may often happen in public law enforcement. Yet, as the Assistant Attorney General for the Antitrust Division pointed out, allowing all those with an interest in the matter being settled by a consent decree intervention of right, may so complicate consent decree procedures as to eliminate the values those decrees provide as efficient and economical antitrust remedies.

The dilemma is created because of the application of the broader standards for intervention used in the judicial process, to a process which is essentially "administrative"

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in character.[100] The Assistant Attorney General's objection to intervention in consent decree proceedings is based upon preservation of the administrative process, rather than the standards of rule 24(a) which measure the right to intervene by the intervenor's interest and whether that interest is being adequately protected. So long as the guarantees of the administrative process [101] are not present in the consent decree process, private interests affected by a consent decree may justifiably claim a right to intervene beyond the limited right to file objections with the Antitrust Division during the thirty days between publication and entry of the decree. [102] Third party interests cannot always be adequately protected in the private negotiations between the Antitrust Division and an antitrust defendant, and the sacrifice of a particular private interest may often occur because of the practicalities of the bargaining situation involved, or because of political or other extraneous factors which might influence a particular antitrust case. Until the consent decree process is recognized for what it is—an administrative proceeding without any of the trappings of traditional procedures in administrative actions—the courts may be well advised to look with suspicion upon the claim that particular private interests of third parties are protected by the Antitrust Division and that the Antitrust Division necessarily always represents the public interest in consent decree negotiations.

The resistance of the Antitrust Division and the courts to formal intervention has been circumvented to a limited degree. In cases involving decree modification, federal courts have been liberal in allowing amicus briefs to be filed by affected persons.[103] The trend toward use of amicus briefs has been most evident in attempts to modify the famous motion picture consent decrees spawned by *United States v. Paramount Pictures, Inc.*[104] Each of the decrees required the divested circuit exhibitors to prove to the court supervising enforcement of the decrees that subsequent acquisitions of theatres would not unduly restrain competition. As the theatre circuits have expanded to modernize theatre holdings, meet shifts in population, and meet changes in theatre-going habits,[105] applications to the court under the decrees to acquire existing theatres to build new ones have evoked complaints from existing theatre owners in the affected markets. Competitor complaints about theatre acquisitions by the consent decree defendants have been heard by way of amicus curiae brief.[106] Consequently, the interest of competitors and others who may be affected by a consent decree or decree modification, but are not parties, must be protected by the Antitrust Division if intervention is not permitted, and by the slender reed of an amicus brief, if permitted, or by filing an objection with the Antitrust Division during the thirty-day waiting period before the decree becomes final.

Two recent developments in consent decree negotiations, the so-called "asphalt clause" and entry of a decree without the Government's consent, are further attempts to protect third parties injured by an antitrust defendant's violations. They also are an attempt to protect an antitrust defendant from allegedly unreasonable demands for decree provisions by the Government.

The "asphalt clause" was added to the antitrust consent decree lexicon by a provision inserted in consent decrees entered against ten sellers of asphalt, road tar, and bituminous concrete.[107] The defendants were charged with rigging bids in sales to state and local governments in Massachusetts, New Hampshire, and Maine. The "asphalt clause" of the decree enjoined the defendants from denying the prima facie effect of the decree in treble damage actions filed by state and local agencies prior to entry of the decree.[108] The obvious purpose of the clause was to assist state and local governmental agencies in damage actions against the antitrust defendants.[109] Such an object has the salutary effect of assisting a special class of "private" litigants to recover monetary damages for injuries caused by the antitrust violation, while at the same time assisting the national public interest in preventing a continuation of the violation. Moreover, the taxpaying public is not put to the expense of two investigations and trials. Asphalt clauses, however, saddle the consent decree program with a complicating factor which might stiffen an antitrust defendant's resistance to settlement if there is any chance of escaping an adverse judgment at trial. Additionally, the Antitrust Division is placed in the position of fostering two interests—the national government's interest in ending an injury to national trade and commerce and a state's interest in recovering damages for an injury caused by the antitrust violation. As Judge Wyzanski noted in *United States* v. *Lake Asphalt and Petroleum Company,*[110] the Antitrust Division may well find itself in the delicate position of representing divergent interests of conflicting equities.[111]

In the only other case in which the Government demanded an asphalt clause as the price of consent, *United States* v. *Brunswick-Balke-Collender Company,*[112] Judge Tehan found a more fundamental objection to the asphalt clause and entered the consent decree, minus the asphalt clause, without the Government's consent. Relying on *Twin Ports Oil Company* v. *Pure Oil Company,*[113] Judge Tehan found that an antitrust defendant has a "right" under the proviso of section 5 of the Clayton Act "to avoid the 'prima facie evidence' sanction by capitulation" in the form of a consent decree.[114] The asphalt clause was viewed as an "unauthorized attempt on the part of an administrative agency to avoid [the] congressional intent" to give antitrust defendants the "right" to escape the prima facie effect of section 5 of the Clayton Act.[115]

A basic difficulty with Judge Tehan's attack on the asphalt clause is the fact that section 5 of the Clayton Act was not intended to confer any rights on antitrust defendants. To the contrary, section 5 was intended to benefit third parties injured by an antitrust violation [116] and provide a stimulus to defendants to settle for the benefit of efficient government enforcement.[117] Rather than being contrary to the congressional purpose for enacting section 5 of the Clayton Act, the asphalt clause seems to be a unique device for carrying out the two major congressional purposes behind section 5—to assist injured third parties and to obtain efficient government enforcement by consent decrees.[118] Indiscriminate use of the asphalt clause might well hamper the purpose of stimulating capitulation by defendants, but the selective use of asphalt clauses in cases where the Government has a strong case and the injured third parties to be benefited are public agencies or persons unable to litigate a treble damage action seems a worthwhile policy the Government should follow. In this way a further deterrent will be added to the antitrust arsenal, the public purse will be spared the expense of duplicating investigations and litigation, third parties injured by antitrust violations will be spared the cost of litigating a complex damage claim, and the courts will be spared the burden of several treble damage suits spawned by successful government unmasking of an antitrust violation.[119]

The *Brunswisk* case also raised the issue of whether a consent decree can be entered without the Government's consent.[120] While entering a consent decree without the Government's consent might seem contradictory, defendants in antitrust cases should find comfort in the possibility. Arbitrary and unreasonable demands made by the Government as the price of Government concession may be voided by the court entering a proposed decree to which the Government has not consented.[121]

The issue was squarely presented to the Supreme Court in *United States* v. *Ward Baking Company.*[122] The district court had entered a consent decree without the Government's consent.[123] The Government's refusal to consent was based upon the contention that the decree omitted two necessary items of relief. The district court ruled that the claimed additional items of relief would not be awarded to the plaintiff after a trial of the case and therefore the court could enter the decree without Government consent. The Supreme Court avoided the fundamental issue of whether a consent decree could be entered without the Government's consent and reversed the district court on the lower court's own standard. The Court held the additional relief sought by the Government had a reasonable basis under the circumstances and that a bona fide disagreement concerning substantive items of relief existed, which could only be resolved by trial. The *Ward* decision seems to indicate that there may be some circumstances where a consent decree can be entered without the consent of the Government, even though the court expressly limited its holding to the particular facts there present.[124] By deciding the case on the standards applied by the district court the decision seems to indicate that "the Government does not have an unqualified right . . . to force the trial of a case because the defendant will not accept some substantive terms of a proposed decree—terms which the court can state before the trial it would not grant after trial even if the Justice Department proved its case. . . ." [125] Such a result is consonant with the libertarian's view of judicial review as a method of preventing arbitrary government action and with the view that a consent decree is more than merely a contract between private litigants. But the practical problems entailed in applying judicial control to the content of consent decrees may well prove to be a vexing problem. A novel solution to the problem was used in *United States* v. *Standard Oil Company.*[126] In that case, consent decree negotiations broke down over Government insistence that the defendants divest certain assets. The trial court held a hypothetical trial of the issue to determine whether divestiture would be granted if a full trial were held. Upon deciding divestiture would not be granted if a full trial were held, the parties agreed to a consent decree without divestiture. The difficulty with this procedure is that it skirts perilously close to the language of the section 5(a) proviso of the Clayton Act exempting consent decrees from the prima facie effect of antitrust judgments. The proviso only exempts "consent judgments or decrees entered before *any testimony* has been taken. . . ." [127] Moreover, the procedure of hypothetical trials to induce consent decrees weakens the Government's potent bargaining weapon of a full trial and the application of section 5(a) of the Clayton Act in subsequent treble damage actions.

Perhaps the only solution to the dilemma of preserving the freedom of the parties in consent decree negotiations while retaining sufficient judicial control so that arbitrary and excessive demands by the Government are not imposed as the price of Government consent is to permit entry of consent decrees over Government objection in cases where an antitrust defendant is able to carry the burden of demonstrating that the relief demanded is in no way related to the case.

IV. SOME SUGGESTIONS FOR IMPROVEMENT OF THE CONSENT DECREE PROCESS

There is some evidence of increased imagination in the formulation of antitrust con-

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sent decrees by the Government. Rather than settle for routine prohibitions of conduct already barred by the statute, the Government seems to be demanding relief directed at the causal factors behind the antitrust violation. To some extent more consent decrees are framed as regulatory standards to govern such conduct as a defendant's relationship with customers and suppliers rather than as a list of negative prohibitions. To the extent that such a trend acknowledges that many antitrust violations are symptomatic of structural factors rather than anticompetitive behavior, it should be encouraged. Indeed, it is difficult to see the value of simply enjoining anticompetitive behavior which is already outlawed by statute in the absence of vesting a right of action to enforce the decree in private persons who are injured by a violation of the decree.[128] The Government's failure to enforce decrees, the questionable utility of adding contempt as a remedy for violation of a decree by ordering a defendant not to do an act he is barred by a criminal statute from doing to begin with, and the possible invitation to a defendant to treat the decree as the only standard he is bound by and therefore encourage anticompetitive behavior in the process of circumventing the decree, all suggest that a consent decree should be used primarily as a regulatory decree rather than a negative prohibition of certain types of anticompetitive behavior. If consent decrees are to serve the latter function, as negative prohibitions of certain activities, it is suggested that private litigants be given a right of action to enforce the decree, either by injunction or damages, in light of the Government's failure to enforce consent decrees by contempt citations.

If consent decrees are to be used primarily as a regulatory decree designed to eliminate or regulate structure or conduct causing anticompetitive effects, it would seem that a reappraisal of consent decree procedures is necessary. If the decree amounts to legislation governing the growth or business practices of a particular industry, provision should be made for an objective evaluation of the public welfare, the rights of competitors, and the rights of suppliers and customers of the affected industry. The present practice of negotiating the decree in secrecy, bargaining in the framework of an adversary context rather than a legislative context, negotiating with less than all the affected parties, and vesting bargaining power in a litigation-oriented branch of government rather than a regulatory branch of government, all suggest serious deficiencies in present consent decree procedures. The danger of political influence or horse-trading being involved; the tendency to treat the questions involved as a private settlement between adversaries rather than the framing of regulations to guide an industry and prevent future anticompetitive behavior; the failure to allow all interested parties and pressure groups to present their views to the lawmaking institution involved; and the absence of a government approach to the issues presented in regulatory decrees from an industry wide viewpoint and a legislative viewpoint based on extensive fact finding, suggest a need for congressional investigation of the consent decree process. While no solution to the question is proposed here, principally because of the absence of sufficient empirical data and a means to obtain such evidence, it does seem clear that civil antitrust enforcement by the Antitrust Division has evolved into an "administrative" process of negotiating regulatory consent decrees within the context of the adversary system. Congress should recognize this fact of antitrust enforcement, investigate its implications, and pass legislation making theory equate with the realities and requirements of modern antitrust enforcement. Whether the solution lies in the creation of a special court to oversee the implementation and enforcement of consent decrees, the transfer of cases involving the entry of regulatory decrees to an administrative tribunal,[129] or the retention of the present system with a considerable increase of the staff, budget, and investigative powers of the Antitrust Division, must await an adequate congressional investigation and a legislative judgment weighing the values inherent in present consent decree procedures and the objectives of antitrust policy with the rights of private interests and fundamental notions of due process.[130]

At the state level, assuming general enforcement, the obvious value of achieving antitrust enforcement in a speedy and inexpensive manner makes the consent decree an attractive enforcement device. However, since most restraints of trade encountered by states may be expected to be of the per se character and to involve predatory market behavior, it seems logical to expect that the bulk of state antitrust consent decrees would consist primarily of negative prohibitions rather than regulatory provisions. Consequently, the use of consent decrees in state enforcement is also open to the utilitarian objection that such a decree only provides the added sanction of contempt and is of little value in the absence of subsequent decree enforcement, since defendants would soon learn to ignore the decree.

Even so, it is suggested that any uniform state antitrust legislation should include express power to use consent decrees since the efficiency and economy of the remedy should make it a realistic remedy for an understaffed and underfinanced attorney general. To avoid the danger that antitrust defendants will ignore the decree, private parties should be given the right to enforce the decree by injunction or treble damage actions where they can prove the consent decree defendant has violated the decree and the violation has caused injury to the private party. Although the possibility of future treble damage actions based on the consent decree may increase defendant reluctance to enter into a consent decree, the advantages of a consent decree to the state and the private defendant, particularly if the state statute makes litigated decrees prima facie evidence of violation in subsequent damage actions, should override defendant hesitancy to negotiate. The state would obtain expeditious and economical antitrust enforcement and be able to shift the cost of decree supervision to private litigants, while assuring future compliance with the prohibitions of the decree.

TYPE OF DISPOSITION OF PRIVATE ANTITRUST CASES TERMINATED IN 86 U.S. DISTRICT COURTS, FISCAL YEARS 1955-60

		Judgment without consent or by consent									Contested judgment				
				Consent judgment		Consent dismissal							Judgment by court during trial		
Fiscal year	Total	Dismissed for want of prosecution	Default judgment	Before trial	During or after trial	Before trial	During or after trial	Transfers	Other disposition	Remanded	Judgment by decision of court before trial	Judgment after court trial	Directed verdict	Other	Judgment on jury verdict
1955[1]	200	8	0	8	1	129	5	1	4	2	21	5	2	1	3
1956[2]	212	5	1	5	0	146	7	1	2	2	25	8	1	0	9
1957[3]	192	10	0	0	0	123	4	3	0	1	28	9	3	0	11
1958[4]	201	4	0	1	0	149	1	2	0	0	28	9	0	1	6
1959[5]	238	15	0	3	0	164	2	1	2	2	35	9	1	0	4
1960[6]	220	15	1	3	0	145	4	4	5	5	19	9	1	3	6

[1] Annual Report of the Director of the Administrative Office of the U.S. Courts, table C-4, 174-75 (1955).
[2] Annual Report of the Director of the Administrative Office of the U.S. Courts, table C-4, 222-23 (1956).
[3] Annual Report of the Director of the Administrative Office of the U.S. Courts, table C-4, 182-83 (1957).
[4] Annual Report of the Director of the Administrative Office of the U.S. Courts, table C-4, 170-71 (1958).
[5] Annual Report of the Director of the Administrative Office of the U.S. Courts, table C-4, 198-99 (1959).
[6] Annual Report of the Director of the Administrative Office of the U.S. Courts, table C-4, 250-51 (1960). The same breakdown of information is unavailable after 1960. Table C-4 has been changed primarily to reflect the number of cases going to jury trial.

FOOTNOTES

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[1] See generally Barnes, Settlement By Consent Judgment, in An Antitrust Handbook 235 (1958); M. Goldberg, The Consent Decree: Its Formulation and Use (Michigan State Bureau of Business & Economic Research, Occasional Paper No. 8, 1962) [hereinafter cited as M. Goldberg]; W. Hamilton & I. Till, Antitrust in Action 88-97, 126-29 (TNEC Monograph No. 16, 1940); Antitrust Subcomm. of the House Comm. on the Judiciary, Consent Decree Program of the Department of Justice, 86th Cong., 1st Sess. (Comm. Print 1959); Birnbaum, The Auto-Finance Decree: A New Technique in Enforcing the Sherman Act, 24 Wash. U.L.Q. 525 (1939); Dabney, Consent Decrees Without Consent, 63 Colum. L. Rev. 1053 (1963); Dabney, Antitrust Consent Decrees: How Protective An Umbrella?, 68 Yale L.J. 1391 (1959); Donovon & McAllister, Consent Decrees in the Enforcement of Federal Anti-Trust Laws, 46 Harv. L. Rev. 885 (1933); Duncan, Post-Litigation Resulting from Alleged Non-Compliance with Government Antitrust Consent Decrees, 8 W. Res. L. Rev. 45 (1956); Harsha, Some Observations on the Negotiation of Antitrust Consent Decrees, 9 Antitrust Bull. 691 (1964); Ergo, ASCAP and The Antitrust Laws, 1959 Duke L.J. 258; Haberman & Birnbaum, The Auto-Finance Consent Decree: An Epilogue, 1950 Wash. U.L.Q. 46; Isenbergh & Rubin, Antitrust Enforcement Through Consent Decrees, 53 Harv. L. Rev. 386 (1940); Jacobs, Antitrust Law: Consent Decrees in Merger Cases, 43 A.B.A.J. 23 (1957); Jinkinson, Negotiation of

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[2] 1 CCH, Decrees & Judgments in Federal Anti-Trust Cases 107 (N.D. Cal. 1906).

[3] From January 1, 1950 to December 31, 1959 the Antitrust Division filed 276 civil cases. Of these, 222 were pursued to a remedy. The balance were either dismissed, won by the defendant, or were not finally resolved by the time this compilation was made. Of the 222 cases pursued to remedy, 194 resulted in the entry of consent decrees against some or all of the defendants. Sources: CCH, The Federal Antitrust Laws with Summary of Cases Instituted by the United States 1890–1951 (1952) [hereinafter referred to as CCH Blue Book]; CCH, The Federal Antitrust Laws with Summary of Cases Instituted by the United States 1952–1956 (Supp. 1957); CCH, U.S. Antitrust Cases Summaries, Complaints, Indictments, Developments 1957–1961 (Transfer Binder 1961).

[4] 276 U.S. 311, 325–32 (1928).

[5] *Id.* at 327–32.

[6] Clayton Act, 38 Stat. 730, 731 (1914), *as amended*. 15 U.S.C. § 16(a) (1964).

[7] Id.

[8] From 1900–1909 the Government brought 19 civil antitrust cases; 5 of those cases were dismissed or disposed of short of adjudication in favor of the Government and 14 cases were pursued to some form of remedy in favor of the Government against some or all of the defendants. Of the 14 cases pursued to remedy, the Government obtained litigated injunctive relief in 12 cases and consent decrees were entered in 2 cases, or 14% of the cases pursued to remedy. From 1910 to 1919 the Government brought 75 civil cases, 57 of which were pursued to remedy. In 24 of the cases pursued to remedy injunctive relief was awarded the Government; consent decrees were entered in 33 or 58% of the cases pursued to remedy. The statistics of the decades through the sixties are as follows: 1920–1929: 97 civil cases instituted, 72 cases pursued to remedy, 12 cases in which litigated injunctive relief granted, 60 (83% of cases pursued to remedy) consent decrees entered; 1930–1939: 52 civil cases instituted, 41 cases pursued to remedy, 13 cases in which litigated injunctive relief granted, 31 (76% of the cases pursued to remedy) consent decrees entered; 1940–1949: 238 civil cases instituted, 201 cases pursued to remedy, 34 cases in which litigated injunctive relief granted, 170 (85% of the cases pursued to remedy) consent decrees entered; 1950–1959: 276 civil cases instituted, 222 cases pursued to remedy, 35 cases in which litigated injunctive relief granted, 194 (87% of the cases pursued to remedy) consent decrees entered. As of the date of this compilation 16 civil cases instituted between 1950–1959 were still pending. Disparities between the total number of cases pursued to remedy and the total of injunctive decrees and consent decrees are caused by consent decrees entered by some defendants and litigated injunctive decrees entered against the remaining defendants in a particular case. Sources: CCH Blue Book; CCH, The Federal Antitrust Laws with Summary of Cases Instituted by the United States 1952–1956 (Supp. 1957); CCH, U.S. Antitrust Cases Summaries, Complaints, Indictments, Developments 1957–1961 (Transfer Binder 1961).

The increase in the use of consent decrees to the present high level is not solely attributable to § 5 of the Clayton Act. Better government investigation, the institutionalization of the consent decree process, and the desire of both sides to escape costly and complicated litigation may also be cited for the dramatic increase in consent decrees.

[9] 1959 Trade Cas. ¶ 69,540 (N.D. Ill.).

[10] Id. at 76, 169. The earlier case was United States v. J. H. Matthews & Co., 1958 Trade Cas. ¶ 69,187 (W.D. Pa.).

[11] See Appendix.

[12] See Flynn, Survey of Injunction Relief. Under Federal and State Antitrust Laws, 1967 Utah L. Rev. 344.

[13] Tenn. Code Ann. § 69–111 (1955).

[14] Wash. Rev. Code Ann. § 19.86.100 (Supp. 1967).

[15] The proposed Uniform State Antitrust Act specifically authorizes consent decrees in public enforcement. Tentative Draft of Uniform State Antitrust Act § 14, 4 Trade Reg. Rep. ¶ 30,101, at 35,155 (1967). Section 15 of the proposed Uniform Act, authorizing private injunctive relief, does not include any mention of consent decrees in private cases. Id. Section 17 of the Act contains a proviso similar to that found in § 5(a) of the Clayton Act. Id. at 35,156.

[16] See 100 B.N.A. Antitrust & Trade Reg. Rep. A-4 (June 11, 1963).

[17] See 144 B.N.A. Antitrust & Trade Reg. Rep. A–12 (April 14, 1964).

[18] New York v. American Optical Co., 126 B.N.A. Antitrust & Trade Reg. Rep. A–4 (December 10, 1963) (microscope sales to public agencies).

[19] Texas v. Sinclair Oil Corp., 1961 Trade Cas. ¶ 70,144 (Tex. Dist. Ct.).

[20] State v. Farman, 138 B.N.A. Antitrust & Trade Reg. Rep. A–21 (March 3, 1964).

[21] People v. California Real Estate Ass'n, 1962 Trade Cas. ¶ 70,446 (Cal. Super Ct. 1962). See also State ex rel. Griffith v. Anthony Wholesale Grocery Co., 118 Kan. 394, 234 P. 992 (1925) (consent settlement under Kansas antitrust law); State v. Swift & Co., 187 S.W.2d 127, 130, 137 (Tex. Ct. Civ. App. 1945) (modification of 1915 consent decree entered under the Texas antitrust law).

[22] M. Goldberg, The Consent Decree: Its Formulation and Use (Michigan State Bureau of Business & Economic Research, Occasional Paper No. 8, 1962). Antitrust Subcomm. of the House Comm. on the Judiciary, Consent Decree Program of the Department of Justice, 86th Cong., 1st Sess., ix (Comm. Print 1959), defined an antitrust consent decree as:

An order of the Court agreed upon by representatives of the Attorney General and of the defendant, without trial of the conduct challenged by the Attorney General in proceedings instituted under the Sherman Act, the Clayton Act or related statutes. Normally the consent decree recites that it does not constitute evidence or admission by any of the parties with respect to any of the issues involved in the litigation.

This definition is more accurate than Mr. Goldberg's since it avoids the obscurity of the words "formalized by the signature of the federal district judge" and makes clear the injunctive character of a consent decree.

[23] W. Hamilton & I. Till, Antitrust in Action 88 (TNEC Monograph No. 16, 1940).

[24] The standard "boilerplate" introduction to all consent decrees is illustrated by the following passage:

Plaintiff, United States of America, having filed its complaint herein on June 28, 1960; defendant having filed an answer to such complaint on December 27, 1960, denying the substantive allegations thereof; and plaintiff and defendant having by their respective attorneys consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without any admission by plaintiff or defendant in respect to any such issue.

Now, therefore, before any testimony has been taken and without trial or adjudication of any issue of fact or law herein and upon consent of the parties signatory hereto as aforesaid, it is hereby ordered, adjudged and decreed as follows:

United States v. Union Carbide Corp., 1964 Trade Cas. ¶ 71,227, at 79,903 (W. D. Mo.).

[25] On occasion, courts have taken an activist role. See Cascade Natural Gas Corp. v. El Paso Natural Gas Co., 386 U.S. 129, 136–43 (1967); United States v. Blue Chip Stamp Co., 5 Trade Reg. Rep. (1967 Trade Cas.) ¶ 72,239 (C.D. Cal. Aug. 18, 1967), aff'd mem., 389 U.S. 580 (1968); United States v. F. & M. Schaefer Brewing Co., 5 Trade Reg. Rep. (1968 Trade Cas.) ¶ 72,345, at 84,939 (E.D.N.Y. Dec. 20, 1967).

[26] Swift & Co. v. United States, 276 U.S. 311, 324 (1928).

[27] Cascade Natural Gas Corp. v. El Paso Natural Gas Co., 386 U.S. 129, 136–43 (1967).

[28] See typical preamble quoted in note 24 supra.

[29] See, e.g., United States v. Sangamo, Elec. Co., 1962 Trade Cas. ¶ 70,502 (E.D. Pa.); United States v. Allen-Bradley Co., 1962 Trade Cas. ¶ 70,420 (E.D. Pa.); United States v. Cutler-Hammer, Inc., 1962 Trade Cas. ¶ 70,421 (E.D. Pa.). The only difference in the preamble of this type of decree is that the court states it has made a finding pursuant to Fed. R. Civ. P. 54(b) that there is no just reason to delay entry of the decree on the claims asserted against the consenting defendant.

[30] See United States v. Renault, Inc., 1962 Trade Cas. ¶ 70,386 (S.D.N.Y.).

[31] United States v. Standard Oil Co., 1959 Trade Cas. ¶ 69,399, at 75,525–27 (S.D., Cal.). The case involved a complaint filed in 1950 in which the Government was seeking divestiture of Standard's wholly owned retail outlets. The divestiture demand was the major stumbling block to a consent settlement and the court stated in the consent decree that it held a hypothetical trial on the issue of divestiture and decided that remedy would not be granted if a full trial were held. This conclusion evidently stimulated the settlement. The procedure of holding a hypothetical trial is open to some question since the proviso to § 5(a) of the Clayton Act only exempts from prima facie effect "consent judgments or decrees entered before any testimony has been taken. . . ." 15 U.S.C. § 16(a) (1964) (emphasis added). If the holding of a hypothetical trial to induce a

consent settlement does not violate the letter of § 5(a), it certainly violates the spirit. This case has provoked further confusion because of the decree's "tacit validation" of consignment selling by west coast oil companies which was condemned by the Supreme Court five years later in a private antitrust treble damage action. See Simpson v. Union Oil Co., 377 U.S. 13, 30 & n.4 (1964) (dissenting opinion, Justice Stewart).

[32] A typical decree provides: "This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim upon which relief against the defendant may be granted under Section 1 of the Act of Congress of July 2, 1890, entitled 'An act to protect trade and commerce against unlawful restraints and monopolies,' commonly known as the Sherman Act, as amended." United States v. Union Carbide Corp., 1964 Trade Cas. ¶ 71,227, at 79,903 (W.D. Mo.). For examples of consent decrees basing jurisdiction on § 7 of the Clayton Act, see, e.g. United States v. Suburban Gas, 1962 Trade Cas. ¶ 70,439 (S.D. Cal.); United States v. National Homes Corp., 1962 Trade Cas. ¶ 70,533 (N.D. Ind.); United States v. Ryder Systems, Inc., 1961 Trade Cas. ¶ 70,056 (S.D. Fla.). The Antitrust Division has generally refrained from instituting cases under the Robinson-Patman Act, but some consent decrees have contained provisions enjoining price discrimination under the Robinson-Patman Act. See United States v. Ekco Prod. Co., 1962 Trade Cas. ¶ 70,280 (N.D. Cal.), amending 1957 Trade Cas. ¶ 68,768 (N.D. Cal.); United States v. Foster Wheeler Corp., 1961 Trade Cas. ¶ 70,035 (E.D. Pa.).

[33] For example:

As used in this Final Judgment:

(A) " 'Prestone' brand anti-freeze" means an anthylene glycol base anti-freeze produced and marketed by defendant under the trademark "Prestone";

(B) "Person" means any individual, partnership, corporation, or any other business or legal entity;

(C) "Agent" means any person selling for or on behalf of defendant "Prestone" brand anti-freeze from stock consigned to it;

(D) "Distributorship" means any person purchasing "Prestone" brand anti-freeze from the defendant for resale;

(E) "Fair Trade Contract" means any resale price maintenance contract, or supplement thereto, pursuant to which the resale price of "Prestone" brand anti-freeze is lawfully fixed, established or maintained under the fair trade laws of any state, territory, or possession and the Act of Congress of August 17, 1937, commonly called the Miller-Tydings Act, or the Act of Congress of July 14, 1952, commonly called the McGuire Act.

United States v. Union Carbide Corp., 1964 Trade Cas. ¶ 71,227, at 79,903–04 (W.D. Mo.). Occasionally, definition of the products involved becomes complex and extensive. In such cases the definitional section of the decree is supplemented by an appendix. See, e.g., United States v. Allen-Bradley Co., 1962 Trade Cas. ¶ 70,505, at 77,055–56 (E.D. Pa.) and United States v. Allen-Bradley Co., 1962 Trade Cas. ¶ 70,420, at 76,695 (E.D. Pa.) (definitions of industrial control equipment); United States v. Cutler-Hammer, Inc., 1962 Trade Cas. ¶ 70,421, at 76,700 (E.D. Pa.) (definitions of low voltage distribution equipment).

[34] See, e.g., United States v. Northern California Pharmaceutical Ass'n, 235 F. Supp. 378 (N.D. Cal. 1964); United States v. Restonic Corp., 1962 Trade Cas. ¶ 70,442 (N.D. Ill.); United States v. International Nickel Co. of Canada, 203 F. Supp. 739 (S.D.N.Y. 1962); United States v. Owens-Corning Fiberglass Corp., 178 F. Supp. 325 (N.D. Ohio 1959); United States v. Sears, Roebuck & Co., 165 F. Supp. 356 (S.D.N.Y. 1958); cf Hughes v. United States, 342 U.S. 353 (1952); St. Louis Amusement Co. v. Paramount Film Distrib. Corp., 168 F.2d 988 (8th Cir. 1948).

[35] For example:

The provisions of this Final Judgment applicable to the defendant shall apply also to its officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with the defendant who shall have received actual notice of this Final Judgment by personal service or otherwise. For the purpose of this Final Judgment the defendant and its officers, directors, agents, employees and subsidiaries, when acting in such capacity, shall be deemed to be one person.

United States v. Union Carbide Corp., 1964 Trade Cas. ¶ 71,227, at 79004 (W.D. Mo.).

[36] Id.

[37] See United States v. General Elec. Co., 1962 Trade Cas. ¶ 70,488, at 76,987 (E.D. Pa.):

This Final Judgment shall not apply to the defendant GE with respect to (a) activities and operations outside the United States which do not affect the domestic commerce of the United States, (b) contracts to be performed outside the United States, and (c) export sales or sales for export outside the United States except with respect to or for the stated use of the plaintiff or any instrumentality or agency thereof.

[38] See United States v. General Elec. Co., 1962 Trade Cas. ¶ 70,488, at 76,987 (E.D. Pa.):

Defendant GE is ordered and directed to take such steps as are reasonably appropriate for the purpose of procuring compliance with the terms of this Final Judgment, such as: (1) for the period of twenty years following the effective date of this Final Judgment, deliver a copy of this Final Judgment: (a) to each present and future member of its Board of Directors; (b) to each of its present and future Vice Presidents and chief managerial officers who are not members of the Board of Directors; (c) to the present and future members of the Board of Directors, Vice Presidents and chief managerial officers of each domestic subsidiary, if any, engaged in the manufacturing, processing or sale of heavy electrical products; (d) not less frequently than every two years, to each officer and employee of GE who has responsibility for establishing prices for the sale of heavy electrical products in the United States, together with a statement signed by the Chief Executive Officer of GE stating the obligation of such persons to comply with the terms of this Final Judgment; and file with this Court and serve upon the plaintiff affidavits as to the fact and manner of the delivery of a copy of this Final Judgment as provided for in this paragraph (1), such affidavits in respect of the delivery provided for in subparagraphs (a), (b), and (c) hereof to be filed and served ninety days after the effective date of this Final Judgment, and such affidavits in respect of the delivery provided for in subparagraph (d) hereof to be filed and served within ninety days after the end of any calendar year in which GE takes the action provided for in such subparagraphs.

[39] Id.

Defendant GE is ordered and directed to take such steps as are reasonably appropriate for the purpose of procuring compliance with the terms of this Final Judgment, such as: . . .

(2) Maintain a program of teaching and instruction of key domestic management employees on the application, meaning and effect of the terms of this Final Judgment.

[40] See United States v. Union Carbide Corp., 1964 Trade Cas. ¶ 71,227, at 79,904 (W.D. Mo.); United States v. Sherwin-Williams Co., 1961 Trade Cas. ¶ 70,179, at 78,713 (N.D. Ohio).

[41] See United States v. General Elec. Co., 1962 Trade Cas. ¶ 70,488, at 76,990 (E.D. Pa.); United States v. Armco Drainage & Metal Prod., Inc., 1961 Trade Cas. ¶ 69,942, at 77,751 (D.N.D.). In United States v. Wichita Eagle Publishing Co., 1959 Trade Cas. ¶ 69,400, at 75,538 (D. Kan.), defendant newspapers were required to print a copy of the consent decree in their newspaper.

[42] See United States v. True Temper Corp., 1961 Trade Cas. ¶ 70,090, at 78,388–89 (N.D. Ill.); United States v. Operative Plasterers & Cement Masons Int'l Ass'n, 1959 Trade Cas. ¶ 69,248, at 74,953–54 (N.D. Ill.).

[43] See United States v. Retail Floor Covering Ass'n, 1959 Trade Cas. ¶ 69,337 (E.D. Pa.).

[44] An example of the limiting power in a visitation clause is as follows:

For the purpose of securing compliance with this Final Judgment and for no other purpose, and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, upon reasonable notice of defendant made to its principal office be permitted subject to any legally recognized privilege:

(A) Access during the office hours of said defendant to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or control of said defendant relating to any of the matters contained in this Final Judgment, and

(B) Subject to the reasonable convenience of said defendant and without restraint or interference from it, to interview the officers and employees of said defendant who may have counsel present, regarding any such matters.

For the purpose of securing compliance with this Final Judgment, the defendant upon the written request of the Attorney General or Assistant Attorney General in charge of the Antitrust Division, shall submit such written reports under oath if so requested, with respect to any of the matters contained in the Final Judgment. No information obtained by the means provided in this Section VI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the plaintiff except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

United States v. Union Carbide Corp., 1964 Trade Cas. ¶ 71,227 (W.D. Mo.).

[45] See United States v. International Nickel Co. of Canada, 203 F. Supp. 739, 743 (S.D. N.Y. 1962).

[46] Id at 744.

[47] Antitrust Civil Process Act, 15 U.S.C. § 1312 (1964). The Civil Process Act for antitrust cases was suggested by the Prettyman Report (Procedure in Anti-Trust and Other Protracted Cases), 13 F.R.D. 41, 62 (1951) and the Report of the Attorney General's Nat'l Comm. to Study the Antitrust Laws 345 (1965). See generally Decker, The Civil Investigative Demand, 21 ABA Antitrust Section 370 (1962); Perry & Siman, The Civil Investigative Demand: New Fact-Finding Powers for the Antitrust Division, 58 Mich. L. Rev. 855 (1960); Smith, Conduct of a Justice Department Civil Antitrust Investigation for Defendant, 45 Chicago B. Rec. 502 (1964).

[48] For example:

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment and for the enforcement of compliance therewith and the punishment of the violations of any of the provisions contained herein. United States v. Union Carbide Corp., 1964 Trade Cas. ¶ 71,227 (W.D. Mo.).

[49] See M. Goldberg 66 (discovering only 39 civil and criminal contempt proceedings instituted since 1890 for violations of litigated and consent decrees).

[50] The latest attempt to modify the Packer's consent decree came in 1961, forty years after the entry of the decree. See United States v.

Swift & Co., 189 F. Supp. 885 (N.D. Ill. 1960), aff'd per curiam, 367 U.S. 909 (1961). For an excellent analysis of consent decree modification and flexibility, see Note, Flexibility and Finality in Antitrust Consent Decrees, 80 Harv. L. Rev. 1303 (1967).

[51] See United States x. General Motors Corp., 1965 Trade Cas. ¶ 71,624, at 81,809 (E.D. Mich.); United States v. Standard Oil Co., 1959 Trade Cas. ¶ 69,399, at 75,535 (S.D. Cal.); cf. Chrysler Corp. v. United States, 316 U.S. 556, 558 (1942); Ford Motor Co. v. United States, 335 U.S. 303, 312–320 (1948) (Supreme Court construed time limitations upon the life of a consent decree).

[52] See, e.g., United States v. General Motors Corp., 1965 Trade Cas. 71,624, at 81,807 (E.D. Mich.); United States v. Standard Oil Co., 1959 Trade Cas. 69,399 (S.D. Cal.); United States v. R.C.A., 1959 Trade Cas. 69,459, at 75,756 (E.D. Pa.); United States v. Wichita Eagle Publishing Co., 1959 Trade Cas. 69,400, at 75,537–38 (D. Kans.).

[53] "Nothing less than a clear showing of grievous wrong evoked by new and unforeseen conditions should lead us to change what was decreed after years of litigation with the consent of all concerned." United States v. Swift & Co., 286 U.S. 106, 119 (1932). The 1932 Swift decision on modification has been cited as controlling precedent in more than 100 cases passing upon the question of consent decree modification. See United States v. Swift & Co., 189 F. Supp. 885, 901 (N.D. Ill. 1960), aff'd per curiam, 367 U.S. 909 (1961). The test has been rigorously maintained. See, e.g., United States v. Lucky Lager Brewing Co., 209 F. Supp. 665 (D. Utah 1962); United States v. Owens-Corning Fiberglass Corp., 178 F. Supp. 325 (N.D. Ohio 1959); United States v. International Boxing Club, Inc., 178 F. Supp. 469 (S.D.N.Y. 1959). The most thorough and best considered recent opinion on consent decree modification is the 1961 district court opinion by Judge Hoffman in United States v. Swift & Co., 189 F. Supp. 885, 901 (N.D. Ill. 1960), aff'd per curiam, 367 U.S. 909 (1961). See generally Dabney, Antitrust Consent Decrees: How Protective an Umbrella? 68 Yale L.J. 1391 (1959); Note, Modification of Antitrust Consent Decrees, 31 Ind. L.J. 357 (1956).

[54] See United States v. General Motors Corp., 1965 Trade Cas. 71,624 (E.D. Mich.). The Packer's consent decree of 1920 has had a permanent impact upon the marketing of meat products.

[55] The nature of the anticompetitive restraints involved in the motion picture consent decree cases of the early 1950's necessitated remedial relief requiring extended supervision. See generally Note, An Experiment in Preventive Antitrust: Judicial Regulation of the Motion Picture Exhibition Market Under the Paramount Decrees, 74 Yale L.J. 1041 (1965). In other industries, reconciling the policies of the antitrust laws with the economic realities of a defendant's position may necessitate a decree permanently defining the permissible scope of a defendant's activities. See generally Ergo, ASCAP and The Antitrust Laws: The Story of a Reasonable Compromise, 1959 Duke L.J. 258.

[56] The past records of several of the defendants involved in the electrical equipment conspiracy cases suggests the public interest might best be protected by a consent decree without automatic termination provisions.

[57] See Ford Motor Co. v. United States, 335 U.S. 303 (1958). See generally Note, Requests by the Government for Modification of Consent Decrees, 75 Yale L.J. 657 (1966).

[58] Perhaps the best recent example of this is United States v. Western Elec. Co., 1956 Trade Cas. ¶ 68,246 (D.N.J.). The consent decree has not been successful in eliminating the dominance of Western Electric Co. and American Telephone & Telegraph Co. in the telephone apparatus and equipment business or in other important fields of communications. See Antitrust Subcomm. of the House Comm. on the Judiciary, Consent Decree Program of the Department of Justice, 86th Cong., 1st Sess. 29–120 (Comm. Print 1959); Hearings Before the Antitrust Subcomm. of the House Comm. on the Judiciary, pt. 2, 85th Cong., 2d Sess. (1958); M. Goldberg 34–48.

[59] See, e.g., Price Fixing: United States v. I.T.E. Circuit Breaker Co., 1962 Trade Cas. ¶ 70,586 (E.D. Pa.); United States v. Driver Harris Co., 1961 Trade Cas. ¶ 70,031 (D.N.J.); United States v. Frozen Food Distrib. Ass'n, 1959 Trade Cas. ¶ 69,364 (S.D.N.Y.); Bid Rigging: United States v. Sangamo Elec. Co., 1962 Trade Cas. ¶ 70,588 (E.D. Pa.); United States v. Allen-Bradley Co., 1961 Trade Cas. ¶ 70,052 (S.D. Ohio); United States v. New England Concrete Pipe Corp., 1959 Trade Cas. ¶ 69,481 (D. Mass.); Tie-Ins: United States v. Dempster Bros., Inc., 1962 Trade Cas. ¶ 70,359 (E.D. Tenn.); United States v. True Temper Corp., 1961 Trade Cas. ¶ 70,090 (N.D. Ill.); Group Boycotts: United States v. Southwest Steel Rolling Mills, 1961 Trade Cas. ¶ 69,902 (N.D. Cal.); United States v. Blue Diamond Corp., 1961 Trad Cas. ¶ 69,901 (N.D. Cal.); Division of Markets: United States v. Cornell-Dubilier Elec. Corp., 1962 Trade Cas. ¶ 70,589 (E.D. Pa.); United States v. True Temper Corp., 1961 Trade Cas. ¶ 70,090 (N.D. Ill.); United States v. Greater N.Y. Tailors' Expressmen Ass'n, 1961 Trade Cas. ¶ 70,154 (S.D.N.Y.); United States v. Pitney-Bowes, Inc., 1959 Trade Cas. ¶ 69,235 (D. Conn.); Monopolization: United States v. General Motors Corp., 1965 Trade Cas. ¶ 71,624 (E.D. Mich.); United States v. Lima News, 1965 Trade Cas. ¶ 71,609 (N.D. Ohio); United States v. General Elec. Co., 1962 Trade Cas. ¶ 70,342 (S.D.N.Y.); United States v. Eastman Kodak Co., 1961 Trade Cas. ¶ 70,100 (W.D.N.Y.); United States v. Standard Oil Co., 1959 Trade Cas. ¶ 69,399 (S.D. Cal.); Acquisitions and Mergers: United States v. Lucky Lager Brewing Co., 1962 Trade Cas. ¶ 70,508 (D. Utah); United States v. Borg-Warner Corp., 1962 Trade Cas. ¶ 70,461 (S.D. Tex.); United States v. Ryder System, Inc., 1961 Trade Cas. ¶ 70,056 (S.D. Fla.); United States v. American Radiator & Standard Sanitary Corp., 1960 Trade Cas. ¶ 69,810 (W.D. Pa.).

[60] 1959 Trade Cas. ¶ 69,399 (S.D. Cal.).

[61] The Standard Oil decree did not obtain as much relief as a court may have ordered if the case were tried. The Antitrust Division apparently did not believe it could prove certain arrangements to be violations of the antitrust laws. Simpson v. Union Oil Co., 377 U.S. 13 (1964), indicates the Supreme Court was willing to extend the substantive meaning of § 1 of the Sherman Act to include coercive arrangements as "combinations" in violation of § 1. See Note, Combinations in Restraint of Trade: A New Approach to Section 1 of the Sherman Act, 1966 Utah L. Rev. 75. Since the factual situations in Standard Oil and Simpson are substantially identical, it seems that further relief, in the form of diverstiture, could have been obtained in the Standard Oil decree if the case were litigated and appealed to the Supreme Court. Mr. Justice Stewart took note of the Standard Oil decree in his dissenting opinion in Simpson, indicating a conflict existed between the two cases. Simpson v. Union Oil Co., 377 U.S. 13, 30 n.4 (1964) (dissenting opinion).

[62] See, e.g., United States v. Suburban Gas, 1962 Trade Cas. ¶ 70,439, at 76,774 (S.D. Cal.); United States v. National Homes Corp., 1962 Trade Cas. ¶ 70,533, at 77,154 (N.D. Ind.); United States v. Ryder Systems, Inc., 1961 Trade Cas. ¶ 70,056, at 78,244 (S.D. Fla.); United States v. American Radiator & Standard Sanitary Corp., 1960 Trade Cas. ¶ 69,810, at 77,170 (W.D. Pa.); United States v. R.C.A., 1959 Trade Cas. ¶ 69,459, at 75,755 (E.D. Pa.); United States v. True Temper Corp., 1959 Trade Cas. ¶ 69,441, at 75,663 (N.D. Ill.).

[63] See, e.g., United States v. Nassau & Suffolk County Retail Hardware Ass'n, 1959 Trade Cas. ¶ 69,345, at 75,276 (E.D.NY.); United States v. Frozen Food Distrib. Ass'n, 1959 Trade Cas. ¶ 69,364, at 75,342 (S.D.N.Y.); United States v. Fur Shearer's Guild, 1959 Trade Cas. ¶ 69,312, at 75,172 (S.D.N.Y.); United States v. Aero Mayflower Transit Co., 1956 Trade Cas. ¶ 68,526, at 72,142 (S.D. Ga.).

[64] See, e.g., United States v. Borg-Warner Corp., 1962 Trade Cas. ¶ 70,461, at 76,882 (S.D. Tex.).

[65] See, e.g., United States v. Driver-Harris Co., 1961 Trade Cas. ¶ 70,031, at 78,108 (D.N.J.); United States v. Pitney-Bowes, Inc., 1959 Trade Cas. ¶ 69,235, at 74,860 (D. Conn). See generally, Cise, The Trend in Patent Provisions in Antitrust Decrees, 41 J. Pat. Off. Soc'y 743 (1959).

[66] See, e.g., United States v. Suburban Gas, 1962 Trade Cas. ¶ 70,439 (S.D. Cal.); United States v. National Homes Corp., 1962 Trade Cas. ¶ 70,533, at 77,153 (N.D. Ind.); United States v. M.C.A. Inc., 1962 Trade Cas. ¶ 70,459 (S.D. Cal.); United States v. American Radiator & Standard Sanitary Corp., 1960 Trade Cas. ¶ 69,810, at 77,169 (W.D. Pa.). A similar provision in the Paramount Decrees, 1948–49 Trade Cas. ¶¶ 62,335, 62,377 (S.D.N.Y. 1949); 1950–51 Trade Cas. ¶¶ 62,765, 62,861 (S.D.N.Y. 1951); 1952–53 Trade Cas. ¶ 67,228 (S.D.N.Y. 1952), has resulted in constant supervision over the motion picture exhibition industry. For an excellent analysis see Note, An Experiment in Preventive Antitrust: Judicial Regulation of the Motion Picture Exhibition Market under the Paramount Decrees, 74 Yale L.J. 1040 (1965). See generally Jacobs, Antitrust Law: Consent Judgments in Merger Cases, 43 A.B.A.J. 23 (1957).

[67] United States v. Sperry Rand Corp., 1962 Trade Cas. ¶ 70,495, at 77,015 (W.D.N.Y.); United States v. Arnold Schwinn & Co., 1962 Trade Cas. ¶ 70,445, at 76,800 (N.D. Ill.); United States v. Shaw-Walker Co., 1962 Trade Cas. ¶ 70,491, at 77,001 (W.D.N.Y.); United States v. Hamilton Cosco, Inc., 1959 Trade Cas. ¶ 69,394, at 75,491 (S.D.N.Y.); United States v. Maryland State Licensed Beverage Ass'n, 1959 Trade Cas. ¶ 69,261 (D. Md. 1958). In United States v. Wilson & Geo. Meyer & Co., 1961 Trade Cas. ¶ 70,020 (N.D. Cal), the defendant was permitted to enter into fair trade agreements exempted by the Miller-Tydings Act for the first ten years of the decree and thereafter to enter into McGuire Act exempted fair trade agreements.

[68] See United States v. Lucky Lager Brewing Co., 209 F. Supp. 665, 667 (D. Utah 1962).

[69] See United States v. Greater N.Y. Tailors' Expressmen Ass'n, 1961 Trade Cas. ¶ 70,154, at 78,596 (S.D.N.Y.).

[70] See United States v. Allied Chem. Corp., 1961 Trade Cas. ¶ 69,923 (D. Mass. 1960). In a similar type of suit, the Government was unable to obtain such an admission, and the trial court entered the decree without the government's consent. United States v. Brunswick-Balke-Collender Co., 1962 Trade Cas. ¶¶ 70,282, 70,346 (E.D. Wis.).

[71] See United States v. Spring-Air Co., 1962 Trade Cas. ¶ 70,402, at 76,632 (N.D. Ill.).

[72] See United States v. General Elec. Co., 1962 Trade Cas. ¶ 70,342, at 76,363 (S.D.N.Y.).

[73] See United States v. Dempster Bros., 1962 Trade Cas. ¶ 70,359, at 76,450 (E.D. Tenn.).

[74] See United States v. General Fireproofing Co., 1962 Trade Cas. ¶ 70,489, at 76,996 (W.D.N.Y.) three point zone pricing system).

[75] See United States v. Operative Plasterers & Cement Masons Int'l Ass'n, 1959 Trade Cas. ¶ 69,248, at 74,954 (N.D. Ill.).

[76] See, e.g., United States v. General Motors Corp., 1965 Trade Cas. ¶ 71,624 (E.D. Mich.) (consent decree with several novel provisions designed to end the defendant's alleged monopolization of bus manufacturing). See generally Barnes, Settlement by Consent Judgment, in An Antitrust Handbook 235 (1958).

[77] See generally Note, supra note 55, at 1042–43.

[78] See generally Ergo, supra note 55.

[79] For an extended analysis of two consent decrees arrived at after alleged political interference see Antitrust Subcomm. of the House Comm. on the Judiciary, Consent Decree Program of the Department of Justice, 86th Cong., 1st Sess. (Comm. Print 1959).

[80] See, e.g., United States v. Carter Prod., Inc., 211 F. Supp. 144, 148–150 (S.D.N.Y. 1962); United States v. Arnold Schwinn & Co., 1962 Trade Cas. ¶ 70,445, at 76,800–01 (N.D. Ill.).

[81] Compare Simpson v. Union Oil Co., 377 U.S. 13 (1964), with United States v. Standard Oil Co., 1959 Trade Cas. ¶ 69,399 (N.D. Cal.).

[82] In Cascade Natural Gas Corp. v. El Paso Natural Gas Co., 386 U.S. 129 (1967), the Court reversed a decree entered after 5 months of negotiation in open court. Judge Ritter of the U.S. District Court for Utah had to clear his docket for 5 months.

[83] See 28 C.F.R. § 50.1 (1965), which provides:

Consent Judgment Policy.

(a) It is hereby established as the policy of the Department of Justice to consent to a proposed judgment in an action to prevent or restrain violations of the antitrust laws only after or on condition that an opportunity is afforded persons (natural or corporate) who may be affected by such judgments and who are not named as parties to the action to state comments, views or relevant allegations prior to the entry of such proposed judgment by the court.

(b) Pursuant to this policy, each proposed consent judgment shall be filed in court or otherwise made available upon request to interested persons as early as feasible but at least 30 days prior to entry by the court. Prior to entry of the judgment, or some earlier specified date, the Department of Justice will receive and consider any written comments, views or relevant allegations relating to the proposed judgment, which the Department may, in its discretion, disclose to the other parties to the action. The Department of Justice shall reserve the right (1) to withdraw or withhold its consent to the proposed judgment if the comments, views or allegations submitted disclose facts or considerations which indicate that the proposed judgment is inappropriate, improper or inadequate, and (2) to object to intervention by any party not named as a party by the Government.

(c) The Assistant Attorney General in charge of the Antitrust Division may establish procedures for implementing this policy. The Attorney General may permit an exception to this policy in a specific case where extraordinary circumstances require some shorter period than 30 days or some other procedure than that stated herein, and where it is clear that the public interest in the policy hereby established is not compromised.

In at least one case the objections of third parties caused the decree to be modified twice before a final judgment was entered. See United States v. Blue Chip Stamp Co., 5 Trade Reg. Rep. (1967 Trade Cas.) ¶ 72,239, at 84,502 (August 18, 1967). For a further example of intervention and a hearing on objection, see United States v. F. & M. Schaefer Brewing Co., 5 Trade Reg. Rep. (1968 Trade Cas.) ¶ 72,345, at 84,939 (Dec. 20, 1967).

[84] See, e.g., United States v. El Paso Natural Gas Co., 1965 Trade Cas. ¶ 71,362 (D. Utah), rev'd sub nom. Cascade Natural Gas Corp. v. El Paso Natural Gas Co., 386 U.S. 129 (1967); United States v. Bendix Home Appliances, ¶ 10 F.R.D. 73 (S.D.N.Y. 1949); cf. United States v. General Elec. Co., 95 F. Supp. 165 (D.N.J. 1950).

[85] See Allen Calculator v. National Cash Register Co., 322 U.S. 137, 142 (1944); United States v. General Elec. Co., 95 F. Supp. 165, 170 (D.N.J. 1950). But see Missouri-Kansas Pipe Line Co. v. United States, 312 U.S. 502, 506 (1941): "But where the enforcement of a public law also demands distinct safeguarding of private interests by giving them a formal status in the decree, the power to enforce rights thus sanctioned is not left to the public authorities nor put in the keeping of the district court's discretion." In a sequel to the Packer's consent decree, intervention was allowed for a party whose contracts with the consent decree defendants were interfered with by the decree. See United States v. California Cooperative Canneries, 279 U.S. 553 (1929). Some decrees invite intervention by private parties. See Missouri-Kansas Pipe Line Co. v. United States, supra. In one case, the Government was permitted to intervene in a private suit. See Crosby Steam Gage & Valve Co. v. Manning, Maxwell & Moore, Inc., 51 F. Supp. 972 (D. Mass. 1943).

[86] 386 U.S. 129 (1967).

[87] United States v. El Paso Natural Gas Co., 376 U.S. 651, 662 (1964).

[88] Fed. R. Civ. P. 24(b) provides for permissive intervention:

(b) Permissive Intervention. Upon timely application anyone may be permitted to intervene in an action: (1) when a statute of the United States confers a conditional right to intervene; or (2) when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement, or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

The Advisory Committee's extensive notes on the revision of rule 24 may be found in J. Moore, Federal Practice Rules Pamphlet 560–64 (1966). For general comments see 2 W. Barron & A. Holtzoff, Federal Practice and Procedure §§ 591–604 (Wright ed. 1961); 4 J. Moore, Federal Practice ¶ 24.01–.10 (1966).

[89] Prior to the 1966 amendment, rule 24(a) was as follows:

Intervention of Right. Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute of the United States confers an unconditional right to intervene; or (2) when the representation of the applicant's interest by existing parties is or may be inadequate and the applicant is or may be found by a judgment in the action; or (3) when the applicant is so situated as to be adversely affected by a distribution or other disposition of property which is in the custody or subject to the control or disposition of the court or an officer thereof.

The purpose of the amendment was to avoid the concept of a funds in the hands of the court as a necessary element of an applicant's right to intervene and to predicate intervention upon whether the applicant's interests may be substantially impaired by the disposition of the action. See Advisory Committee's Notes in, J. Moore, Federal Practice Rules Pamphlet 561 (1966).

[90] Cascade Natural Gas Corp. v. El Paso Natural Gas Co., 386 U.S. 129, 135 (1967).

[91] Id.

[92] Id. at 136.

[93] Fed. R. Civ. P. 24(a)(2).

[94] Antitrust Subcomm. of the House Comm. on the Judiciary, Consent Decree Program of the Department of Justice, 86th Cong., 1st Sess. (Comm. Print 1959).

[95] Cascade Natural Gas Corp. v. El Paso Natural Gas Co., 386 U.S. 129, 141–42 (1967).

[96] See Intervention In Government Antitrust Suits, 301 B.N.A. Antitrust & Trade Reg. Rep. B–1 to B–3 (April 18, 1967).

[97] Cascade Natural Gas Corp. v. El Paso Natural Gas Co., 386 U.S. 129, 135 (1967). The Court relied upon Missouri-Kansas Pipe Line Co. v. United States, 312 U.S. 502, 506 (1941).

[98] Cascade Natural Gas Corp. v. El Paso Natural Gas Co., 386 U.S. 129, 136 (1967).

[99] Id.

[100] Intervention in federal administrative proceedings is governed by § 6(a) of the Administrative Procedure Act:

So far as the orderly conduct of public business permits, any interested person may appear before any agency or its responsible officers or employees for the presentation, adjustment, or determination of any issue, request or controversy in any proceeding (interlocutory, summary, or otherwise) or in connection with any agency function. 5 U.S.C. § 1005(a) (1964).

See generally Note, Intervention by Third Parties in Federal Administrative Proceedings, 42 Notre Dame Law, 71 (1966).

[101] See generally Administrative Procedure Act, 5 U.S.C. § 1001 (1964).

[102] See "Consent Judgment Policy," quoted note 83 supra. In fact, litigation might be barred if they do not file before the 30 days have tolled on the filing of the proposed consent decree. See United States v. Blue Chip Stamp Co., 5 Trade Reg. Rep. (1967 Trade Cas.) ¶ 72,239 (Aug. 18, 1967), aff'd mem., 389 U.S. 580 (1968).

[103] This trend has not been confined to antitrust cases. Moreover, the role of amicus briefs has shifted somewhat from friend of the court to advocate before the court. For a perceptive article, see Krislov, The Amicus Curiae Brief: From Friendship to Advocacy, 72 Yale L.J. 694 (1963).

[104] 334 U.S. 131 (1948). The consent decrees entered after the Paramount decision are: United States v. Paramount Pictures, Inc., 1948–49 Trade Cas. ¶62,335, at 62,864 (S.D.N.Y. 1948); United States v. Paramount Pictures, Inc., 1948–49 Trade Cas. ¶62,377, at 63,010 (S.D.N.Y. 1949); United States v. Loew's Inc., 1950–51 Trade Cas. ¶ 62,861 (S.D.N.Y. 1951; United States v. Loew's Inc., 1952–53 Trade Cas. ¶67,228 (S.D.N.Y. 1952).

[105] Particularly the growth of drive-in theaters.

[106] For a survey of analyses see Note, supra Note 55.

[107] See, e.g., United States v. Allied Chem. Corp., 1961 Trade Cas. ¶69,923 (D. Mass. 1960); United States v. Lake Asphalt & Petroleum Co., 1960 Trade Cas. ¶69,835 (D. Mass.); United States v. Bituminous Concrete Ass'n, 1960 Trade Cas. ¶69,878 (D. Mass.). See generally Dabney, Consent Decrees Without Consent, 63 Colum. L. Rev. 1052 (1963); McHenry, The Asphalt Clause—A Trap for the Unwary, 36 N.Y.U.L. Rev. 1114 (1961); Comment, Consent Decrees and the Private Action: An Antitrust Dilemma, 53 Calif. L. Rev. 627 (1965); Comment, Section 5 of the Clayton Act and Entry of Consent Decrees Without Government Consent, 1963 Wis. L. Rev. 459.

[108] "Each defendant is enjoined and restrained from denying that this final judgment . . . has prima facie effect in . . . the suits instituted in this court by the Commonwealth of Massachusetts . . . and any other suit instituted by any city or town against any of the defendants signatory hereto prior to the date of entry of this final judgment." United States v. Lake Asphalt & Petroleum Co., 1960 Trade Cas. ¶ 69,835, at 77,272 (D. Mass.). Approximately 50 treble damage actions had been filed by Massachusetts and its political subdivisions. See McHenry, supra note 107, at 1119 n. 18.

[109] See Bicks, Significant New Antitrust Developments, 17 A.B.A. Antitrust Section 268 69 (1960).

[110] 1960 Trade Cas. ¶ 69,835 (D. Mass.).

[111] For excerpts from the record concerning Judge Wyzanski's reaction to the asphalt clause see McHenry, supra note 107, at 1124. In the only other case to consider a government demand for an asphalt clause,

United States v. Brunswick-Balke-Collender Co., 203 F. Supp. 657 (E.D. Wis. 1962), Judge Tehan noted the "incongruity that a party who capitulated and thereby spared the Government the expenditure of substantial time and money would end up in immeasurably worse condition than it would if it lost its case after protracted trial." Id. at 660. This is perhaps overstating the case since the defendant would be spared the cost of a protracted trial, would not be subject to a prima facie case by all private damage claimants under the asphalt clause as would be the case if the defendant lost the protracted trial, and the defendant might well use as asphalt clause issue to bargain for the deletion of other proposed decree provisions.

[112] 203 F. Supp. 657 (E.D. Wis. 1962). In the electrical conspiracy cases, the same result was achieved by government resistance to nolo contendere pleas and the capitulation of the defendants by pleading guilty to a selected number of indictments. Apparently some state attorneys general were considering appearances in the cases to resist nolo contendere pleas, but decided not to appear when guilty pleas were entered in a limited number of cases. See McHenry, supra note 107, at 1114 n.2.

[113] 26 F. Supp. 366 (D. Minn. 1939).

[114] See United States v. Brunswick-Balke-Collender Co., 203 F. Supp. 657, 662 (E.D. Wis. 1962).

[115] Id. at 661.

[116] President Wilson's message to Congress in support § 5 clearly established the rationale for the proposal:

It is not fair that the private litigant should be obligated to set up and establish again the facts which the Government has proved. He cannot afford, he has not the power to make use of such processes of inquiry as the Government has command of. 51 Cong. Rec. 1962, 1964 (1914).

[117] See 51 Cong. Reg. 15,824 (1914) (remarks of Senator Lewis); 51 Cong. Rec. 16,276 (1914) (remarks of Senator Webb); 51 Cong. Reg. 16,004 (1914) (remarks of Senator Chilton); H.R. Rep. No. 627, pt. 2, 63rd Cong., 2d Sess. (1914).

[118] For an excellent analysis of the Brunswick case see Comment, Section 5 of the Clayton Act and Entry of Consent Decree Without Government Consent, 1963 Wis. L. Rev. 459.

[119] One proposal has been that the courts be given discretionary power to determine whether a consent decree establishes a prima facie case for treble damage claimants. M. Goldberg 70. This proposal faces several difficulties. Most of the courts approving consent decrees have no knowledge of the facts and circumstances surrounding the cases before them; it is difficult to conceive of a court exercising this type of discretion without an extended hearing with the participation of the third party claimants; and, it would change the essential character of consent decree negotiations from a two-way negotiation to a three-way negotiation. It is also doubtful whether the Antitrust Division, the judiciary, and the bar would support the legislation necessary to implement this proposal. Although the Supreme Court has reserved consideration of the asphalt clause, United States v. Ward Baking Co., 376 U.S. 327 (1964), it does seem that this method for securing the rights of injured third parties, while also obtaining the advantage of a consent decree, stands the best chance of success. The only thing necessary to achieve that success is a willingness by the Antitrust Division to implement an asphalt clause program. There has been little indication of such a willingness since the Brunswick case.

[120] See United States v. Brunswick-Balke-Collender Co., 203 F. Supp. 657, 659–62 (E.D. Wis. 1962). See also United States v. Ward Baking Co., 1963 Trade Cas. ¶ 70,609 (M.D. Fla. 1962), rev'd, 376 U.S. 327 (1964); United States v. Aero Mayflower Transit Co., 1956 Trade Cas. ¶68,526 (S.D. Ga.); cf. United States v. Standard Oil Co., 1959 Trade Cas. ¶ 69,399 (S.D. Cal.). Contra, United States v. Lake Asphalt & Petroleum Co., 1960 Trade Cas. ¶ 69,835 (D. Mass.); United States v. Hartford Empire Co., 1 F.R.D. 424 (N.D. Ohio 1940). See generally Dabney, supra note 107; Comment, Antitrust Judgments Entered Without Trial or Government's Consent, 82 B.N.A. Antitrust & Trade Reg. Rep. B–1 (1963).

[121] Professor Oppenheim has reasoned:

It has been stated to be a fundamental concept that the antitrust consent decree is not to be viewed solely as a contract resulting from an unrestricted bargaining process between the government and the defendants. Rather, it is an agreement for a voluntary settlement of antitrust issues in which the scope and content of the provisions therein can rise no higher than their source in the legislative objectives and prohibitions of the standards embodied by Congress in its national antitrust policy. . . . It follows, therefore, that neither antitrust officials nor a court of equity has authority under law to induce or accept provisions in consent decrees unless they are related to the prevention or correction of violations of the antitrust laws within the objectives of that legislation.

Oppenheim, Federal Antitrust Legislation: Guideposts to a Revised National Antitrust Policy, 50 Mich. L. Rev. 1139, 1230, 1234 (1952). The 1955 Report of the Attorney General's Antitrust Committee took the position that the Antitrust Division should not seek relief which would "transgress constitutional boundaries" or which could not "reasonably be expected after litigation." Att'y Gen. Antitrust Comm., Report 361 (1955).

[122] 376 U.S. 327 (1964).

[123] See United States v. Ward Baking Co., 1963 Trade Cas. ¶ 70,609 (M.D. Fla. 1962).

[124] "We decide only that where the government seeks an item of relief to which evidence adduced at trial may show that it is entitled, the District Court may not enter a 'consent' judgment without the actual consent of the government." United States v. Ward Baking Co., 376 U.S. 327, 334 (1964).

[125] See Dabney, supra note 107, at 1063. Mr. Dabney's second conclusion, that the Government cannot force a trial where the defendant consents to all the relief the Government requests for the sole purpose of creating a prima facie case under § 5(a) of the Clayton Act, is based on the Brunswick decision. United States v. Brunswick-Balke-Collender Co., 203 F. Supp. 657 (E.D. Wis. 1962). The Supreme Court refused to pass on that question in United States v. Ward Baking Co., 376 U.S. 327 (1964), and the conclusion seems doubtful in light of an analysis of the Brunswick case. See Comment, supra note 118. It may also be argued that the demand for an "asphalt clause" is "relief" the Government would obtain upon full trial of the case because of the prima facie case effect given a litigated decree by § 5 of the Clayton Act. The basic question is, of course, whether a prima facie case obtained by an asphalt clause or litigation of the case is "relief" to which the Government is entitled. In light of the legislative history of § 5 of the Clayton Act it is not too much to say that the Government does have an interest in securing to private litigants their right to damages as a matter of public policy in preventing a multiplicity of suits, restoring competition by aiding injured competitors, and increasing the deterrent effect of antitrust sanctions.

[126] 1959 Trade Cas. ¶ 69.399 (S.D. Cal.).

[127] 15 U.S.C. § 16(a) (1964) (emphasis added).

[128] See Comment, Consent Decrees and the Private Action: An Antitrust Dilemma, 53 Calif. L. Rev. 627 (1965).

[129] See Ellman, Antitrust Enforcement: Retrospect and Prospect, 53 A.B.A.J. 609 (1967). Commissioner Ellman suggests that the FTC should restrict its function to that of a regulatory agency rather than that of a policeman and prosecutor. While little debate can be had on this proposition, realistic facts demand that the FTC be substantially upgraded in quality before major changes are made in the allocation of authority between the FTC and the Antitrust Division.

[130] The Assistant Attorney General in charge of the Antitrust Division of the Department of Justice delivered an important address reflecting the Antitrust Division's position on several important questions with respect to consent decrees before the Bar of the City of New York on December 13, 1967. See Turner, Antitrust Consent Decrees: Some Basic Policy Questions, 336 Antitrust & Trade Reg. Rep. X–1 (Dec. 19, 1967). The speech was published after the preparation of this article, but in no way detracts from this author's views as stated herein.

JAPANESE-AMERICAN ASSEMBLY

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. STEIGER of Wisconsin. Mr. Speaker, early in September a number of my colleagues and I had the honor of taking part in the second Japanese-American Assembly.

This meeting was jointly sponsored by the American Assembly and the Japanese Council for International Understanding and was held in Shimoda, Japan.

Because there are a number of substantive policy questions facing our two countries, I am including as a part of my remarks, the complete text of the final report:

FINAL REPORT OF THE SECOND JAPANESE-AMERICAN ASSEMBLY

PREFACE

The Second Japanese-American Assembly, sponsored by the Japan Council for International Understanding and The American Assembly, met in Shimoda, Japan, September 4–7, 1969. As in the first Assembly, also held in Shimoda, in 1967, the participants (70 in all) included scholars, government officials, businessmen and communication specialists from both nations.

For three days in small groups they discussed the outlook for the bi-national relationship in the 1970s in the light of present political, economic and social postures in each nation as well as in other countries of Asia. Their talks were based on issues raised in paper prepared as advance background reading by James W. Morley, Saburo Okita, Gerald Curtis, Muniyoshi Hirano, Jiro Sakamoto, George McT. Kahin, Fuji Kamiya, Mineo Nakajima, and Marius B. Jansen.

The participants also heard formal addresses by Shorjiro Kawashima, vice chairman of Japan's Liberal Democratic Party and Kogoro Uemura, president of the Federation of Economic Organizations; and by United States Senator Charles Percy of Illinois and Edwin O. Reischauer, former United States Ambassador to Japan.

In plenary session on the final day the participants reviewed the following report which had been drafted by the co-editors of the background papers—Messrs. Curtis and Kamiya—and by the discussion leaders and rapporteurs:

Jun Eto, Hans Baerwald, Herbert Passin, Masataka Kohsaka, Marius Jansen and Michio Rohyama.

The views contained in this report are those of the participants in their private capacities and not of the Japan Council for International Understanding or of The American Assembly, a nonpartisan educational organization which takes no views on issues it presents for public discussion. Nor is The Ford Foundation, who generously underwrote the costs of the Assembly on the American side—gratefully acknowledged herewith—to be associated with the opinions herein.

CLIFFORD C. NELSON,
President, The American Assembly.

At the close of their discussions the participants in the Second Japanese-American Assembly reviewed the following report in plenary session. The report represents general agreement. However, no one was asked to sign it, and in view of the often differing opinions expressed during the course of the discussions, it must be clearly understood that not every participant agrees with every statement.

The relationship between the United States and Japan and their role in Asia have become the subject of serious public debate in both countries. While Japan and the United States share many common interests, there are significant differences in their views of the world and their respective roles in it. Furthermore, these views have not remained constant within each country but have been undergoing change.

There is today in the United States a great concern to solve pressing domestic problems such as poverty, race relations and a variety of urban ills. The American experience in Vietnam has generated a general questioning of America's foreign policy posture. American public opinion clearly desires a reduction in the overseas commitments of the United States, particularly in its military aspects. The timing and extent of this reduction are at issue but not the principle itself.

Japan's rapid industrial growth has created urgent pressures for attention to educational, urban, and environmental problems. At the same time its enormous economic power has contributed to an increase in national confidence. In this setting, America's desire to limit its commitments coincides with a changing political environment in Asia to create new choices and constraints for Japan. There is also a questioning of past policies and a public desire for a different, though still unspecified, role in international affairs.

Asia in the seventies will see a greater complexity in international relations than has heretofore existed in the postwar period. The Sino-Soviet split, the ongoing withdrawal of American troops from Vietnam, and internal developments in Asian countries are combining to create new challenges and new opportunities for the United States and Japan. Both countries must work out policies for the changing political environment in Asia appropriate to their respective capabilities and the desires of their publics.

Political instability will continue to characterize much of Asia in the 1970's, often as a result of the social and political strains of nation building. This will sometimes be constructive and not necessarily dangerous to world peace or subject to outside influence.

Japan will play a more influential role in Southeast Asia in the coming decade. This is partly the inevitable consequence of its position as the only highly advanced industrial nation in Asia. Japan thus has a unique opportunity further to participate and assist in the economic development of other Asian nations. This role, if fully accepted, would be extremely complex and challenging, given the great differences in stages of economic growth, political stability and other conditions among the states in the area. It will require greater involvement but should exclude any military role. By the same taken, the United States too should seek now opportunities to increase its role in economic development programs. Both countries should place emphasis on multilateral means in this field.

It is highly desirable that both the United States and Japan try to normalize their relations with mainland China and to have it participate in a variety of international conferences and organizations. The continued isolation of China and the misunderstanding of intentions between China, Japan, and the United States pose obstacles to the reduction of tensions in Asia.

The existing tensions between China and the Soviet Union are not expected to decrease in the near future. On the contrary, an increase in the conflict is a possibility in the coming decade. Military conflict between China and the Soviet Union is not in the interests of either the United States or Japan.

The problem of Taiwan is a major concern of both the United States and Japan. Eventually it must be solved by the people of Taiwan and China themselves. There was vigorous discussion concerning this formulation, but differences of opinion could not be resolved.

The Vietnam War must be brought to a quick settlement. All efforts should be made to insure that the Vietnamese themselves be free to decide what type of regime they desire. Both the United States and Japan should aid the reconstruction and economic development of North and South Vietnam in the postwar period.

The form of reversion of Okinawa to Japan is the most urgent issue confronting the United States and Japan. The Okinawa problem is not only one of national sovereignty but also of the basic rights of the Okinawan people. It is imperative that a timetable for reversion be set within this year and that immediate steps be taken to provide for Okinawan participation in Japanese life during the process of transition. It was the general view that the return of the islands in such a manner as would place American bases there on the same terms as apply to bases in other parts of Japan is most desirble. However views favoring the immediate, unconditional return of Okinawa were also expressed. Okinawan revision to Japan will remove a major irritant in United States-Japanese relations and will contribute to the development of great mutuality of interest between the two countries.

The problem of Korea is of direct concern to the United States and cannot be disregarded by Japan. We were in general agreed that forcible change of existing borders in the Korean peninsula would present serious problems to the United States and Japan, although we did not arrive at conclusions on the extent of this danger or counter measures to be taken.

Mutual security arrangements between the two countries must be considered in terms of the long range friendship between the United States and Japan. There was a wide variety of opinion ranging from abrogation to the indefinite continuation of the present Treaty without change. The prevailing view was that, in the immediate future, there was no alternative to automatic extension. However, dissatisfactions in both the United States and Japan clearly require that the Treaty be constantly examined and adjustments made as expeditiously as possible. Even under the present Treaty, the further reduction of American bases in Japan is desirable. It was generally agreed that both countries should work toward creating conditions under which the security of Japan and its neighbors could be insured without the presence of American bases.

Close relations between the United States and Japan are in part the result of their extensive economic ties. As great trading nations, both share a common interest in maximizing the opportunities for the freest possible world wide economic interaction. In this context it is imperative that both nations eliminate as quickly as possible barriers to trade and take necessary steps to insure the free movement of capital between the two countries. It was generally recognized that at this stage Japan should take the initiative in this regard in order to avert a vicious circle of retaliatory protectionist measures. The economies of both countries are sufficiently strong to make protectionist measures unnecessary.

There is unanimous agreement among Americans and Japanese that a friendly and equal relationship is of fundamental importance. As advanced industrial societies both countries share many common problems despite differences in language, culture, and historical experience. We both must improve our mass education systems, deal with the dissatisfactions of youth, make our cities more liveable, and make government and large organizations more responsive to the needs of society.

* * * * *

It was resolved in plenary session that the funds specified for cultural purposes in the repayment of Japan's debt to the United States be used for the creation of a foundation devoted to the fuller development of dialogue and the study of our common problems.

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Mineo Nakajima, Lecturer in International Relations and Chinese Studies, Tokyo University of Foreign Studies.

Yasuhiro Nakasone, Member, House of Representatives, Liberal Democratic Party.

Yasumasa Ohta, Sub-Chief Editorial Writer, *The Tokyo Press.*

Herbert Passin, Professor of Sociology, Columbia University.

Hugh Patrick, Professor of Far Eastern Economics, Yale University.

Charles Percy, United States Senator from Illinois.

Richard Pfeffer, Assistant Professor, Dept. of Political Science, Johns Hopkins University.

Gerald Piel, President and Publisher, *Scientific American.*

John Powers, Aspen Institute, Colorado.

Edwin O. Reischauer, Professor, Department of Asian Studies, Harvard University.

Donald Rumsfeld, Director, Office of Economic Opportunity, Washington, D.C.

Kiichi Saeki, President Nomura Research Institute of Technology and Economics.

Shoichi Saeki, Professor of Literature, Tokyo University.

Jiro Sakamoto, Professor, Hitotsubashi University.

Joseph E. Slater, President, the Salk Institute.

William A. Steiger, Representative from Wisconsin, Congress of the United States.

Nathaniel B. Thayer, New York.

S. Fletcher Thompson, Jr., Representative from Georgia, Congress of the United States.

Seiji Tsutsumi, President, Seibu Department Store Co., Ltd.

John V. Tunney, Representative from California, Congress of the United States.

Gordon Tweedy, Chairman, C. V. Starr & Co., Ltd., New York.

Morris Udall, Representative from Arizona, Congress of the United States.

Kogoro Uemura, President, Japan Federation of Economic Organizations.

Jiro Ushio, President, Ushio Electric Co., Ltd.

Arthur L. Wadsworth, Executive Vice-President, Dillion Read & Co., New York.

Kei Wakaizumi, Professor of International Relations, Kyoto Sangyo University.

Ichiro Watanabe, Member, House of Representatives, Komeito.

Robert M. White, II, Editor & Publisher, the Mexico Ledger, Missouri.

Masakazu Yamazaki, Playwright, Assistant Professor, Kansai University.

CONGRESSMAN FRANK ANNUNZIO HONORED AS RECIPIENT OF THE JUSTINIAN SOCIETY OF LAWYERS' MAN OF THE YEAR AWARD FOR 1969

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. PUCINSKI. Mr. Speaker, last week our highly respected and very distinguished colleague Congressman FRANK ANNUNZIO, was honored by the Justinian Society of Lawyers as the recipient of its annual Man of the Year Award.

Congressman ANNUNZIO joins a very highly respected group of former recipients of this coveted tribute by the Justinian Society of Lawyers. Former recipients included Justice Michael A. Musmanno, Hon. Joseph A. Califano, Jr., Gov. John A. Volpe, and Mayor Joseph L. Alioto.

I was pleased to be able to participate in this very impressive tribute to our colleague which was held last Thursday in the Sherman House in Chicago.

Among those responsible for arranging this tribute to FRANK ANNUNZIO were:

Anthony J. Fornelli, president of the Justinian Society of Lawyers; Vito D. DeCarlo, first vice president; Gerald L. Sbarboro, second vice president; Anthony J. Scotillo, third vice president; Benjamin DiGiacomo, treasurer; Oscar P. Chiappori, secretary; Hon. Lawrence X. Pusateri, chairman, Parole and Pardon Board, State of Illinois; Angelo D. Mistretta, retiring president; Hon. P. A. Sorrentino, judge, Circuit Court of Cook County; and Rev. Paul J. Asciolla, C.S.

Mr. Speaker, FRANK ANNUNZIO has richly earned the distinction and honor paid him by the Justinian Society of Lawyers. Throughout his life, FRANK ANNUNZIO has been in the forefront of serving his fellow man and as an articulate spokesman of the high ideals and impressive achievements of the Italian people.

As a former schoolteacher, a State director of labor, a confidant of men in high public office, a community leader, a ward committeeman, and a stanch American, FRANK ANNUNZIO exemplifies the highest traditions of public service. He has brought credit to the Italo-American community and tc Americans all. As a member of the Congress, he enjoys the highest respect of his colleagues. As a member of the House Banking Committee, his impact on major legislation affecting our entire economy is imposing and impressive. FRANK ANNUNZIO exemplifies the highest standards of dignity and compassion for his fellow man.

I should like to place in the RECORD today his speech delivered in acceptance of this highly distinguished award.

Congressman ANNUNZIO's speech follows.

REMARKS BY CONGRESSMAN ANNUNZIO

Father Asciolla, distinguished guests, all of my friends, ladies and gentlemen, it is needless for me to tell you how tremendously delighted I am tonight to be selected for the Justinian Award. I am aware of the fact that all of the other recipients of this award have been people from outside the City of Chicago and that I am the first Chicagoan to achieve this high honor and this distinction.

Your organization is to be commended for its courage tonight in inviting so many distinguished and outstanding judges in our community and to have as your awardee a Member of the Congress of the United States of America. As we all know, this is hunting season on Judges and Members of Congress. By inviting us tonight, you are demonstrating your faith in our institutions of government.

Our critics are many but you and I can agree that in America we have a government for and by the people, and that there is no government in the world better than the government in America.

We are not perfect, because we are not a totalitarian state. You can only achieve perfection in a Communist or Fascist state, where those who dare criticize, and those who dare oppose the government, and those who want to use the right of free speech, are either murdered or placed in concentration camps. Of course, the perfection of which I speak is not a real perfection but rather is the perfection which the dictators claim they have achieved. So, despite all of this criticism that is leveled at the public officials of America, and some of it is probably justified, but as far as the great majority of criticism that is leveled against the representatives of this government is concerned, I must say that the people who represent the press, radio and television should dig, and dig deeper, to get the facts because in this day and age when young people are rebelling all over the world it is necessary, when facts are presented in writing or on television, that they be as close to the truth as possible. So, whether we are teachers, lawyers, newspaper men, commentators or politicians, all of us are Americans, all of us are deeply concerned with the preservation of our free institutions, and all of us are deeply concerned about the continuation of our American way of life.

The Justinian Society of Lawyers, through its members, has contributed much to every Italo-American organization in this area. Its members have acted as lawyers and parliamentarians for our organizations, and have given freely of their advice and counsel to these organizations.

As the General Chairman of the Villa Scalabrini Development Fund, I want to publicly acknowledge the great contribution that the Justinian Society and its members have made to the Italian Old Peoples' Home. Our Home today is a five million dollar institution. It is one of the outstanding old peoples' homes in the nation. It is modern in every detail. It is the only Home I know that has a Geriatrics Department, and nurses and doctors are on duty around the clock to take care of the old people when they get sick. Therefore, at this time it is not necessary to remove those who are bedridden to hospitals. They can get the professional medical care they need right at the Old Peoples' Home.

As I look at the future of the Old Peoples' Home, I see our Home becoming a center for the Italo-American people all over the state and county where they can meet to discuss mutual problems facing them in our complex and modern society.

As you probably know, there are sixteen Italo-American Congressmen in the Congress

of the United States. Most of these men represent areas either on the eastern or western seaboards. I have the distinction of being the only Italo-American Congressman west of the Appalachian Mountains, east of the Rocky Mountains, and from the Gulf of Mexico to the Canadian border. Despite the fact that we have 25 million Italo-Americans in the United States, there is only one Congressman who represents this vast area I have just described in the Congress of the United States.

Since my election in 1964, I have actively participated in every legislative measure that would give long overdue recognition to the contributions that Italo-Americans have made to America since the landing of Columbus in the New World.

We all know that Italo-Americans have participated with honor and distinction in every way in the history of our country—in the Revolutionary War, in the Civil War, in the Mexican War, in World War I, in World War II, in the Korean War, and in the Viet Nam War. Our people have given dedicated service in the defense of their country, and there are three Italo-Americans who are winners of the Congressional Medal of Honor.

On August 25, 1965, the Congress of the United States passed a new Immigration and Nationality Act and this Act was signed into law by President Lyndon B. Johnson on October 3, 1965, in an unprecedented ceremony at the Statue of Liberty. Before the enactment of this legislation, only 5,666 Italians could be admitted to the United States. Since the passage of this Act, over 100,000 Italians have been admitted to the United States. Under the law today, 20,000 Italians can come to America each year. Congressman Peter Rodino of New Jersey and I, when the bill was passed, were the co-authors of the program to phase out in three years the discriminatory national origins quota system in order that we could secure more visa numbers to alleviate the plight of a quarter-of-a-million Italians waiting to come to America.

The passage of this law was important not only because it provided for increased migration of Mediterranean peoples to our shores, but it was important because it took 42 years to repeal the infamous McCarran-Walter Act which conferred second-class-citizen status on every Italo-American, whether he came from Italy or was born in the United States. The philosophy of this anti-American is a permeated our entire society and especially our professional schools. It established in each school a quota, according to nationality, for admittance of law students, medical students, dental students, and other professional students. As far as I am concerned, one of the greatest achievements in behalf of genuine Americanism, is the repeal of the McCarran-Walter Act because this means that at least every American must be judged on his merits, and his merits alone, regardless of race, color or religion.

In 1968, we passed the National Monday Holiday bill. This bill was passed with the full cooperation of Speaker John W. McCormack, who waited until 9:30 p.m. in the evening in order to call the bill before the House. I want to say that every Italo-American Congressman and our friends were on the floor of the House and participated in the debate and in supporting passage of the National Monday Holiday bill. This bill was passed about 12 o'clock midnight by a vote of 212 to 83.

For the first time beginning in 1971, the second Monday in October will be observed as a national Federal holiday honoring Columbus. As you know, we celebrate George Washington's birthday because he is the father of our country. All other holidays depict an event in the history of America, such as Memorial Day, Veterans Day, Thanksgiving Day, but only two men have been singled out to be honored with a special day—George Washington and Christopher Columbus. As the father of all immigrants, Columbus certainly deserves this recognition and becomes the second man in the history of our country to be honored in this way. We as Italo-Americans have waited for over one hundred years to achieve this recognition, and as one of the cosponsors of this bill, I want to say that it was an event worth waiting for!

When I first came to the Congress of the United States, I heard so much about Constantino Brumidi—the Michelangelo of the Capitol. I went to the Senate to view the works in the Brumidi corridor, the beautiful frescoes of the Rotunda, and the Rotunda itself, because all of this work was performed by the genius who migrated from Italy in 1852. My distinguished friend, former Senator Paul Douglas, introduced the Brumidi Bust bill in the Senate because nowhere in the Capitol was there a mark to inform the hundreds of thousands of visitors to Washington about the beautiful art work of Constantino Brumidi.

I was the first sponsor of this legislation in the House of Representatives. Again, I must say that I received the untiring cooperation and assistance of not only the Italo-American Congressmen, but all of our friends in the Congress rallied to support this bill, and there were over one hundred Members of Congress who cosponsored the bill in the House. This bill was passed and signed into law, and an appropriation was made for the procurement of a marble bust of Constantino Brumidi to be placed in the Senate wing of the Capitol Building.

On February 26, 1968, I introduced resolutions to provide for dedication of the Brumidi bust in the Rotunda and to provide for a printed record of the proceedings of the dedication ceremonies in the Rotunda. I invited the Dean of the Italo-American Congressmen, Honorable Peter Rodino, to be one of the co-chairmen of this dedication, and I also asked Senator John Pastore of Rhode Island to act as a co-chairman. Over 54 representatives of the Joint Civic Committee of Italian Americans from Chicago were present in Washington to participate in the dedication ceremonies. It was a beautiful morning. The Marine Band played appropriate music. The Vice President of the United States, the Speaker of the House, the Ambassador of Italy, the Majority Leader of the House, the Minority Leader of the House, the Majority Leader of the Senate, the Minority Leader of the Senate, my good friend, the late Honorable Everett McKinley Dirksen, the distinguished members of the Dedication Committee, and important Members of the House and Senate representing both parties were all present at the ceremonies.

It was the first time, in the 193-year history of our country, that an immigrant Italian, who was born in Rome and migrated to the United States, was honored in the Rotunda of the Capitol for his great works of art and was given the long overdue recognition that he so richly deserved!

In the 90th Congress, and again in the 91st Congress, I introduced legislation to name the nuclear accelerator at Weston, Illinois the "Enrico Fermi Nuclear Accelerator" in honor of one of the great scientists of our time and the father of nuclear energy—Dr. Enrico Fermi.

This was a two-year struggle, but again, I must tell you that over one hundred of my Colleagues in the House of Representatives rallied and cosponsored this bill. On April 9, 1969 I received a call from the Chairman of the Atomic Energy Commission, Dr. Glenn T. Seaborg, informing me that the Commission had met and that they had voted to name the Weston Accelerator in honor of Enrico Fermi. However, I was asked not to release this information until Dr. Seaborg had received approval from the White House. On April 29, 1969, I received a call from the White House informing me that the President had approved the recommendation naming the Weston Accelerator in honor of Enrico Fermi, and on that day—April 29—I released this information to the press of America.

What is the importance of this particular recognition? For the first time in the history of our country, a national major Federal facility now has the name of another man born in Italy who came to the United States of America, just as Brumidi did, and made a major contribution to our way of life as the father of nuclear energy.

The day will come, because of the results of the work at the new Enrico Fermi Accelerator, when new discoveries will make life easier for mankind, nuclear energy will be harnessed for peaceful purposes so that we can have better facilities, cheaper energy to heat our homes, new cures for illnesses, and a constructive attack on some of the serious problems that beset our society, such as water and air pollution.

About three weeks ago I was having lunch in the Member's Dining Room with my good friend, the late Dan Ronan, the Congressman from the Sixth District of Illinois. While sitting at the table, another good friend, a Polish-American Congressman from the State of Michigan asked if he could join us and I said, "yes." He said, "Franco, what is your next Italian-American project?" I replied, "You know, my friend, the other day I was walking in the basement of the Rotunda, and to my great surprise, I found that in this corner of the Rotunda, where no one ever visits, there are three marble busts—Giuseppe Garibaldi, Thaddeus Kosciusko, and Casimir Pulaski." My Polish friend could not believe what he heard.

That afternoon, as it had been the custom of Dan Ronan and myself over the years, we walked around the Capitol Building and as we approached the Rotunda of the Capitol, Dan said to me, "You know, Frank, I would like to look at these three busts." So we went to the basement of the Rotunda, and do you know who was there checking up on me—my good Polish friend from Michigan. He said to me, "When are you going to introduce the legislation so that I can support you?"—"Not until 1970," I replied, "for that is an election year!" So you see, I am now going to have the help of the Poles in order to raise from the dungeons of the Rotunda of the Capitol Garibaldi, Kosciusko, and Pulaski.

There are many other pieces of legislation, such as the resolution dealing with defamation, that I can discuss. But my time is limited, and I know by now you are wondering what else I do as a Member of Congress to serve the interest of all Americans—not only Italo-Americans.

As most of you know, I am a Member of the House Banking and Currency Committee. I am also a Member of one of its most powerful Subcommittees—the Domestic Finance Subcommittee. During the last five years, I have been fortunate, for as a Member of the Committee I have helped to uncover the most extensive and vicious juice racket that ever existed in any part of our country.

American fighting men abroad were being charged and were paying interest rates amounting to 50 and 60 per cent on loans they had made with unscrupulous money lenders. As a result of our Congressional investigation, and with the help of the distinguished Chairman of the Banking and Currency Committee, Wright Patman, a fifty million dollar Washington-based company has been put out of business. This company had on its Board of Directors eight retired admirals and generals. It has been estimated that a racket of over one hundred million dollars has been broken and our servicemen are now free of the "fast buck" operators. These servicemen were sent to Europe and Asia to protect our free enterprise system, and instead, our free enterprise system was cheating them! Today, I am happy to report to you that on our military bases all over Asia and all over Europe, we have established Federal credit unions with deposits on hand

of over forty million dollars, with loans on hand of ten million dollars, and with a maximum interest rate of one per cent per month on the unpaid balance being charged to our fighting men.

At the present time, I am engaged in a confrontation with the insurance industry. I want to assure my friends who are in the insurance industry that I believe in the free enterprise system and that all I am saying to the insurance industry of America is—either you provide insurance at reasonable rates for the people of the inner cities and ghettos of America, or it becomes the responsibility of our government to get into the insurance business.

This is not a new experience. We have Federal insurance for depositors, for commercial banks, for savings and home mortgages, for VA loans and FHA loans. We have Federal flood insurance. Social Security is an insurance program. Our government has a long history of successful insurance programs. In order to meet the needs and wants of the small businessmen and the small home owners of our inner cities, and in order to keep our communities together, we can no longer tolerate red and black lining of districts and wholesale cancelling of policies, particularly when no reason is given by the insurance companies for the cancellation of these policies!

I could go on about some of my work, but I want to say to the Justinian Society of Lawyers that we live in a day and age where you cannot sit back, where you cannot be complacent, where it is not enough to earn a living only for your family. We live in a day and age of involvement. We must become involved in the social and political problems that confront our nation, our state, and our city.

The lack of involvement, evident in certain areas of our society today, reminds me of the jury that was considering a very complicated murder case that was filled with conflicting testimony. When the jury returned to the courtroom, they asked the foreman of the jury if they had reached a verdict. The foreman of the jury rose and told the judge, "Your Honor, in this case the jury decided not to get involved."

In Illinois, we are having a Constitutional Convention, and I was shocked when I read the list of the delegates, for with 1,250,000 Italo-Americans residing in our state, there are only a half-dozen delegates to this Constitutional Convention who are Italo-Americans. I call upon you to meet this challenge, to get involved, to file for public office. We cannot win them all, but we will win some if we try. I call upon the Justinians to prepare position papers, if you please, on how they feel about the judiciary and other important issues. Remember that if we do not elect our judges for the first time, we will find that Italo-Americans will disappear from the judiciary. I firmly believe that under the Missouri Plan, we will find less representation of members of our ethnic group. I do not agree with my friend Ambassador Goldberg who has said that a position on the Supreme Court is not a Jewish seat. The President took him at his word and he appointed another Anglo-Saxon to the Supreme Court. I do not feel that designating an Anglo-Saxon is wrong, but I do feel that Italo-Americans, Jewish-Americans, Irish-Americans, Polish-Americans, and all of the other hyphenated groups are just as intelligent as any other people in the United States of America and it is about time that we let others know where we stand—and we must stand up and be counted!

There are other issues that are coming up, and again we are reluctant to take part. What is the position of the Justinians on the issue raised by thirteen prominent professors in major law schools across the country who declared recently that unrestrained snooping, eavesdropping, and wiretapping "would gravely threaten some of our most fundamental liberties as well as the true law itself."

We must remember that in my generation and in your generation, we were lucky enough to witness the birth of radio and television. I can vividly recall listening to the Dempsey-Tunney fight in 1927 when my father bought his first radio equipped with earphones. I can vividly recall when electricity was installed in our home when I lived on Edgemont Avenue not too far from this Hotel. I can recall the first television set, but our children and our grandchildren have no such recollection, for they were born in the electronic age and accept this electronic equipment as a way of life. It is not uncommon for us to have special telephones for the exclusive use of our children and it is no great surprise to me that so many of our college people and our young people will say "what's wrong"? They take these new instruments as a matter of fact and as a customary way of life, and unless those of us, who have deeprooted understanding of privacy and the rights of the individual, take a position, we will see the pillars that have supported democracy crumble, because today it is the unsavory character who is the victim of this invasion of privacy, and tomorrow it will be the innocent citizen, the professional man, and political representatives of the people who will fall to the vengeance of this facist philosophy.

In conclusion, I want to express to you my deep personal appreciation for honoring me and to extend my congratulations to your newly elected officers and to my good, friend, Anthony Fornelli, your new president, who is doing such an outstanding job as Chairman of the Human Relations Committee of the Joint Civic Committee of Italian Americans, and who works untiringly, with dedication and devotion, for all Americans. He is a champion—a fighter—against the smearmongers and the guilt-by-association-technique users, and the unscrupulous operator who peddles his lies in order to benefit his pocketbook.

Ladies and gentleman, the Italian-American can live with the lies that are printed about him if only the truth about his accomplishments is given equal space. Again, thank you for honoring me tonight with your award and I assure you that I will try with all my heart to live up to the faith and confidence you have placed in me.

Thank you.

DISTRICT 28 STEELWORKERS SERVE EVERY MEMBER

HON. MICHAEL A. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. FEIGHAN. Mr. Speaker, it was my privilege to cut the ribbon on the occasion of the dedication of the building which will provide the facilities for members of the United Steelworkers to participate in their credit union program. My brief remarks follow:

The opening of this credit union is yet another example of the Steelworkers' Union conscientiously serving its members. Beginning today, the Steelworkers of the Cleveland-Akron-Lorain district will be assured of adequate financial services.

Credit unions have long contributed to the welfare of millions of Americans. Among the countless financial institutions, they are the closest to the people. Based on a self-help concept, credit unions provide members, who share a common bond, a private avenue for saving and borrowing. Their loan policies are another special feature. Banks often require considerable collateral before granting a loan. Credit unions, on the other hand, can grant loans based primarily on a member's character and ability to repay. By thus facilitating borrowing, credit unions are performing an invaluable service, especially in an economy troubled with inflation.

There are more credit unions than any other type of financial institution in this country. This credit union of the Steelworkers, however, is unique. The common bond of credit unionism has been expanded from the workers of a single steel plant to all Steelworkers in District 28. That expansion was possible because the forerunner of this credit union operated so effectively and efficiently. This represents the culmination of thirty-seven years of tireless, selfless, and unswerving devotion to the cause of unionism by the membership. Today marks the beginning of a new era and new horizons for all the members.

As a result, more than 30,000 Steelworkers in a large geographic area can now enjoy convenient financial services tailored to individual needs.

This building stands as a symbol of your initiative, and I am honored to join in its dedication.

PROPOSE POPULATION GROWTH COMMISSION

HON. GEORGE BUSH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. BUSH. Mr. Speaker, on Monday of this week the Senate passed by unanimous consent S. 2701, to establish a Commission on Population Growth and the American Future. This legislation was requested by President Nixon in his population message to the Congress, July 18.

The members of the Republican task force on earth resources and population are very pleased with this quick and bipartisan support taken by the Senate.

So many of us on both sides of the aisle have expressed our concern over the problems of our environment. The subject of ecology is now part of our everyday working vocabulary. In the past 6 months I have felt an increasing awareness on the part of all Members of the House about the need to understand the effects of population growth on our environment; our physical environment as well as our social environment.

The proposed Commission will be responsible for inquiry and recommendations in this interrelationship of population growth, environmental quality, and natural resources. This Commission will be as much educational as it is investigative and we certainly need a high-level platform from which the American people can see, hear, and learn about this interrelationship.

H.R. 13337 is identical legislation to S. 2701. It is cosponsored by the House Republican leadership as well as the members of our earth resources and population task force.

This bill has been assigned to the Government Operations Committee and we are hopeful that Chairman DAWSON will give this bill a high priority within his committee's order of business.

GREENSBORO MANPOWER DEVELOPMENT CENTER

HON. RICHARDSON PREYER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. PREYER of North Carolina. Mr. Speaker, many of us have been disappointed at times in the results of some of the programs designed to lift out of poverty the millions of Americans who, usually, through no fault of their own, live a life of limited opportunity and reward. At the same time, we need to recognize that there are many success stories in the recent history of the cooperative efforts of Government, education, and business, to provide a better life for our fellow citizens. One such story has recently come to my attention.

The Manpower Development Corporation, which is led in our State by Luther Hodges, Jr., the son of our distinguished former Governor and U.S. Secretary of Commerce, and by George Autry, former aide to North Carolina's Senator SAM ERVIN, has issued a report on the completion of a training program in my home city of Greensboro. It demonstrates how a well-developed and managed training program can produce graduates who put much more back into the economy than the cost of such a program. Most importantly, it shows what we can do in terms of enriching the lives of our fellowman.

A summary of the report follows:

THREE-MONTH FOLLOWUP OF FOURTH CYCLE GRADUATES OF THE GREENSBORO MANPOWER DEVELOPMENT CENTER

On April 18, 1969, 67 trainees graduated from the fourth cycle of the Greensboro Manpower Development Center. Three months later, 62 of these graduates were located in the Greensboro area and interviewed in depth about their post-training status. Salient points are summarized herein.

Employment status of the 62 graduates at the time of the interviews breaks out as follows:

Employed full time	43 (69.3%)
Employed part time	3 (4.8%)
Unemployed	16 (25.8%)
Total	62 (100%)

Of the 43 graduates employed full time, 35 were employed on the first job they had taken after graduation; six were on their second job after graduation; one was on his third full-time job, and one was on his fourth. Thus, over 80 percent of the full-time employed graduates had remained on the first job they had found after completion of the MDC training.

The 43 employed-full-time graduates were in jobs with 26 separate employers. Eight employers were manufacturers; five were food processers; five were government or social service agencies; five were sales/service organizations; three were individuals; and one was a construction firm.

The hourly wage of the 43 graduates employed full-time ranged from a low of $1.25 to a high of $3.00. The average hourly wage for the 43 was $1.82.

Sixteen graduates were unemployed at the time of the follow-up interviews. Four of the 16 had been employed at some time since graduation, but had left their jobs—one because of a jail term, one because of a health problem, and two because of on-the-job disagreements with fellow employees.

Of the 12 graduates who had been unemployed for the entire period between graduation and follow-up, four had not worked because of health problems. One graduate was planning to move out of town shortly, and one was waiting to enter a skills-training program at the local technical institute. The other six graduates had not been able to find suitable employment. All six stated that they were still trying to find work through such means as ESC, the want ads, and personal applications at plants.

The 62 graduates who were located for follow-up had, at the beginning of the cycle, an aggregate earned annual income of $90,670, or an average of $1,462 earned annual income per person. At the time of the follow-up, the same 62 individuals reported an aggregate earned annual income of $165,942—an increase of $75,272 over the pre-cycle figure. This translates into an average per-person income of $2,676, or $1,214 more than the pre-cycle per-person figure.

Actually, since 16 of the graduates were unemployed at the time of follow-up, the entire aggregate annual income figure of $165,942 was attributable to the 43 graduates employed full-time and the three employed part-time. The average annual income for the group of employed graduates only, then, is $3,607.

Figured on an individual basis using the family status and income data provided by the trainees, the 67 graduates were paying an aggregate Federal income tax amounting to $4,584 at the beginning of the cycle. Twenty-two weeks later, at the time of follow-up, the same group was earning at rates for which an aggregate Federal income tax of $12,626 for the first year is projected.

On the basis of this first follow-up, then, new Federal income tax payments in the amount of $8,042 have been generated. At this rate the Federal investment of $60,000 in the fourth cycle (total cost: $64,000) would be paid completely back into the Federal coffers in the form of income tax alone in a period of 7½ years.

POSTAL CORPORATION

HON. ARNOLD OLSEN

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. OLSEN. Mr. Speaker, what with the deluge of propaganda promulgated by the so-called "Citizens' Committee" and Department officials themselves favoring the creation of a postal corporation, I believe we must keep in mind that many qualified and respected people still see an extreme danger in a sudden conversion of the Department to a corporation that would result in a precipitous diminishment of service to the American people.

I would like to call to the attention of my colleagues a letter by J. Edward Day, former Postmaster General, that appeared in the Washington Post on September 30. I hope that every one of my colleagues will read this letter, especially the paragraph describing the poll that was buried in the Kappel Commission Report:

WOULDN'T TAMPER WITH MAIL

Your editorial on the postal corporation plan (Sept. 23) mistakingly indicates that only the postal unions are opposed to it. Two and a half years ago when this old idea was trotted out again, I publicly explained its pitfalls. In my opinion it would bring us postal strikes, curtailed service and a 12-cent first class rate.

It is, we know, the current fad to scoff and carp about most everything. Nonetheless, a Roper Associates poll buried in the "annex" material of the Kappel Commission report on the Post Office shows that 76 per cent of those interviewed were "completely" satisfied with the mail service they get and another 19 per cent were "fairly well satisfied."

Of course, a disaster can be manufactured in any organization if the top management tells the employees and the public every day that the whole thing is a mess. It is ironic that the backers of this plan profess concern with employee morale.

J. EDWARD DAY.

BRANDT COALITION, DEMOCRATIC MATURITY—A WALLACE COALITION, CONSTITUTIONAL CRISIS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. RARICK. Mr. Speaker, the German elections have left Chancellor Kiesinger with a plurality but not a majority. To hear the leftists talk, he was defeated. It has been amusing to see the news media promote a coalition of the second-place Socialist candidate Brandt, and the third-party Free Democrats in order to capture a majority of the votes in the Bundestag necessary to elect Brandt as the next Chancellor. For some reason, these people seemed pleased at the thought of the ouster of the Christian Democratic Party which has guided German destiny since World War II, and under which free Germany has achieved the status of a stable, solvent, anti-Communist ally of the United States.

The same news media has been notably silent on telling the American people who Willie Brandt really is—such significant items as his real name before he adopted his alias, his presence with Communist forces in the Spanish Civil War under a forged passport, his Moscow affiliations, and who his financiers are. By contrast, Mr. Kiesinger's bones were picked clean.

The real hypocrisy of the press is revealed by its enthusiastic endorsement of a coalition between the Socialist Party which ran second and a splinter party to unseat the party which achieved the largest popular vote.

Yet, under similar circumstances last fall, the same hypocritical news jockeys were aghast at even the suggestion that a third-party candidate might be in a position to influence a coalition government in the United States.

The news analysts bewailed this as a "constitutional crisis" here. In a panic reaction, fomented in great part by the news media, the House adopted a constitutional amendment completely altering the philosophy of our Government since its formation. The 40-percent-to-win principle applied to the German election would have left Mr. Kiesinger the undisputed Chancellor and his party in power without any coalition.

As to Bonn, however, the same news analysts suddenly read the same facts,

where the swing is to the left, and discover it to be merely the attaining of Democratic maturity by the German people.

It is interesting to speculate what the attitude of these savants would have been if the third party in the deal were the National Democrats instead of the Free Democrats.

BIG TRUCK BILL

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. SCHWENGEL. Mr. Speaker, my editorials for today are from the Bridgeport Telegram, the Bridgeport Post, the Middletown Press, and the Torrington Register in the State of Connecticut. The editorials follow:

[From the Bridgeport Post, Bridgeport, Conn., Aug. 4, 1969]

PUSH FOR BIGGER TRUCKS

The trucking industry, engaged in a determined campaign for the last year or so to persuade the government to give even larger trucks the run of the nation's roads, has lately come up with a new argument to bolster its case.

Industry spokesmen asserted in congressional hearings that the size and weight hikes desired would actually contribute to highway safety. Their reasoning is that by abandoning the present weight limit—73,280 pounds—for trucks on the interstate system and adopting instead of axle-spacing formula, weight distribution would be improved. Trucks might be heavier—up to 92,500 pounds—and wider, but also better-balanced, and therefore less of a hazard to truckers, passenger car drivers, bridges and the roadways themselves.

There is no question that trucking is a vital element in the transport system of a consumption-happy society or that there are valid arguments for bringing existing regulations into line with changing needs of the industry and public, improved technology and highway facilities.

But this is one that is likely to be difficult to sell to drivers who have had white-knuckled experience maneuvering around and among present width and weight trucks, or struggled to keep a car on the road in the gale-force winds frequently created in passing or being passed by trucks.

[From the Middletown (Conn.) Press, Aug. 1, 1969]

THE TRUCKERS ROLL AGAIN

The trucking industry is again revving up its motors in an attempt to steer new weight and size limits through Congress. The industry naturally wants to increase the size of trucks that are permitted on the highways.

This is the bill that almost slipped through Congress last year, but was halted by a public outcry. The legislation, which has been denounced by the American Automobile Association as an "anti-safety bill," is what is called a permissive bill. It would merely permit the states to authorize larger truck sizes (wider, longer, and heavier) on the interstate highways within their borders. In the past, states have been quick to go along with the trucking industry.

But there are two problems. The first is safety and the second is money. Accidents between cars and small pick-up trucks produce 0.3 fatalities per 100 persons involved, but the death goes to 13.3 per 100 persons in collisions between cars and tractor-double trailer trucks, an increase of 40 times. There is, in short, a reason for people to fear large trucks, because usually it is the passenger car driver who gets killed. In addition, larger trucks cost the taxpayer money, tons of it. Last year the Bureau of Public Roads predicted that the wear and tear of an estimated 300,000 bigger trucks would add $8.5 billion in repair and construction costs to the interstate highway system during the first 10 years. That doesn't count the damage to local roads which presumably are built at lesser standards.

Actually, the trucking industry has long received too much hidden public subsidy. These huge underpowered tractor-trailers, snorting fumes and noise, crawling up hills and barrelling down hills, jack-knifing and exploding, have run roughshod over the highways. What is actually needed is legislation to insist on noise and exhaust suppression, and sufficient power to maintain a constant, safe speed on the highway.

[From the Torrington (Conn.) Register, Aug. 1, 1969]

HIGHWAY GIANTS

The trucking industry is back before Congress this year with a bill to permit the operation of heavier and bigger trucks on the nation's interstate highway system. Congress, as it did with a similar measure last year, should reject the proposed changes.

Foremost among the opponents of the legislation is the American Automobile Association, whose executives testified recently before the House Public Works Committee. The AAA's opposition is based on two points. The first is that bigger trucks will constitute a hazard on the highways because their bulk diminishes the visibility of other drivers and their length makes passing more risky.

The second point the AAA stresses is that—the increased weight of tractor-trailers and tractor-two trailers will punish pavements and bridges and increase not only the costs of upkeep but also the construction of new roads built to withstand the heavier loads.

Highway costs warrant concern, but the argument Congress should find most persuasive is the likelihood of greater danger on the nation's already unsafe roads. A 70-foot truck, more than eight feet wide and weighing as much as 15 tons, is an intimidating object. To allow such snorting behemoths on the public roads is not in the public interest.

POST OFFICE DEPARTMENT DECISIVE ACTION LAUDED

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. DULSKI. Mr. Speaker, our Subcommittee on Postal Operations is working diligently to come up with legislative answers to the avalanche of smut which is flowing into the Nation's homes through the mails.

Postmaster General Blount announced today decisive action to revoke the post office box privileges of eight dealers in sexually oriented materials.

This is the kind of affirmative action which we must take to deal with this mounting problem of ponography. I commend Mr. Blount and the Department for their initiative in this instance.

Mr. Speaker, following is the text of the press release issued by the Department on this matter:

POST OFFICE DEPARTMENT PRESS RELEASE ON TUESDAY, SEPTEMBER 30

The Post Office Department today revoked the post office box privileges of eight dealers in sexually oriented materials. Postmaster General Winton M. Blount said the action was taken under his administrative authority to deny the use of rental boxes to individuals who use them for immoral or improper purposes as determined by the Department's General Counsel.

Five of the affected firms have been using rental boxes in California post offices. They are: Collectors Publications, City of Industry; John Amslow & Associates, Culver City; G & M Enterprises, Hollywood; Athens West and Athena Books, both of Los Angeles. The remaining boxes which were ordered closed include those rented by Central Sales, Baltimore, Md.; Marion John Shiflet, Detroit, Mich.; and Superb Sales, York, Pa.

Each of the dealers has been either arrested or indicted on charges of violating Federal or state pornography statutes.

"DON'T WORRY, MOM"—BUT HE DIED IN VIETNAM

HON. M. G. (GENE) SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. SNYDER. Mr. Speaker, no one will remember my words here, but I know that all of us will remember the brave young men who have given their allegiance and their lives without protest to the defense of America and free men everywhere.

There may be questions of policy or skepticism over tactics, but no one can doubt the valor of our fighting men.

Mr. Speaker, our sympathy and the sympathy of millions of Americans goes to the family of Johnny Cottingham, who paid the ultimate sacrifice for his country in Vietnam. But we owe him more than sympathy. We owe him our highest debt of gratitude, for he died for all of us.

The September 26, 1969, article about his sacrifice—from the Kentucky Post, by John Harris—appears below:

"DON'T WORRY, MOM . . ." BUT HE DIED IN VIETNAM

(By John Harris)

"Please don't worry about me, Mom."

Like so many other boys in Vietnam, that was what John Edward (Johnny) Cottingham wrote his mother.

But mothers can't help worrying a little.

So it was Wednesday night for Mrs. William C. Cottingham, of 21 Prospect street, Newport.

"It was about nine o'clock. I had my pajamas on, fixing to go to bed," she said. "We saw a car come up the drive and a man in uniform got out.

"I just knew something was wrong."

She was right.

The Army officer brought word her youngest son had been killed Tuesday in Vietnam.

A later telegram confirmed he was killed when he encountered a hostile force. There were no further details.

Pfc. Cottingham, 20, had been serving with the First Air Cavalry Division at Quam Loi since arriving in Vietnam July 26.

He was drafted some six months earlier

on Jan. 8, took basic training at Ft. Dix, N.J., and then went to Ft. Lewis, Wash., before Vietnam.

Young Cottingham had attended Immaculate Conception Elementary School, Newport Catholic High and Newport High.

He had dropped out after his sophomore year and worked as parking lot attendant before entering the Army.

"He was my baby," the grieving Mrs. Cottingham said today, "the youngest of five.

"He had a lot of plans—wanted to finish his education when he got back. But it doesn't matter now . . .

"I got a letter from him two weeks ago. He said, 'Please don't worry about me, Mom.'

"And he may have more letters in the mail to me now—I don't know. He wrote every chance he got."

Young Cottingham's father retired last March after 20 years as a truck driver for the City of Newport. He was widely known as a professional boxer from 1925 until 1933 under the name of "Bobby Cotton."

Other survivors include two brothers, Frank, Rochester, N.Y., and Thomas, Southgate.

Also two sisters, Mrs. Judith Florence, and Mrs. Mary Selby, both of Newport.

Funeral arrangements are pending further contact with the Army.

Cottingham is the 26th Campbell Countian to be killed in Vietnam and the 105th for northern Kentucky.

SOCIAL SECURITY INCREASE FOR THE ELDERLY

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. OBEY. Mr. Speaker, no more eloquent testimony in support of the need for an increase in social security benefits can be found than the words of the letter which I received from two of my constituents from Marshfield, Wis.

This letter conveys, better than any words of mine, the need for Congress to pass a decent social security increase of at least 15 percent this year. Senior citizens are not asking for handouts. They are simply asking for what they have a right to expect in a period of inflation.

I commend the text of this letter to the attention of my colleagues:

MARSHFIELD, WIS.,
July 28, 1969.

Hon. Mr. DAVID OBEY,
Member of Congress,
Washington, D.C.

DEAR MR. OBEY: Well, we got you into Congress, thank God and so far you are doing good there, but you promised us old people to do something about our social security income. We sure are having a hard time making ends meet with everything going up in price that we need. We had to quit farming on account of health and age after our youngest son graduated from the U. of Wis. in Madison. One of our 4 boys bought the farm, he is crippled with polio, one of our boys is a Korean war veteran, one is still in the army. Our combined income is $136.40 a month. We sure have a hard time making it. So please work on that bill to up our payments.

God bless you and yours.

Yours thankfully,

Mr. and Mrs. OTTO A. KRAUS.

We hope to hear from you, your honor.

THE FEDERAL TRUTH IN LENDING REGULATION

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. HUNGATE. Mr. Speaker, I believe my colleagues will find useful the following article from the Illinois Bar Journal: "The Federal 'Truth In Lending' Regulation." The article indicates the Federal agencies that can furnish information regarding requirements of this act for each category of business.

The article follows:

THE FEDERAL "TRUTH IN LENDING" REGULATION

(By Howard H. Braverman, director of professional services)

A very necessary addition to every law office library is a copy of Title 12, Chapter II, Part 226, Code of Federal Regulations, the so-called "Truth in Lending" regulation.

The Federal Reserve Bank of Chicago, Box 834, Chicago 60690 has an excellent pamphlet available without charge entitled, "What You Ought To Know About Truth In Lending".

The pamphlet contains the full text of Regulation "Z", questions and answers of a general nature about the Regulation along with specific ones in regard to finance charges and annual percentage rates, open end credit, real estate and the advertising of credit. There are also very fine exhibits in the pamphlet which can be adapted to your clients' needs, especially those with the less complicated transactions.

From the pamphlet, we learned that for $2.00, you can obtain two volumes showing finance charge rates for credit payments running up to 480 months and up to 104 weekly payments as well as annual percentage rates on irregular or multiple advance transactions. These tables can be obtained by sending your check to the nearest Federal Reserve Bank or to the Board of Governors of the Federal Reserve System, Washington, D.C.

Each category of business will be subject to enforcement of the regulation by a federal agency. The following is a list of the business and the federal enforcing agency to which it has been assigned. If you have specific questions in respect to your client's compliance with the Regulation you will get your most prompt and accurate answer by writing directly to the enforcing agency.

BUSINESS AND FEDERAL AGENCY

National Banks: Comptroller of the Currency, U.S. Treasury Dept., Washington, D.C. 20220.

State Member Banks: Federal Reserve Bank in which bank is located.

Nonmember Insured Banks: F.D.I.C. Supervising Examiner for District where bank is located.

Savings Banks insured by FSLIC and members of FHLB system: Supervisory Agent, FHLB District where bank is located.

Federal Credit Unions: Regional Office of Bureau of Federal Credit Unions where credit union is located.

Those subject to Civil Aeronautics Board: Director, Bureau of Enforcement, C.A.B., 1825 Connecticut Ave. N.W., Washington, D.C. 20435.

Those subject to Interstate Commerce Commission: Office of Proceedings, Interstate Commerce Comm., Washington, D.C. 20523.

Those subject to Packers and Stockyards Act: Nearest Packers and Stockyards Administration area supervisor.

Retail, Department Stores, Consumer Finance Companies and all other subject businesses: Truth In Lending, Federal Trade Commission, Washington, D.C. 20580.

ELECTION OF THE PRESIDENT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. DERWINSKI. Mr. Speaker, since we in the House have passed the proposed constitutional amendment establishing the direct popular vote for the election of the President including the highly questionable 40 percent runoff figure, editorial commentary on the subject is especially pertinent since the Senate is wisely scrutinizing the measure.

The Homewood-Flossmoor Star, one of the publications of the Williams Press, carried a very thought-provoking editorial on the issue in its Thursday, September 25 edition. It follows:

CHOOSING PRESIDENT

In its opinion column, "Review and Outlook," the Wall Street Journal recently offered sober advice concerning national elections, with particular emphasis on proposals for choosing the President by popular vote. Such a proposal subsequently passed the United States House of Representatives by so substantial a margin (more than 80 per cent) that many observers who foresaw no immediate threat to the electoral college system must have seen fit to fall back and regroup.

To be sure, the direct vote proposal would still need to be approved by two-thirds of the federal Senate and at length by the states in order to take effect. But the House vote not to mention public opinion polls, might indicate that the makings for favorable action in these quarters are also on the horizon.

The Journal draws in part on the writing of Theodore H. White, who authored the "Making of a President" series, for resources with which to cool the direct vote fervor.

Much of the heat developed, you will recall, when the third party candidacy of George Wallace threatened to throw the 1968 decision into the House of Representatives for resolution. Special attention was directed toward the possibility of a permanent deadlock or a deal which would give Mr. Wallace more bargaining power than he deserved. The cause for concern was valid.

But there is no less, and perhaps more, cause for concern over the direct vote process. Under the electoral vote system, it is pointed out, recounts in areas where irregularities are apparent tend to be isolated to one or a very few states. "Under direct election," it is added, "a nation-wide recount becomes a distinct possibility, especially considering that in two of the three most recent Presidential elections the winning margin has been less than one per cent."

Thus it is entirely possible that we wouldn't be worried now over who was elected in 1968 for the simple reason that we wouldn't even know who had won in 1960.

Clearly there are good arguments for reforming or modifying the electoral vote system rather than abandoning it. One modification which has appealed to us is apportioning electoral votes on the basis of state pluralities or along Congressional district lines.

As the Journal says: "In the real world, as Mr. White warns, it will be better to correct known defects in a tested system than to experiment with a new system carrying ob-

vious and quite possibly dangerous defects of its own."

Perhaps the substantial House margin for scrapping the electoral vote system does in fact portend similar favorable action by the Senate and the populace. Then again it might stimulate the careful scrutiny of the issue which appears to have been entirely too limited in advance of the Congressional tally.

THE SHOCKING CRIME PICTURE IN CLEVELAND, OHIO

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. MINSHALL. Mr. Speaker, there has been no doubt in the minds of Cleveland residents for some time that its streets no longer are safe, by night or day. Statistics recently released by the Federal Bureau of Investigation confirm that the much maligned cry for law and order has a basis in fact. That cry is being heard in every section of our city.

WJW–TV and WJW radio in Cleveland recently broadcast an excellent editorial calling for stronger local leadership, tougher law enforcement and court action, and increased citizen support to reverse this alarming crime rate. The editorial, which follows, points out just how intolerable the situation has become, with the crime rate in Cleveland rising almost 50 percent faster than in the average city of comparable size. The editorial follows:

THE SHOCKING CRIME PICTURE IN CLEVELAND

The increase in crime in Cleveland can be described in one word: shocking. Figures quoted by the FBI indicate that crime rose by 56 percent in Cleveland for the first six months of this year compared to the same period last year. The national average was 9 percent.

Let's look at these figures in more detail, and compare Cleveland with the other cities whose population is between 500,000 and one million.

Murder: Cleveland +54%, average +18%.
Rape: Cleveland +59%, average +34%.
Robbery: Cleveland +62%, average +21%.
Assault: Cleveland +71%, average +21%.
Burglary: Cleveland +44%, average +4%.
Larceny: Cleveland +37%, average +16%.
Auto theft: Cleveland +71%, average +18%.

These startling figures confirm the growing concern and fear among Cleveland residents. They underline the urgency of a concerted community effort to fight crime. We feel this requires a three-pronged effort. We must have capable law enforcement supported by a better equipped and more effective police department.

Our police must enforce the laws to the fullest extent. Our courts must get tougher and mete out firm sentences to protect the innocent victims of crime. Our citizens must support law enforcement and not be afraid to report crimes whenever and wherever crimes are being committed.

As we see it, the current crime situation demands a major community effort. It requires increased and decisive action on the part of the police department, the administration, City Council, the courts and the public. No one in Cleveland can afford to remain complacent in the face of this shocking crime picture.

THE OCEAN'S RICHES

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. HANNA. Mr. Speaker, yesterday's Wall Street Journal pointed out the vast potential value of the oil lying beneath the ocean floor. No one can dispute the great material benefits that might be realized from the exploitation of this single resource. However, we should not—as many have suggested by their pronouncements on our public policy toward the development of the deep seabed—denominate this aggregate of natural resources, the sea, in terms of the immediate or near-term returns available to the entrepreneurs of our Nation. This is not to say that their efforts are unimportant. It is to suggest that we should not, like those who rushed to California in quest of gold in 1849, allow our attention to be so thoroughly affixed to a single quest that we lose sight of the vast importance of an orderly program for efficiently maximizing the return from all the available resources. While the broad-gaged approach I suggest is clearly more costly and certainly can promise little in the way of instantaneous returns, it does promise to provide a rich harvest of returns over the long term.

The article follows:

OCEANS OF RESOURCES—AND QUESTIONS

(By Ruth Sheldon Knowles)

(NOTE.—The author is a petroleum specialist who has made four trips around the world in the past four years.)

As private enterprises opens ever broader opportunities for development of the ocean's resources, the future is being increasingly clouded by governmental intervention, both actual and potential.

To some extent such intervention is not only unavoidable but desirable. However necessary marine resources may be, now and in the future, someone has to set rules to guide orderly development and to promote sensible conservation. Government research also is needed in areas where private companies can see no early prospect of profits.

The key question, then is whether governments and private industry will be able to work together constructively, making use of the vast knowledge acquired in recent years. On a planet where expanding populations are making ever greater demands on resources, the answer to that question is of no mean significance.

IMPRESSIVE BREAKTHROUGHS

Ten years ago we knew less about the oceans which cover three-fourths of the globe than we did about Mars. In the past few years, due primarily to petroleum industry research, we have been making impressive technological breakthroughs. By 1980 the U.S. will have the technical capability to utilize extensively the underwater resources of offshore lands to a water depth of 6,000 feet, which is equivalent to adding approximately 1,370,000 square miles to the nation's lands, or more than five states the size of Texas.

Benefits from the acquisition of this new territory include the development of tremendous oil and gas reserves, new mineral, chemical and pharmaceutical resources, fish farms and such things as "seasteading" by private companies and individuals leasing public lands to develop underwater parks, hotels and restaurants.

The petroleum industry, which finances 85% of its research, has spent more than $250 million in underwater research in the past 15 years. Initially the new technology is of primary importance to the whole world in assuring the availability of adequate oil and gas resources to satisfy rapidly increasing energy demands. The current annual increase in oil consumption is about a billion barrels, which is more than the annual production of Saudi Arabia or Iran, two of the world's largest producing countries. Consumption of oil 20 years from now is expected to be nearly four times today's.

Dr. Lewis G. Weeks, retired chief geologist of Standard Oil Company, (New Jersey) and an authority on potentialities of world oil basins, states that offshore prospects offer the best hunting grounds. He estimates that the seabed under waters only out to 1,000 feet deep contains potential oil basins covering 6.2 million square miles, one-third as large as the area covered by the world's land basins.

Ten years ago only three or four countries and five companies had offshore petroleum interests. Today, hundreds of companies are exploring the waters of 75 countries, and 28 countries are producing oil and gas.

The United States continental shelf has been the principal laboratory for new developments. Since 1946, 12,500 offshore wells, more than 60% of the world total, have been drilled in our shallow, near shore, coastal waters. They account for approximately 15% of total U.S. oil production and about 10% of total gas production. This development has cost $13 billion, including almost $6 billion in bonus, rental and royalty payments to state and Federal governments. So far, the industry has not recovered its investment, as the average rate of return is about 7%. The investment payout period of a successful offshore discovery will take a minimum of ten years.

Before the first self-contained offshore drilling platform was built, the industry spent $5 million researching currents, wave profiles, wave forces and other non-existent sea data to determine the engineering and materials required. This research led to the ability to detect development of hurricanes. These studies enlarged the understanding that sea, air and land are a single, complex system. Ocean currents and the roughness of the sea's surface result from lower atmosphere winds and the shape of the ocean floor and its coastlines.

Most of today's offshore drilling is in waters of less than a thousand feet and the deepest producing wells are in 345 feet of water. However, technical capability has grown to the extent that industry is already planning complete ocean floor operations applicable to 6,000 feet of water where fixed platforms would be impractical or too expensive. Mobil Oil Co. and North American Rockwell recently announced that their deepwater production system will be ready for use next year.

The two companies developed automated sea-bottom installations to operate a whole oil field. Life support systems were devised so that technical men, who are non-divers, can work in a shirt-sleeve environment. The structures are serviced by a small submarine to transport men to and from work. The submarine also is equipped with articulated arms to enable the submarine operator to perform essential duties on the outside of the sea-bottom structures. To a ship traveling on the surface there will be no indication that men and machines are working far below with as great ease as on land. This systems approach could be the forerunner to deep sea mining operations as weli as the

establishment of underwater industrial colonies.

Automated operations have reached a sophisticated state in shallower waters. Shell Oil Co. developed a robot, a 14-foot tall mechanical man, which swims and can walk on the ocean floor. Human divers are still necessary, of course, for many complicated maneuvers. Their capabilities have been increased by the oil industry. In 1967, Humble researchers devised diving chambers and techniques for divers to perform maintenance work which pushed the limit of water depth at which man can work effectively for prolonged periods to 636 feet.

A 500,000-BARREL TANK

In the Arabian Gulf, off the coast of the Trucial sheikhdom of Dubai, Continental Oil Company recently launched the largest underwater oil storage tank in the world. The 500,000 barrel tank, designed by Chicago Bridge & Iron Co., is as tall as a 20 story building and is anchored underwater 65 miles from shore. It is a major step towards the establishment of all offshore petroleum development on the ocean floor, at increasingly greater depths, operating independently of dry land facilities.

Petroleum industry research scientists predict that by 1980 we will have the capability of exploring and producing in any ocean area of the world. Economics rather than technology will be the determining factor. This prediction is based on the success of deep ocean drilling. The oil industry developed the use of small, dynamically positioned vessels to core in water depths as great as 5,000 feet. This led to a joint Government-industry deep sea drilling program and the development of the Glomar Challenger, a specially designed floating drilling vessel using satellite navigation and automatic dynamic positioning equipment allowing it to drill in water depths of 23,000 feet.

Developing ocean frontiers has created manmade problems. The most critical at the moment is pollution resulting from drilling accidents such as the blowout in a Santa Barbara Channel well and tanker accidents such as the "Torrey Canyon" disaster off the English coast. Under prodding from governments the industry is intensifying research and development of safety devices to prevent such accidents, and researchers are working continuously on methods to render accidental spills harmless to man as well as marine life. New, fast-acting oil dispersants have been developed which achieve both purposes. Ocean development, unlike much industrial development of the past, comes at a time when industry and governments are keenly aware of the necessity of preserving man's natural habitat and preventing the general resources abuse.

HARMONIOUS COEXISTENCE

Competing uses of the seabed pose other problems, some of which may well be surmountable. In the Gulf of Mexico, for instance, oil and fishing interests coexist harmoniously. Although there are over 2,000 fixed oil structures in the Gulf, they occupy such a small portion of the total area they do not interfere with fishing operations. Also, seabed petroleum facilities are designed to reduce the fouling of fishing gear. Oil operations actually are credited by the Department of Interior with increasing fish catches as sea life attaches itself to oil structures and attracts schools of fish.

The Government is studying its role in America's future in the sea. Last January, the Commission on Marine Science, Engineering and Resources, authorized by Congress and headed by Julius Stratton, chairman of the Ford Foundation, presented its voluminous two year study to President Nixon and Congress. The commission recommends creating a National Oceanic and Atmospheric Agency (or "wet" NASA) with a $20 billion budget for the next ten years. The agency would coordinate existing Government programs, support basic research, manage the coastal zone, establish pollution controls, encourage fishing and mining industries, and a variety of other activities.

The need for a $20 billion public program to develop the ocean will be a subject of debate in view of the rate at which private industry is already moving. However, there is no question that a fundamental goal of both industry and Government is to see that technology is advanced rapidly in order to establish jurisdiction over the seabed of the entire U.S. submerged continental land mass.

The question of who owns the seabed and how much is not as clear as it should be. Present international laws of the sea relate only to its surface. The 1958 Geneva Convention on the Continental Shelf, signed by the U.S. and 38 other nations, is the only international document concerning seabed ownership. This Convention confirms to coastal nations exclusive sovereign rights to the natural resources of their "Continental Shelf" which is legally defined as "the seabed and subsoil of the submarine areas adjacent to the coast to a depth of 200 meters (650 feet), or, beyond that limit, to where the depth of superjacent water admits of the exploitation of the natural resources of the said areas."

The U.S. position is that because of the Geneva Convention clause referring to recognition of sovereign rights beyond the 650-foot depth which admit of "exploitability," a nation has the right to claim the seabed to the limit of its submerged land mass, no matter how deep the water, as long as it has technological ability to exploit it.

This position is threatened by a United Nations proposal under consideration by a General Assembly permanent committee which proposes establishment of an international agency which, by treaty, would become the owner of the minerals beneath the sea beyond the limits of national jurisdiction, with the financial benefits of exploitation going to the developing countries of the world. The proposal does not define "national jurisdiction" and the U.S. does not want to open up any Pandora's box of defining this term on any other basis than that determined by the Geneva Convention.

MILDRED STEISEL—A SPECIAL KIND OF WOMAN

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. WOLFF. Mr. Speaker, during the course of our lives we all come in contact with women who represent—as mothers, in civic affairs and in their personal qualities—the highest American ideals. Such a special kind of woman was Mildred Steisel, a friend and constituent who lived in Glen Cove, N.Y., before her untimely death earlier this week.

I believe it important to pause from time to time in the rush of public affairs to reflect, however briefly, on where the strength of this great country rests. And whenever I ponder this vital question I am always drawn to the conclusion that our greatness stems from the millions of Americans who give of themselves in public service, especially in their local communities.

Mildred Steisel was such a person. There was always time in her too short but very busy life for her neighbors and friends, for civic affairs, for those seemingly small but very important individual efforts that provide our communities with better schools or an aware public or any other specific need of a community.

We all owe a lasting debt of gratitude to the people like Mildred Steisel who truly, in their own way, have made this country what it is. To her husband, William, and her three fine children, we can only express our sorrow and honest belief that they can forever be proud of the ideals and principles that Mildred Steisel personified.

NEED FOR AN EFFICIENT AND RESPECTED DISTRICT OF COLUMBIA GENERAL HOSPITAL

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. FRASER. Mr. Speaker, as many of us know the District of Columbia General Hospital is in trouble. Mr. William Raspberry, in his September 29, 1969, Washington Post column, quotes members of the hospital house staff organization who are critical of Mayor Washington's failure to act in this crisis. By introducing this column into the RECORD, I do not necessarily endorse these criticisms of Mayor Washington. But I do know that an efficient and respected general hospital is an absolute necessity in an urban area. There are some medical functions which can only be handled by a general hospital. We must take the necessary steps to make the District of Columbia General an effective arm of the District of Columbia government.

Recently, my Minneapolis constituents voted overwhelmingly for a $25 million bond issue which will finance a new general hospital in our city. The passage of this bond issue in an era often marked by taxpayer revolt indicates the great impact a good municipal hospital can have on a community.

Mr. Speaker, American voters will support added taxation when they are convinced of the value of the new programs requiring the higher taxes. The lesson for us and Washington, D.C., 's that we must support the District of Columbia General. We must make it an efficient and respected institution even if this means new taxation. There is some indication that added personnel costs will pay for themselves. But whatever the source, the resources must be found to make the District of Columbia General the pride of the community.

The article referred to follows:

DISMAY GROWS AT THE DISTRICT OF COLUMBIA GENERAL

(By William Raspberry)

The sign on the fourth-floor bulletin board at D.C. General Hospital announces: "The Mayor is Coming."

Underneath, someone has added: "Tomorrow & tomorrow & tomorrow."

It is by way of expressing the dismay of D.C. General's young doctors that Mayor Walter E. Washington has shown little public interest in joining their fight for improving conditions at the hospital.

"We've had promises of support from Reps. (Joel T.) Broyhill, (Ancher) Nelsen and (Donald) Fraser," one intern said. "But they tell us it is up to the mayor to submit a request for an emergency supplemental appropriation. He may be planning to do something but he certainly hasn't let us know."

Every day's delay, the doctors say, is costing needless suffering, needless overcrowding and needless death. And in its own perverse way, delay in obtaining the money needed for services and staff increases is costing money.

"We have twice the patient load and half the staff of the better hospitals in the city," said Dr. Martin Shargel, president of the House Staff Organization, which is spearheading the fight.

What this means is that scores of patients are being kept in hospital beds, at a cost of some $75 a day, while doctors await reports from understaffed laboratories.

If these reports were readily available, many of these patients could be released outright or treated as outpatients.

No one knows, for instance, how many patients are kept unnecessarily long because it takes several days to get X-rays made and returned to patients' files. Many X-ray films get lost and have to be redone. The key reason why is that there are no more than three people—often fewer—to keep track of some 250,000 current X-rays.

Understaffing is costing money in still other ways. Much of the overtime payment, for instance, could be eliminated if the hospital were properly staffed.

The Washington Hospital Association has estimated that some 70 per cent of D.C. General's patients may have enough insurance to pay for their care, Dr. Shargel said. But there aren't enough clerks to handle the billing, and many patients who could pay never get billed for their care. D.C. General may be losing as much as $15 million to $18 million a year on bills that are collectable but uncollected, he said.

Dollars—and life-saving facilities—are wasted because the city has no real convalescent facility. A drunk who gets admitted as a "social emergency" stays in a nonsurgical hospital ward at a cost of $71 a day when he could be cared for in a more appropriate institution at a fraction of the cost. (The rate for chronic care institutions averages about $15 to $18 a day.)

"We could build and staff a chronic care facility on the savings alone," one resident said.

The in-and-out surgery facility off the main surgery room is locked and idle because there is no nurse to staff it. As a result, a patient admitted to have a cyst removed may spend two weeks in the hospital—again at $75 a day—when he could have been treated and released in a matter of hours, both saving money and freeing a bed.

One of the reasons that the hospital has never had enough money is that the city has never asked for enough, according to Dr. Timothy Tomasi, one of the 180 to 190 interns and residents who belong to the House Staff Organization.

"The supervisors make minimal requests and these are routinely cut by the hospital's medical director before the budget goes to the Health Department. There, Grant (former Health Department director Dr. Murray Grant) would cut it again, as would the District Building, the Bureau of the Budget and the Congress. If you start off asking for what you really need to operate, you obviously wind up with far less."

The doctors want assurances from Mayor Washington that this system will end and that he will move quickly to request emergency funds to meet current needs.

They are afraid the mayor doesn't see the current situation as a crisis, and they are increasingly bitter about it.

"A similar situation arose in New York City recently," one of them said, "and within 48 hours New York's mayor came up with $80 million.

"Our situation came to a head on Sept. 8, and our mayor has yet to make his first public statement regarding his hospital."

SENATOR GOLDWATER CALLS FOR HALT TO MENACE OF OBSCENITY IN THE MAILS

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. DULSKI. Mr. Speaker, the public demand for action is mounting to stem the flow of smut through the mails.

Our Subcommittee on Postal Operations is conducting hearings on various bills aimed to putting teeth in our present laws concerning what can be sent through the mails.

On our hearing today, chaired by Chairman ROBERT NIX, of Pennsylvania, the leadoff witness was the Honorable BARRY GOLDWATER, Senator from Arizona, who presented very helpful testimony in support of legislative action.

He particularly gave support to the bill sponsored by myself and other members of the subcommittee to ban the sending of smut through the mails to homes where minors reside.

Mr. Speaker, Senator GOLDWATER'S statement is a very comprehensive and forceful commentary on this problem and I am including the full text as part of my remarks:

"HALTING THE MENACE OF OBSCENITY IN THE MAILS"

(Statement by Senator BARRY GOLDWATER, of Arizona, before the House Subcommittee on Postal Operations, October 1, 1969)

Mr. Chairman and Members of the Subcommittee:

It is a pleasure for me to visit with you today to discuss the ways in which we can combat the ever-increasing menace of obscenity in the mails. I only wish that my colleagues on the other side of the Hill would rev up their legislative machinery so that both Houses would be acting together on this.

Mr. Chairman, I want to open my remarks by saying that the members of this subcommittee have my utmost respect for the excellent record which they have made in this field. This group has the distinction of holding more sessions this year on the subject of smut mail than all the other committees of Congress put together. Also, I know that this subcommittee handled five or six earlier measures designed to clean up the mails.

Mr. Chairman, it will be my purpose today to explore with you the ways in which Congress can build upon this record.

The present situation is completely baffling to most Americans. On the one hand there is a whole Government arsenal of anti-obscenity laws, including an entire chapter of the United States Criminal Code and several provisions of title 39, which are aimed at excluding indecent matter from the mails.

AVALANCHE OF COMPLAINTS

On the other hand there is a staggering number of complaints being made by individual citizens who protest that their homes are being inundated by a flood of unsolicited smut mail. The number of these complaints made to the Post Office Department alone has soared to well over one-half million in the past three years.

The actual number of Americans who are deeply irritated and offended by perversion in the mails can only be estimated. There is no question that it is enormous. A Gallup poll released just three months ago reveals that 85 out of every 100 adults interviewed said they favor stricter laws dealing with obscene literature sent through the mails. Translated into population figures, this means that one hundred million persons are dissatisfied with the existing postal obscenity laws.

Why is this so? What is the real difficulty with our present laws?

These are questions which I have been examining very closely in recent months. I have sought to get to the bottom of the reasons why this terrible menace continues to threaten the sanctity of American homes. Also, I have attempted to learn what solutions, if any, exist to control it.

Mr. Chairman, as a result of this study, I have formed the following conclusions, which I would like to share with you on the chance that there may be a new idea or two among them to aid in the fight for decency in the mails.

THREE CONCLUSIONS

First, the major source of outrage among our citizens is the unsolicited mass mailing of advertisements by some fifteen to twenty large firms. These operators generally send out computerized first-class mailings, taken from regular mailing lists, to pander their filth. They are well-heeled businesses making as much as $10 million a year in a market that runs into billions of dollars.

Second, the next great source of public concern is the fear that sexually perverted material will endanger the ethical, mental, and moral health of children. Many of the current mailings are specifically aimed at teenage children. The remainder is sent indiscriminately with a reckless disregard to the fact that a substantial portion of this trash may reach the hands of young children.

Third, there are three primary reasons why this misuse of the mails has not halted—

The stringest and confusing definition of obscenity which different members of the Supreme Court have announced in recent years is one.

The fact that the newly enacted pandering law of the 90th Congress does not apply to unsolicited first mailings is another.

The fact that there is no national law aimed squarely at the protection of minors is the third one.

LOOPHOLES CAN BE CLOSED

Mr. Chairman, it is clear that Congress can close up these loopholes. There is no longer any question that society may regulate the dissemination to youngsters of material which is objectionable as to them, but which could not be regulated as to adults. The landmark decision of 1968 in the second *Ginsberg* case persuades me that Congress has the Constitutional power to enact a strong new law to restrict the distribution of pictures and printed matter that are obscene to minors.

In this case, the Court upheld a New York State law specifically designed to protect children from obscene matter. This ruling settled the authority of governments to adopt one set of obscenity standards for adults and a separate set for children. That this approach offers unusual chances for effective enforcement is shown in the fact that the conviction upheld in *Ginsberg* involved the sale to a 16 year old of four "girlie" magazines.

If the Court is now willing to find that newstand magazines are harmful to minors, I am certain it will find that the utter garbage which is infesting the mails is likewise obscene when sent to minors.

Thirty-nine of the State legislatures have adopted some type of special prohibition against the exposure of minors to obscene

materials and it is high time that Congress does the same.

CAN STILL PROTECT PRIVACY

The second concept which I believe holds out a strong basis for cleaning up the mails lies in the power of society to protect the Constitutional guaranty of freedoms of privacy.

To me privacy deserves one of the highest spots on the list of individual freedoms. It embodies the essence of the sanctity of a man's home and the right to enjoy the privacies of his life.

The basic concepts underlying the right of privacy date back to the laws of ancient Greece and Rome. It has been defined as a distinct and separate right in American law for the past 80 years and is regularly winning expanded interpretations.

The reason for this is easy to see. As great improvements in the means of communications bring all of us closer and closer together, it becomes increasingly simple for the intimacies of life to be intruded upon by those who pander to commercialism. To cast the individual citizen upon his own resources in the setting of modern times would be to leave him without adequate means to protect his privacy.

COURTS RECOGNIZE STATE POWER

Thus it is that the Courts now recognize the authority of the State to protect a man's feelings as well as his limbs. The exercise of this power is particularly strong when the threat to privacy involves an invasion of a man's home.

There is a Supreme Court decision close at hand. In *Breard* v. *Alexandria*, 341 U.S. 622 (1951), the Court considered the validity of a municipal ordinance forbidding persons from going upon private residences to solicit orders for the sale of magazines, without prior invitation. The Court upheld the Constitutionality of the ordinance as a proper means to protect householders against "uninvited intrusions into the privacy of their homes."

Perhaps the foremost principle stated by the Court is that in cases where the Constitutional guaranties of free speech and free press collide with the fundamental personal right of privacy, there has to be an adjustment of these rights. In the words of the Court, the privilege to engage in interstate commerce or free speech cannot be permitted to crush "the living rights of others to privacy and repose."

As you know, the most recent enunciation of the rule was made by a three-judge Federal court convened in California to consider the pandering advertisement law. In upholding the power of Congress to restrict unwelcome mailings, the Court said:

"To require a commercial enterprise to strike a name from a mailing list seems little burden to impose to guarantee that dimension of privacy to an individual, otherwise helpless in his home, to 'turn off' pandering advertisements which may be erotically arousing or sexually provocative to him and his family."

DECISIONS LAY SOLID FOUNDATION

In my opinion, these decisions lay a solid foundation for the enactment of strong new controls to enforce the right of an individual to choose what it is he desires to see and read within his own home.

Therefore I propose that we act on these cases without further delay by doing one of two things. We should frame a stringent new law that bans completely any mailings by commercial dealers of unsolicited advertisements for smut material. Or we should prohibit all mailings of such matter to persons who declare that they do not wish to receive this type of mail.

Mr. Chairman, I believe the adoption of the controls I have proposed would slam the door on the kind of sexually oriented mail which is inciting the nation's anger. I might add, at this point, that I do not know of any single piece of legislation that could better carry out my objective than the bill introduced by Mr. Dulski and the Gentleman from Pennsylvania, together with Mr. Corbett and Mr. Cunningham of this subcommittee.

For my part, I was pleased to be the coauthor of the first Senate bill that is aimed solely at protecting children against obscene matter. My bill is similar in many ways to the provisions of H.R. 10867 which pertain to minors.

SIMILARITIES OF OUR BILLS

One of the similarities of our bills is the fact that they each define obscene matter in a descriptive way. Each bill thereby follows the standards applied by the New York State statute that has been upheld by the Supreme Court.

Mr. Chairman, I urge that you do not change this approach. The need for a carefully drawn definition is crucial to the validity of obscenity convictions.

This point is emphasized in a decision handed down by the Supreme Court just after its approval of the New York law. In *Interstate Circuit* v. *Dallas*, 390 U.S. 678 (1968), the Court ruled that an ordinance of the city of Dallas was unconstitutional because the standards used to define obscenity were not definite and narrowly drawn. The Court said that this was so even though the ordinance had been adopted to protect children.

The Court specifically noted that the Dallas statute, unlike the New York one, was not drawn "in accordance with tests this Court has set forth for judging obscenity." In view of this signal by the Court, it is important that the "New York" type of definition is the one we should use.

MINORS IN 60 PERCENT OF HOMES

Mr. Chairman, my studies in this field have turned up some data which increases my belief that Congress may enact much stricter controls over the dissemination of obscene materials to children. I will start with the fact that there is a child under 18 living in six out of every ten American homes.

Next, we can note that there are 35 million children in the age group under 18. This is clearly a sufficient number to deserve protection at the national level.

Finally, the official Labor Department statistics disclose that at least one-third of American wives in families with children under 18 are employed outside the home. The highest working force rate among women of all ages is that of married women with children ages 6 to 17. These ladies represented 45% of the entire women's work force and totalled over six million persons.

From this, Congress might properly infer that several millions of children who have arrived at a crucial, inquisitive stage of life will have an unsupervised opportunity to open the mail before their working parents return home.

Based on the above facts, it can be concluded that the access of children to direct advertising mail is so great that additional requirements should be imposed to decrease the chances they will be exposed to matter which is harmful to them.

SMUT DEFINITELY HARMFUL

Mr. Chairman, I do not want to leave the subject of a child-oriented statute without stating my belief that exposure to pornographic material is definitely harmful to minors.

Common sense will tell anyone as much. For the sceptics, however, the record contains many persuasive statements by responsible experts.

For example, in 1963 the New York Academy of Medicine published a report on the medical aspects of indecent publications sold at newsstands and circulated by mail. The Academy stated its belief:

"(T)hat although some adolescents may not be affected by the reading of salacious literature, others may be more vulnerable. Such reading encourages a morbid preoccupation with sex and interferes with the development of a healthy attitude and respect for the opposite sex. It is said to contribute to perversion."

In addition, competent medical witnesses have appeared before committees of the Congress to decry the harmful influence of obscene material on juvenile behavior. One of the worst possible relationships was discussed by Doctor Benjamin Karpman, then Chief Psychotherapist at St. Elizabeth's Hospital, who said:

"You can take a perfectly healthy boy or girl and by exposing them to abnormalities you can virtually crystallize and settle their habits for the rest of their lives. If they are not exposed to that, they may develop to perfectly healthy, normal citizens. It is here that objection comes upon pornographic literature."

There are many distinguished professionals in the medical field who would be ready to add to this record, and I am hopeful that the subcommittee will invite a fair number of psychiatrists, law enforcement officers, and other experts who have had contacts with consumers of obscenity to appear before you during these hearings.

AS FOR SPECIFIC PROVISIONS

Turning to the specific provisions of H.R. 10867, I would like to make a few observations that might fit into the legislative record you are shaping.

The first question I want to raise is whether the new section 4011, which creates a category of nonmailable matter as to minors, is intended to impose a strict liability upon the sender to know the recipient is a child.

It seems to me that it does, and I think this is an excellent way to attack the problem. But, in order to guarantee the law will pass the scrutiny of a permissive Supreme Court, I wonder if this feature should be limited to commercial dealers who do not take reasonable precautions to keep their trash out of the hands of minors.

It is true that under certain child protection laws, knowledge that the child is a child is not an essential element of the particular crime. The laws against furnishing liquor to children come to mind.

Lacking a clear precedent in the free speech area, however, I am not at all sure that we can brush aside the element of "knowledge" so easily.

PUT SMUT MERCHANT AT OWN RISK

What we could do is to put the smut merchant at his own risk on the question of age whenever he fails to have a professional assurance that the addressee is an adult. Under my proposal the dealer in smut would be required to show that he has taken all reasonable precautions to learn the age of the addressee.

By making this one change in the section, I believe we would safely handle the Constitutional thorns. Further, we might write into the section the defense which would be permitted. For example, the dealer might be allowed to rely upon a professionally designed mailing list that promises a high degree of certainty that it contains the names of adults only.

Such lists can be obtained. I am told that a good list compiler can select such detailed groups of people as new parents, parents of babies born only in private hospitals, or even parents who are new at being new parents. With such ingenuity, I am certain the list compilers and list brokers will be able to rise to the challenge given them to preselect families without children under a specific age. Of course the lists must be

checked at regular intervals to be accurate and the statute should require that this be done.

Whatever degree of liability should be imposed on smut peddlers, I would suggest that the statute be made applicable only in a commercial setting. For example, the language should not catch the case of relatives or friends who use the mails without any purpose of material gain.

TARGET SHOULD BE MAJOR DEALERS

The source of the national uproar about obscene mail is a few major dealers and it would seem best to me to keep the bill on target by hitting straight at them.

The final change which I suggest is to expand the scope of the bill's criminal provisions. The only person who is covered by the offense seems to be the one who deposits matter in the mail. I fear that this might enable the maker of obscene films or the publisher of indecent literature to evade the penalties of the law by using an independent distributor to handle the mailing of his product. This could be avoided by applying the criminal sanctions to persons who manufacture or publish pornography knowing or intending that it will be sent in the mails in violation of section 4011.

Mr. Chairman, in looking at the ways in which the bill is designed to protect the right of privacy, I am satisfied that you have framed a valuable new approach. Sections 4012 and 4013 are expressly limited to advertisements only, and thereby, are wisely focused on the commercial aspects of the problem.

Also, the scheme used in section 4012 is effective. This provision requires that the disseminator of smut must refrain from mailing his product to anyone on a list of persons who have expressed their unwillingness to receive such matter. I realize this will force the distributor to use computers to scan the hundreds of thousands of names on such lists, but many, if not all, of the present merchants in this illicit industry are already using such equipment. In my opinion, it is high time Congress decided to shift the burden of keeping this unsought material out of homes where it is not wanted to the purveyors of filth, even if it ups the cost of their product.

In summary, Mr. Chairman, I can only recommend that the subcommittee continue its efforts until this public menace is stamped out once and for all.

WASHINGTON, D.C.—DESTROYED BY LIBERALISM

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. RARICK. Mr. Speaker, today a committee of the other body held hearings on the question of dangers to schoolchildren in the public schools of the District of Columbia. Some of the testimony was called to my attention, and I find it quite appropriate to again mention the degree to which the American people are awakening to the sickness of our Nation's Capital.

An early witness was the principal of a high school, who related his powerlessness to prevent crime, including rape, robbery, and narcotic traffic within his school. The last witness was a young lady speaking for the military parents, who pointed out the dangers to the children of our servicemen, not in foreign nations but in Washington.

This young lady pointed out quite plainly that service personnel have no vote in the District, hence no influence on the School Board. She added that she had always been a supporter of "home rule" for the District, but now that she has seen Washington, she has changed her mind and has asked her Congressman and both of her Senators to oppose such a move. Her logic is unassailable. If the District has not enough ability to run safe schools, it obviously cannot run its own government—even on Federal money.

Mr. Speaker, the lawlessness which runs rampant in our Capital is a national disgrace—and it is the responsibility of the Congress, no one else, to perform our constitutional duty and see to it that only people at least competent to protect schoolchildren are selected to preside over this once great city before it further disintegrates. I insert a potpourri of recent typical news clippings:

[From the Washington (D.C.) Evening Star, Sept. 30, 1969]

COURT MIKES STOLEN

Four microphones, valued at a total of $300, have been stolen from the courtroom of D.C. General Sessions Court Judge Thomas C. Scalley. A court official told police yesterday the chrome-plated microphones were removed from the judge's stand some time after Sept. 9.

[From the Washington (D.C.) Evening Star, Sept. 30, 1969]

CONTE'S CAR ROBBED

Rep. Silvio O. Conte, R-Mass., has reported to police that his car was entered Sept. 20 while it was parked in the 200 block of New Jersey Avenue SE and a stereo tape recorder was stolen.

In addition to the recorder, valued at $59, a tape valued at $10 was taken.

[From the Washington (D.C.) Evening Star, Sept. 30, 1969]

BIG "WOOF" ROUTS MASKED GUNMAN AT WOMAN'S CAR

Evelyn Hynson of 5541 Edgemont Drive, Alexandria, drove to the Penn Daw Duck Pin Bowling Alley last night to pick up her husband James.

As she sat in the parking lot, a man with a stocking over his head jerked open the car door and pointed a gun at her.

Mrs. Hynson screamed.

"At this point," a Fairfax County police report said, "A 200-pound dog that had been lying in the rear seat raised up and said 'woof'." The dog is a Great Pyrenees.

"The subject," police said, was last seen running south."

[From the Washington Daily News, Sept. 30, 1969]

FOUR GROCERS CONVICTED OF SELLING STALE MEAT

Owners of four small District grocery stores were found guilty yesterday of selling stale hamburger meat that was unfit for eating.

They were fined $50 each and given a suspended sentence by General Sessions Judge Justin L. Edgarton.

The meat, which would look fresh to the eyes of the average grocery shopper, was found to be adulterated with specks of sulfite by a meat inspector. Sulfite, when appled to meat which is turning brown on the surface, makes it look fresh and redder by drawing hemoglobin from inside the flesh.

"Sulfite also destroys the Vitamin B-1 content of the meat," William Paxton, an assistant corporation counsel said.

The four store owners found guilty are: Paul J. Barber, owner of a grocery at 653 Eighth-st ne; Max S. Goodman, owner of Goodman's Grocery at 1000 Third-st se; Frieda L. Schindler, owner of Schindler's Market at 2940 12th-st ne and Ester M. Lyerly, presidnt of Moy Inc., which operates the A & L Market at 2007 First-st nw.

Three other cases, involving the same charge, were continued to Oct. 20.

[From the Washington Evening Star, Sept. 3, 1969]

VISITOR IS RAPED AT FRIEND'S HOME

A visitor to Washington was raped in a friend's house in the Connecticut Avenue area early yesterday by a man who apparently had planned to rob the home.

Police quoted the 26-year-old victim as saying she had returned from a party, and was looking in a linen closet for a sheet when she was seized from behind.

The man told her not to struggle, forced her into a bedroom and took $5 from her purse, police said.

After she told the man she had no more money, he forced her to undress, and then raped her, she told police.

[From the Washington Evening Star, Sept. 9, 1969]

PHONE OPERATOR RAPED AND ROBBED

A 51-year-old switchboard operator was raped and robbed in an upper Connecticut avenue apartment house yesterday afternoon, policie reported.

Police said the woman was operating the switchboard in the apartment house about 4:45 p.m. when she heard a noise behind a bank of mailboxes.

Investigating, she found a man crouched behind the mailboxes, and when she attempted to return to the switchboard to call for help he took out a knife, pulled two rings off her hand, and raped her, police said.

[From the Washington Post, Sept. 4, 1969]

GROUP ROBBED LEAVING CHURCH

The administrator of Grace Baptist Church at 9th Street and South Carolina Avenue SE and four members of the congregation were robbed in front of the church last night after they left a meeting there.

Police said four youths, one armed with a gun, approached the group about 9 p.m., threatened to shoot them and took $309, including $75 from administrator Hugh H. Lowery, 48.

[From the Washington Post, Sept. 28, 1969]

BARRY'S DISSIDENTS BREAK UP MEETING ON PILOT PRECINCT

(By Stephen P. Caplan)

Dissidents led by Marion Barry broke up the meeting yesterday that was to have set up the election of a citizens advisory board for the Pilot Police Project.

The dispute, which has held up the project nearly a year, is over definition of community participation.

Barry, who is operations director of Pride, Inc., led the group that broke up a citizens meeting last Feb. 19 to organize the pilot project. In April the city suspended the project pending selection of a representative citizens board.

Barry ended yesterday's meeting five minutes after it was called to order.

He and a group of his supporters arrived at the Garrison School, 12th and S Streets NW, where the meeting was held, and became involved in a pushing and shouting match at the front door when they tried to enter.

Policemen on duty told them that admittance was by invitation only.

INVITATIONS ISSUED

Invitations for the meeting had been sent to all civic organizations operating in the Third Police District, a broad section of central Washington bounded on the north by Harvard Street NW and on the south by L Street.

Each organization was allowed one representative and one vote in procedures.

Barry left his group of dissidents at the door, entered on his invitation as representative of the Ad Hoc Committee for the Pilot Police Project, and immediately took the floor to call for admittance of all people interested.

Meanwhile Pat Garrison, a United Planning Organization employe, became involved in an altercation with policemen stationed at the door of the school when she attempted to gain admittance and was turned back because she did not have an invitation, but she was eventually admitted.

FUNDED BY OEO

The $1.4-million Pilot Police Project, designed to give special training to police officers and to improve police-community relations, gets its money from the federal Office of Economic Opportunity.

The project has run into opposition and criticism from the UPO, the city's antipoverty agency.

Barry, inside the school, stepped to the speaker's rostrum when a call for committee reports was issued. He began demanding that people at the door be admitted.

Barry was harassed from the floor at the start, and chairman Thrulow Tibbs called for order so that business might continue.

Finally, however, as a majority of the representatives shouted from the floor for attention, Tibbs allowed Barry to call for a vote to admit uninvited people waiting at the door.

BARRY WINS VOTE

Tibbs and Barry argued over the results of the first vote, which Barry counted, and when a second vote was called, Barry's forces won by a margin of 29 to 17.

Tibbs then announced to the group of 78 representatives that he would inform project director Robert Shellow of the vote and leave action to his discretion.

The representatives shouted both Tibbs and Barry down.

Tibbs then adjourned the meeting and asked all participants to leave the school.

Barry, after being informed by police that the school was closed and everyone had to leave, called a rump session at the Twelfth Street YMCA, 1816 12th Street NW.

About 45 of the 80 persons at the original meeting followed Barry to the YMCA where a short meeting was held outlining the purposes of Barry and his associates.

Calvin Rolark, UPO liaison for the police project, offered his support to the rump group, saying the project had to be controlled from within the community.

The meeting at the YMCA ended with Barry announcing a news conference at 11 a.m. Monday at the project's headquarters, to discuss its problems.

Robert Jones, of the Concerned Citizens of Central Cardozo, told the meeting that his group could not allow the city officials to control the project.

Any meeting not open to all interested parties would be "smashed up," he said, before it would be allowed to make any decisions for the community as a whole.

[From the Washington Evening Star, Sept. 9, 1969]

ARMED ROBBERIES SOAR TO RECORD 714 IN AUGUST

Armed robberies in the District last month rocketed to a record 714, topping the previous monthly high of 707, set last January.

And Capt. Ralph L. Stines of the robbery squad reports that so far this month, armed robberies have continued at better than a 20-a-day clip with 184 recorded through yesterday morning.

In late August, with the robbery rate sliding up again after a dip to 312 in June, Mayor Walter E. Washington ordered the use of overtime pay to put an extra 150 uniformed men on the street.

FEBRUARY PRECEDENT

The precedent was set in February this year when the Mayor had authorized 170 additional patrolmen into the streets, but overtime funds were exhausted in June and the extra officers were discontinued.

After a major crackdown on narcotics peddlers here in August, there was speculation that this might dry up drug sources, increase prices, and force addicts to turn increasingly to armed robbery rather than the more traditional shoplifting and burglary to get enough money for drugs.

However, police officials discounted this as a prime factor for the August record. Insp. Walter R. Bishop, commander of the morals division, said that after the raids, there was a "freeze," with heroin increasing in price about $2 a capsule; prices dropped back to normal in a short time, Bishop said.

"I would hesitate to say that the raids were a prime factor in the robbery increase," he said, adding, however, that in the past several years there has been a definite trend of more addicts involved in armed robberies.

ASKS COURT SPEEDUP

Stines said he hoped that the "courts get moving," pointing out the long delay before a felony suspect is able to be brought to trial here because of jammed court calendars.

"It takes too darn long to get them to court, and robbery is all some of these people know," he said.

He cited the court reorganization bills pending in Congress, including a preventive detention provision and said, "This would keep some of these people off the streets who are causing us trouble."

[From the Washington Sunday Star, Sept. 28, 1969]

THREE CYCLIST CLUBS INVOLVED IN SOUTHEAST BAR SHOOT-OUT

(By Michael Anders)

Nearly two months of increasing hostility between three motorcycle gangs and residents of a predominantly-black District neighborhood erupted into a major gun battle near midnight Friday at a Southeast Washington bar.

Two persons received minor gunshot wounds and a girl was hospitalized after the quick-tempered shoot-out in which as many as a dozen rounds apparently were fired. Three motorcycle clubs were involved in the melee, which at one time involved in-fighting among the gangs.

District police investigating the incident were given several versions of the shootout and witnesses interviewed yesterday gave still another.

PAGANS WERE INVOLVED

All versions agree, however, that the shooting involved members of the Pagans, based in Northern Virginia, and a Negro man who entered the bar.

According to the versions given most credence by policemen of the 11th Precinct, between 25 and 30 members of the motorcycle groups were drinking beer at the Livingston Inn in the 4600 block of Livingston Road SE.

A car containing two Negro men drove into a nearby alley and one of the men went inside the bar to see a girl. He returned shortly to exclaim: "They're shooting in there."

At this point, according to police, another Negro emerged from the bar firing a gun. He dashed over to the car and "fired some more" shots across the trunk.

"That's when he caught return fire," said one officer. The driver of the late model car got out and ran after his car was hit by three bullets.

Two men suffered superficial gunshot wounds: Richard C. Richter of the 7200 block of Harrison Lane, Alexandria, and Albert F. Schoepper of the 1700 block of the 19th Street, NW. Police did not list the age of either man but said that both were white.

Both were treated at Cafritz Hospital and released. A girl was kept under observation for a head injury.

DANCE SPARKED INCIDENT

Several Negroes were in the bar when the shooting started, police said. Both black and white witnesses, who preferred anonymity, added that the incident began when a Negro started dancing with a white girl.

A verbal exchange between a Pagan and the Negro heated up until the Pagan was invited to settle the differences outside, according to accounts by witnesses.

How the shooting started is unclear, police said, but a witness added that everybody pulled a gun when the first shot was fired. "There must have been 15 guns pulled out" from boots and belts, he said.

Two Pagans followed the Negro out of the bar and a second Negro, with an open knife, followed the trio.

"I was going out the door," another witness said, "when a bullet barely missed me and hit that guy in the side."

The second victim told a waitress, "Hi ya, baby," and collapsed near the door. A bullet grazed his temple, traveling between skull and the skin.

The concentration of motorcycle riders in the area started about two months ago. A policeman explained that cyclists usually hit one spot for a month or two, then leave when things become too hot or a better hangout is found.

PROGRESS, PROJECTS AND SURVIVAL

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. WALDIE. Mr. Speaker, there is no question that environmental protection is among the highest concerns of the citizens of this Nation. It is apparent from public opinion polls, constituent mail, editorial comment that the concern of the people for enhancement of their environment and protection from increased air and water pollution has eclipsed other more mundane issues.

This concern, Mr. Speaker, is completely justified by the evidence at hand. Our cities are suffering from strangulation by air pollution and by increased traffic. Our rivers, estuaries, and lakes are fast becoming open sewers, despite efforts to protect them from becoming the repository of agricultural, industrial, and municipal wastes.

The anger of the young at the apparent inability of our governmental and commercial institutions to protect their world from this degradation is now being matched by the growing frustration of their elders.

Mr. Speaker, we in the Congress must demonstrate our willingness to meet this frustration and this anger with action. The effort to convince the administration to reconsider its decision to spend but $214 million of the $1 billion authorized by the Congress to finance water pollution control efforts is one step.

Reconsideration of public works projects that have questionable effect on the environment may be another.

I would like to take this opportunity, Mr. Speaker, to submit four editorials regarding this concern by the public for protection of their environment. The editorials represent a cross section of the west coast and, I think, the entire Nation.

The editorials referred to follow:

[From the Los Angeles Times, Sept. 25, 1969]

THE BATTLE FOR SURVIVAL

Issue: Public concern has resulted in a counter-attack against environmental pollution. But can it be effectively maintained?

Only now is man beginning to realize that he has imperiled his very future on earth by despoiling his environment.

The terrible price of public indifference and neglect is all too apparent in the pollution and ugliness that have resulted. And we are running out of time as well as resources.

Yet a California state legislator only a few days ago was still defending a major construction project with the argument that progress is more important than protecting the environment.

"We're just going to have to live with the destruction of natural resources," he said.

He was wrong.

We cannot live with any more destruction of natural resources. Indeed we will not maintain our present standard of life unless we preserve and enhance what is left of those resources.

The battle for survival finally is gaining momentum in Southern California—a once-scenic land now best known for its polluted air, its oil-soaked shoreline and other ugly consequences of uncontrolled exploitation.

This past week the public fought back on several environmental fronts—and with a degree of success that would not have been possible until recently.

Who would have expected serious consideration to be given a proposal that a moratorium be placed upon all state public works projects until their environmental impact is reassessed?

But that suggestion by Chairman George Milias of the Assembly Committee on Natural Resources and Conservation reflects a markedly changing attitude toward environmental problems at all levels of government in California.

"There is no reason why we should be stampeded like cattle toward foreseeable and preventable environmental disaster," Assemblyman Milias (R-Gilroy) told delegates to the Planning and Conservation League legislative conference in Santa Barbara. It was a most appropriate place to hold such a meeting.

Less spectacular, but of far greater duration, than the Santa Barbara oil spill has been the continuous pollution of Los Angeles Harbor with industrial wastes. A weak Regional Water Quality Control Board had done little to deal with the problem.

On Wednesday, however, the board stiffened its attitude and refused to delay a cease-and-desist order against one of the principal offenders, Vegetable Oil Products Co. Goaded by public opinion, state officials had told board members they were moving too slow in cleaning up the harbor waters. They should now move considerably faster.

Meanwhile in Orange County, Southern California Edison Co. was jolted by the announcement that the county air pollution control officer would deny the utility's application to expand its Huntington Beach power generating station.

"The Edison plant is the largest single stationary source of pollution of oxides of nitrogen in the county," APCD officer William Fitchen said. "If Edison triples the size of its plant, that will mean 90 tons a day from just that source and that is equal to the entire output from our motor vehicles today."

Ventura County officials last week also informed Edison that new and more stringent air pollution standards would be imposed on its generating plant now under construction at Ormond Beach.

Fitchen suggested that power plants be built in the desert, something Edison, to its credit, is already doing on a major scale. Their plans could well be accelerated and expanded by the obvious concern of customers in Orange and Ventura counties.

It was also the week that the 1970 models from Detroit appeared in dealers showrooms, equipped with devices to meet the tougher emission standards required by the Legislature. And the word from Sacramento was that even more stringent requirements than those now scheduled would be sought.

In Los Angeles, the Board of Supervisors ordered a comprehensive study of the entire waste disposal problem and the means to cope with it.

But not all the environmental news was encouraging.

The Federal Aviation Administration appeared singularly indifferent to the jet noise objections of those living near International Airport and beneath the aircraft flight patterns.

One FAA official, Donald Haugen, dismissed the increasing number of complaints as due to "the hot summer and windows being open more."

Later in the week, another FAA official was even less sympathetic. People will just have to become accustomed to the noise of supersonic jets, said Col. Robert L. Stephens. Those on the ground "will get used to sonic booms," he said. "It will be just like a train passing their homes."

He too is wrong.

People will not get used to sonic booms, any more than they can get used to air and water pollution. Nor need they tolerate these threats to their environment.

The public can protect itself and its resources if it is not apathetic. But unless we are willing to pay the price of preserving the environment, we will deserve the tragic consequences of our neglect.

[From the Antioch Daily Ledger, Sept. 25, 1969]

IT'S YOUR FIGHT; GET WITH IT

You have to experience it to believe it.

That's why not many people get really excited when they read or hear about the destruction of our environment, through pollution.

To most people, pollution is a term applied to waters of the land. But pollution takes many forms, not the least of which includes the atmosphere. When we destroy our atmosphere, to the extent that we have destroyed many of our streams, then man's days on earth are limited—or we learn to live in a test tube environment, under glass or plastic.

Air pollution can't be written about, related or seen on television so that the listener, reader or viewer fully understands it. It has to be smelt and felt. Lived in, to put it another way.

That's why we appreciate the efforts to curb those who add to the pollution crisis under the guise of "progress."

Recent statements by Congressman Jerome R. Waldie, D-Antioch, may seem far-fetched to some but careful analysis bears out his position. His latest claim—that state plans to divert more and more north-state water to the south will result in increased air pollution—is a mind-boggler at first.

But figure it out for yourself. Los Angeles and vicinity already is a critical smog area, caused by the concentration of people, machines and industry there. If more water is provided, more and more people will move in with less and less usable air available to support life.

The problem goes deeper than that though, as anyone who has traveled by land across this country knows.

By western standards, much of the East already is uninhabitable as a result of pollution. Clean air is as scarce as clean water.

That's why we appreciate a suggestion by California Assemblyman George Milias, R-Gilroy, that a moratorium on all major public works be ordered. He says a moratorium is needed "in the face of a steady disintegration of the state's natural environment."

His eye is on the State Water Project and its pell-mell activities.

Milias is not just another politician spouting off. He is chairman of the Assembly Committee on Natural Resources and Conservation.

Instead of continuing with "major environmentally questionable public works," Milias says the state should turn its manpower resources temporarily "to environmental enhancement programs."

Milias gets specific and his recommendations should be of particular interest to Delta Bay residents.

"Until the protected waterway plans is completed, the National Estuarine Report completed, the Open Space Plan completed, and until we have finally determined how to define state lands, we should not present a series of irreversible accomplished facts to the people who have entrusted their natural resources to our decision-making ability," he said.

"We have everything to lose from blind progress and everything to gain from a chance to take stock . . ."

The legislator has called on the Planning and Conservation League to enter the major water policy dialogue and make itself felt.

Now get this point:

"The principal planning going on in this state," he said, "is not in the hands of the state Office of Planning and other such agencies, but in the hands of the water engineers and hydrologists of the Department of Water Resources, who by law must be primarily concerned with delivering water to contracting agencies."

That's exactly what our complaint—and that of most Contra Costa officials—has been right along in the Delta water controversy.

We hope other legislators had their ears open to these remarks.

What we are fighting for in the Delta-Bay area is part of the battle that should be going on world-wide, if this world is to be maintained in a condition that will continue to support life naturally.

We may have less to fear from bombs that could destroy life in seconds than from policies that will cause the same result over a longer period of time. We are heading rapidly forward to the point of no return.

[From the Tribune, Sept. 22, 1969]

WATER AT ANY COST?

The lack of concern for the San Francisco Bay-Delta system becomes clearer every day as state water officials push construction of the State Water Project at literally any cost.

Proponents of the $3 billion project disregard ecological preservation, pursue financial circumvention and offer extraneous rhetoric in urging construction of the project and its yet-to-be approved peripheral canal.

Northern California water interests contend that water diversion via the canal around the Delta would leave insufficient water available to prevent intrusion of salt water into the Delta. This intrusion would prohibit agricultural use and upset nature's delicate balance necessary for preservation of wildlife.

The attitude of the canal's proponents toward the Bay-Delta have been revealed by Indio's Gordon Cologne, chairman of the Senate Water Committee: "We're just going to have to live with the destruction of natural resources."

It is that kind of thinking which would allow damage to the single most valuable resource in Northern California for the sake of pumping water into the arid deserts of Southern California to meet consumer and agricultural demands.

In addition, William Gianelli, state water resources director, wants the state's taxpayers to take a financial risk even the banking industry will not assume.

The state, prohibited by law from selling bonds at more than five per cent interest, has asked banks to buy $100 million in notes anticipating voter approval next June of a hike in the interest rate limit to seven per cent.

When the banks turned Gianelli down, he proposed "borrowing" the funds from the state's pooled money investment account until voters approve selling the bonds at a higher interest rate.

What Gianelli fails to acknowledge is that the pool is not surplus money and if voters turn down the interest hike, the state legislature would have to ask the taxpayers to replenish the $100 million.

Neither does it seem like sound reasoning to go to such extremes to finance construction of the controversial canal in view of Governor Reagan's attempts to curtail inflation by cutbacks in statewide building.

Gianelli also asks why the canal's opponents were not heard from 10 years ago before the public and legislature approved the massive State Water Project.

Has Mr. Gianelli forgotten that the canal was not added to the $3 billion project until three years after the electorate approved financing in 1960? Further, what "should have been done" 10 years ago has no bearing on what should be done now to protect the Bay-Delta system.

Gianelli and other state officials must not be allowed to follow a course which clearly aims at building the project in apparent disregard to fiscal and physical costs.

[From the Reno Evening Gazette, Sept. 19, 1969]

TOO MUCH PROGRESS

One California legislator has locked horns with a sacred cow.

U.S. Rep. Jerome Waldie of Contra Costa County has objected strongly to a $208 million proposal to siphon water from the Sacramento River and send it to Southern California.

This source of supply empties into San Francisco Bay, and Waldie and other Californians are gravely concerned with the effect the project might have on bay pollution, salinity and ecology.

It doesn't make sense for the north to have to suffer the consequences of satisfying the south's insatiable demand for more and more water, Waldie figures.

Waldie further proposes that other sources of surplus Northern California water be denied to the south, too. The point is, he says, Los Angeles is too big for its own good, already, and further rampant growth ought to be discouraged for a while.

A breathing spell of a generation or so would give the south time to come to grips with the terrific problems its teeming millions have brought with them. Such problems as smog, urban sprawl and traffic jams.

You can't legally stop people from coming, says Waldie, but you'll discourage them if there's no water.

Chambers of Commerce in the Los Angeles area will certainly scream, since chambers generally subscribe to the old truism that growth is progress and you can't stop that. A lot of other people will snort derisively—they're doing it already—and probably identify Waldie as some kind of nut. But the lawmaker is no crackpot. He is an apt politician who once served as floor leader in the California Assembly.

He is someone fairly important who is finally speaking what has been almost unspeakable. He is risking being branded as a screwball for daring challenge the proposition that "we've got to get more water down there so we can expand this megalopolis."

Waldie's point makes some sense, not only for California, but for Nevada and other places, where unchecked growth threatens some of the very conditions that make life in the West so attractive for so many people.

People are flocking, only to find that subdivisions and roads and shopping centers are rapidly displacing the attractions they came to enjoy.

That is progress in reverse, and it not only can be stopped but should be, Continuous growth ought not to be a sacred cow where it does more damage than good.

SENIOR CITIZENS SUPPORT STV

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. OTTINGER. Mr. Speaker, in these inflationary times, with nearly 20 million older Americans living on fixed incomes, I am more than ever concerned with the welfare of our senior citizens. These older Americans are among those most painfully affected by rising costs and must be even more careful than ever in seeing that their dollars are spent wisely.

At a time when they already have more than enough problems to contend with, senior citizens are now the object of a particularly cynical scare campaign being waged by movie-theater owners, intent upon capitalizing on the unfounded economic fears of a substantial segment of the American population. Not content with relying on the court to judge the issue, this group has launched an unbelievable advertising and propaganda campaign intended to stampede senior citizens into signing petitions and writing letters to Congress against STV.

What alarms me most is the deliberate attempt to distort the facts and unnecessarily scare senior citizens who already have more than enough problems to concern them in their sunset years.

In my view, the scare campaign generated against STV is contrived and insidious. It clearly represents an attempt to distort the facts by a group more interested in its own ledger sheets than in the welfare and enjoyment of the elderly.

It is my firm conviction that a successful STV operation, properly regulated, will, in fact, enhance the entertainment opportunities of all citizens, including our senior citizens, at less cost than is now possible.

I want to call to the attention of my colleagues an open letter recently circulated to members of the National Council of Senior Citizens and signed jointly by John W. Edelman and Aime J. Forand, both presidents emeritus of this organization. These two gentlemen are to be commended, both on their understanding of the issues involved and their initiative in setting the record straight for the benefit of senior citizens who might otherwise be influenced by this unfortunate and cynical scare campaign. I submit this letter for inclusion in the RECORD for the benefit and information of my colleagues:

JULY 23, 1969.

AN OPEN LETTER TO SENIORS

DEAR CLUB MEMBER: In these inflationary times, those of us who are living on fixed incomes must be more careful than ever in seeing that our dollars are wisely spent. The cruel effects of inflation hit hard at our entertainment and recreation. We all know that this is the area in which we can spend proportionately less.

Naturally, radio and television are the two services which many of us rely on to fill this need. In recent days, a large-scale campaign has been mounted to frighten Senior Citizens into believing that existing TV service will be wiped out by a proposed new system, called Subscription TV (STV) or Pay TV. We deny this flatly.

This campaign has been managed by movie-theater owners, who are more concerned about competition to their business than about the welfare of Senior Citizens or, indeed, the public at large.

We have analyzed subscription television and the tight rules under which the Federal Communications Commission will permit it to operate: our belief is that older Americans will benefit substantially by STV.

Pay television will bring to the home TV screen—at a fraction of the cost of a ticket to a live performance—entertainment that is now completely foreclosed to most of us for reasons of cost. Opera, ballet, Broadway plays and symphony concerts which are not now broadcast by commercial television, as well as first-run movies, would be available on STV . . . and without commercial interruption.

A single STV-equipped television set located in a Golden Years Club, a Housing Center Senior Club, or any similar facility could be viewed by 50 to 100 people for much less than the cost of one ticket to a first-run movie house in any of our major cities.

A seven-year trial experiment of STV in Hartford, Connecticut, authorized by the Federal Communications Commission, has established the appeal of this new form of entertainment to persons of low and modest incomes. Statistics filed with the FCC showed that more than 85% of the subscribers in Hartford had annual incomes of less than $10,000 and more than 40% were under $7,000.

The FCC has allowed STV as a supplement to the television fare you now receive. It has adopted rules designed to assure that you will not have to pay for anything that now or in the future is or will be available on advertising television. The Commission has stated that, if the present rules are not adequate to give you this security, the rules will be amended to make them adequate. The official FCC "fact sheet" and an explanatory brochure are enclosed for more detailed information.

Thus, the FCC rules will not permit STV to encroach on any of the programming now carried on commercial TV, including sports events. STV will be allowed to show only first-run movies, not more than two years old. Each new STV station will be required to give at least 28 hours of free programming per week—so that there will be more enter-

tainment on the airwaves, not less. And no STV will be permitted unless the service area already receives four top-quality television channels.

So, subscription TV can not take away any of the television now received, it can only augment it. But what's best is that nobody has to watch the pay programs. You only pay for those programs you choose to watch. And you pay for none if that is your choice. That's free choice TV!

Some theaters, we are told, are offering Senior Citizens a reduced matinee rate to attend their movies. We are confident that the producers of STV also will take the older American into consideration when they establish their rate structure. We hope that other media will also offer discounts to the more than 20 million Senior Citizens.

In fact, what we really support is more entertainment at less cost to the elderly. If STV will allow Senior Citizens to see a first-run film, play or opera without having to pay for transportation downtown, parking, restaurant meal and other extras, then we are for it.

Sincerely,

JOHN W. EDELMAN,
President Emeritus, National Council of Senior Citizens.

AIME J. FORAND,
President Emeritus, National Council of Senior Citizens.

RELIEF FROM ADVERSE EFFECTS OF RESTRICTIVE MONETARY POLICY SOUGHT BY CERAMIC TILE INDUSTRY

HON. JAMES F. HASTINGS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. HASTINGS. Mr. Speaker, because of its crippling effect upon our Nation's economy, President Nixon has placed the fight against excessive inflation at the top of his list of domestic priorities.

There is one side effect of the Government's anti-inflationary drive which, it seems to me, must be given special attention. While monetary restrictions, such as those imposed by the Federal Reserve Board in the past and those presently in effect, are a traditional tool in the fight against inflation, these restraints, and the resulting interest rate increases, have produced a sharp contraction in the housing construction market, and threaten irreparable harm to the ceramic tile industry and others engaged in the manufacture of products used principally in new home construction. While the fight against inflation is one which must be waged, and for which the President deserves high praise, it seems to me that we must recognize that we have a responsibility to those aspects of our economy being most adversely affected by restrictive monetary policy.

At the same time it must cope with a contracting housing market, the ceramic tile industry must also face a rising tide of foreign imports, which stand today at historically high levels—and are the product, for the most part, of predatory practices which would bring prosecution under U.S. statutes if engaged in by domestic firms. These practices include marketing through giant international cartels, price fixing, unlawful territorial restrictions, improper use of standard labels, to cite a few examples.

Through widespread violations of our antidumping statutes, first the Japanese and now the British have been able to capture significant shares of the U.S. market, to the point that these products now amount to one-third of our domestic consumption.

The impact of restrictive monetary policy reaches far beyond mere contraction of the housing market, for these same forces have produced a shift in the nature of the type of housing unit being built. Last year, for the first time in history, apartment units represented more than 50 percent of residential construction—and it is in apartment construction that foreign made tile finds its most receptive market.

Consequently, foreign manufacturers of ceramic tile are not sharing the burden of our Nation's fight against inflation.

In order to offset the adverse effects of these monetary restrictions on the housing industry, I urge bipartisan sponsorship of House Concurrent Resolution 386, which I introduced Monday. It expresses the sense of Congress that the executive branch should take steps under the Trade Expansion Act or under its general authority to negotiate voluntary quota arrangements with foreign countries to effect such reductions in imports as are necessary to protect the ceramic tile industry and others until such a time when restrictions are lifted and free market conditions are restored.

"FUN FARMERS" GROW FREE

HON. G. ELLIOTT HAGAN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. HAGAN. Mr. Speaker, in my opinion, I believe one of the best ideas to help solve social problems in our country today is contained in a letter and enclosure received from my good friend, Mr. W. Clyde Greenway, executive director, Sears Roebuck Foundation at Atlanta, Ga. I, therefore, commend the following to your attention:

GEORGIA AGRIBUSINESS COUNCIL, INC.,
Atlanta, Ga., July 23, 1969.

Hon. G. ELLIOTT HAGAN,
U.S. Representative,
First District of Georgia,
Sylvania, Ga.

MY DEAR CONGRESSMAN: Enclosed is a copy of a clipping from the *Tallahassee Democrat* which gives the story of how retirees, students and others who are interested in gardening can have the privilege of doing it on the farm of Mr. Lawrence Edenfield in Tallahassee "for free."

Mr. Edenfield's pay is the enjoyment he gets from seeing these people produce fresh vegetables for their tables as well as make good use of their time.

After reading this article I got to thinking about the many people in cities all over the South who are either on welfare, in the low income category, or elderly, and have a lot of time on their hands. This combination of circumstances causes a lot of problems and it suddenly dawned upon me that a program of some type should be developed that would permit these people to use their spare time in gardening to produce food as well as keep them busy.

Possibly this type project could be a part of the adult phase of the vocational agricultural program. In my experience this should be one of the great programs to teach people to garden plus provide a laboratory plot for them to actually carry out what they learn under the vocational guidance.

It might be of interest to you to know that I have discussed this with vocational leaders, county agricultural extension agents and business people and all agree that a project of this type would solve quite a few of our problems where people are forced to live so close together.

If you think this idea has merit I would certainly like to hear from you and hope you would have the opportunity of discussing it with some of the educators.

Sincerely,

W. CLYDE GREENWAY.

"FUN FARMERS" GROW FREE

(By Mike Wright)

Fifteen Tallahassee families have found a "Garden of Eden" on Miccosukee Road.

Lawrence Edenfield, owner of Edenfield Farm, a 90 acre tract located two miles east of the truck route on Miccosukee Road, is donating a prime portion of his land and much of his personal help to friends and acquaintances who "can use the land and want to grow fresh vegetables for their tables."

And for the use of his land, machinery, and help, which includes initial plowing, fertilizing and readying the rows to be planted, Edenfield charges, "not one red cent".

"I get my rent," he added, "from the satisfaction I get from watching people make things grow."

Edenfield first began his project of "lending" rent-free land to his friends more than 10 years ago when he allowed students at Florida State to come out and grow the food they needed to eat while still in school. "Some of the students who used my land then," stated Edenfield, "said they would have had to drop out of school if it wasn't for their garden."

Since then, a variety of people from all walks of life have become a part of Edenfield's "gardening community". Included now is a barber, two assistant attorneys general, several retired State Department of Education employes, two professors at FSU, a doctoral candidate and several people employed by various Tallahassee businesses.

"Most of the people gardening usually know me or someone who knows me. That's how they got started," stated Edenfield. "All that I ask of someone who uses my land is that they be honest."

Edenfield and his troop of gardeners raise almost all crops native to North Florida and some that aren't. Edenfield has set aside six rows of honeydew melons which are almost exclusive to Southern California and have never been known to be raised here.

Claude Andrews, a retired Vocational Rehabilitation State Department of Education employe, said concerning his gardening, "There is nothing better than fresh food on the table. In addition, we get good exercise and something we can use at home. Being 73 years old, this gardening is possibly the one thing that has kept me out of the hospital."

The people who use Edenfield's land are allowed to use as much as they can take care of all year around if they like and grow anything they want.

When an individual gets behind with his gardening, others pitch in to help him catch up. "When I was out plowing my 'middles' to get rid of some of the grass, I noticed Clem

Roach's middles were dirty. When I finished with mine, I went over and cleared out Roach's," Andrews said.

Howard Mathews, a retired United States Soil Conservation employe stated, "We've been eating out of our garden for months. My wife has put up corn, cucumbers, tomatoes and almost everything else we raise. Last winter, we had such a bumper crop of greens that we gave more than a pickup truck load away."

A doctoral candidate at FSU and a former agriculture teacher in Hillsborough County, Hiram Green said, "Mr. Edenfield was the principal of the high school where my wife taught—that's how I came to garden here."

"Working here has been good therapy for me and we enjoy the fresh vegetables," added Green.

Mrs. D. E. Williams, the wife of the retired Negro Education Supervisor, State Department of Education, and a fellow gardener, summed up the entire gardening operation, "Mr. Edenfield is doing one of the most generous things I know of by lending his land and machinery like this. It's his big spirit that makes him do it. He likes to make things grow and see other people make things grow."

THE AMERICAN LEGION'S 50TH ANNIVERSARY

HON. MARTIN B. McKNEALLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. McKNEALLY. Mr. Speaker, the American Legion is just finishing 50 years of service to God and country and is now looking forward to the second half century of service.

While this great organization has established a most admirable record, it is striving to improve its effectiveness and future contributions to the community, State, and Nation. To this end, it created a task force for the future under the chairmanship of a distinguished Legionnaire and past national commander, William E. Galbraith, who presently is serving as Deputy Under Secretary for Congressional Relations, U.S. Department of Agriculture.

I should like to commend to my colleagues in the House the report of this task force which was presented to the 51st annual national convention of the American Legion:

REPORT OF THE TASK FORCE FOR THE FUTURE

To the 51st National Convention:

In our observance of The American Legion's Golden Anniversary Year, we have done much to honor the past. However, the Task Force For The Future was directed to use this period to prepare for the future—to build a springboard to the Legion's second half-century of service.

The Task Force For The Future was appointed on December 15, 1967. Its basic charge was to (quote) "provide the Legion with a grand strategy to guide its course in the years to come, a clear road map of suggested activity for the next decade; long range aims to be met before the centennial in 2019." (End quote)

Conscious as we have been of our own fallibility, ungifted with visionary powers, limited by our own experiences and biases, the Task Force for the Future has, nevertheless, applied itself to the assigned task for nearly two years. We have attempted to view America as a whole and to visualize the future role that the American Legion can and should take in our national destiny.

We also wish to place in the record an acknowledgment of our respect for and debt to our departed comrade James F. Green of Nebraska, who served as chairman of the Task Force from its inception until his untimely death, June 14, 1968.

Many persons have contributed to this study. We have solicited and received suggestions and recommendations from national and department officers, from past officers, and from many who have never held office. Chairmen of national commissions and their directors have cooperated. To all who contributed their knowledge, opinions and thinking, we express our deep appreciation.

In 1919 and the early 1920's, the youthful Legion swiftly developed policies and programs that bore directly on the major national problems of that time. The Preamble to our Constitution served as a beacon in guiding the organization to those activities which were found to be pertinent to the day.

As we look forward to the next fifty years, we find that our Preamble is still our surest guide. If we accept the pledges we make in reciting the Preamble, if its words have as much meaning for us today as they did for our founders, then, in the opinion of your Task Force, the American Legion must direct more of its attention, its leadership and its energies to finding solutions to the massive problems that beset America during these critical years. The American Legion is already making substantial contributions in several areas of current national concern. The Task Force recommends that now and for the foreseeable future we direct even greater attention to the following ten major problems:

1. The crisis in our educational system.
2. Poverty and its attendant problems.
3. Race relations in America.
4. The continuing problems of national security and civilian problems related thereto.
5. The trend toward anarchy and other forms of lawlessness; the need for impartial law enforcement and the administration of prompt, even-handed justice.
6. The pollution and dissipation of our basic natural resources, including our air, our waters, our minerals, our forests, our soil, our very living space.
7. The ominous spiral of inflation, which tends more and more toward catastrophe.
8. The search for a just, stable and enduring world peace.
9. The threats to public safety and the disorganization of daily life flowing from a vast and ever growing technology that may outstrip the ability of men and governments to live with it.
10. The mushrooming of cities with its twin evils of urban disintegration and the decline of rural stability.

We do not suggest that the Task Force or anyone else has ready answers to these problems. We do suggest that they need as much of our attention as we can give them, that the difficulty of solution is but a challenge to be met, that a great organization such as The American Legion has an obligation to lend its best efforts in the quest for answers, locally and nationally. We cannot absolve ourselves of this responsibility by claiming ignorance or lack of expertise, or the absence of precedents. Neither will it suffice to criticize and condemn. These problems, in all of their complexities, must be faced. We must, by endless search, and study and trial, qualify ourselves to speak and to act constructively. We must make our contribution, be it great or small to the search for solutions.

With the evidence so clearly before us, few would deny that the American educational system is due for a serious and critical reevaluation and overhaul. We should insist upon impartial, penetrating, exhaustive and competent reviews of that system from the kindergarten to the college and the graduate school. It is obvious that many university students have been willing to follow anarchistic leaders down blind and dreary trails which can lead to destruction and chaos. Indeed, chaos has triumphed on many a once proud campus in recent months. Your Task Force must draw the conclusion that either (a) students do have certain deep-seated, genuine causes for complaint, or (b) the educational system has failed to transmit to them the values necessary in a free, responsible, democratic society, or (c) both.

Although poverty has today become identified with racial issues, poverty is by no means the exclusive burden of any one race, ethnic group or geographical location. We believe that our technological and economic progress has made it possible and, indeed, necessary to eliminate poverty so that the poor may become independent, self-supporting and proud citizens. We recall The American Legion's monumental contribution to the Nation through the original GI Bill of Rights and its succeeding versions. The success of that legislation, designed to help those who will help themselves, persuades us that the Legion can and should be a force in shaping self-liquidating programs that could really reach to the roots of poverty. At the same time, simple humanity and the welfare of our society demand that supplementary income sufficient to maintain personal dignity and health be given to those in deprivation because of circumstances beyond their control.

With regard to racial problems, the record of The American Legion shows that we have already made many basic decisions against discrimination. We have not shrunk from some that were temporarily costly to the organization. Your Task Force believes that we should do whatever else is in our power to discourage racial considerations as factors in human relations.

Through the personal experience of each of its members, The American Legion is conscious of the security needs of our nation and the degree to which those needs may be satisfied only through the joint efforts of industry and the military branch of our government. Nevertheless, we are living in an economy which is ever more dependent on military production for jobs, wages and support. In this age of possible instant war and instant annihilation, our military system has become so huge, complex and expensive that it cannot help but vastly influence our internal political decisions, strain our foreign and domestic stability, and provoke internal hostilities. Your Task Force suggests that The American Legion, which understands and cares about our security needs, must analyze in depth the social, economic and political problems that the security system creates. Certainly, The American Legion is better able to appraise these problems in balance than those hostile to the military.

We could continue by pointing out the very considerable American Legion activity of the recent past with regard to law enforcement and other of the ten major problem areas. But a further enumeration of problems and past Legion accomplishments is not necessary.

In the course of its nine full-scale meetings, the Task Force has on many occasions looked critically and intensively into the inner structure and operation of our organization. We have reached agreements on a wide variety of strictly internal matters. We are submitting our specific recommendations to the National Commander for early study and action by the proper standing commissions and committees and by administrative personnel.

However, some of these internal recommendations are of such immediate and overriding importance that they merit presentation from this platform. Your Task Force sees in the returning thousands of Vietnam vet-

erans both an immediate responsibility and a future boon. The immediate responsibility is, of course, to render to them the full range of services of which we are capable and to arouse an apathetic public to the debt which we all owe them. The future boon is the strength which The American Legion will gain as they affiliate themselves with us and bring to us their new ideas and their great potential for leadership.

Your Task Force has been concerned by reports that veterans of the Vietnam period are taking advantage of the educational benefits of the GI Bill to a lesser degree than did the veterans of World War II and the Korean War. The present scale of monthly educational benefits is so low that it is *no* benefit to the more needy Vietnam vets. The meagerness of the benefit prevents them from going to school at all. Very serious attention should be given to amending the GI Bill so that it will meet tuition costs. Knowledgeable persons who have discussed this matter with us are convinced that soaring tuition costs are preventing many returning veterans from entering or continuing in training, under the present benefit system.

We believe that there is much more that our National Organization can and should do to inform the public, to organize our own services, and to implement the programs already established to contact and to enroll the new veterans. However, we have examined the budget reports of the National Finance Commission and, like you, we have winced at the increasing pressures of inflation. We commend the National Commander, the National Adjutant and the National Finance Commission that they have candor, we do not believe that our current dues structure will maintain this same level of services much longer. Certainly it will not permit us to expand into the new areas suggested by this report. We strongly recommend that attention be given to our future financial requirements during the coming year and that the 1970 National Convention be prepared to come to grips in a realistic manner with our future financial requirements.

Recommendations and suggestions on leadership training, the reputation of Posts, modernization of terminology, structure, eligibility, observance of the bi-centennial of the Declaration of Independence, the Flag Code and similar internal matters will be presented to the National Commander for further study by the proper standing commissions and committees.

But, Mr. Commander, recommendations are easily made, and words are cheap. The need is for action. Time is running out. We strongly urge that the work started here be taken up now by a Task Force For The Future in every department.

Fellow Legionnaires, your Task Force For The Future has been fully aware, throughout its long and intensive studies and deliberations, of the importance and magnitude of its truly awesome task, and indeed of its incapability of achieving it to the ultimate degree. We have endeavored to give a glimpse of the world in which, from now on, the Legion will "live, and move, and have its being," now and in the swiftly coming twenty-first century. The Immortal Bard, some hundreds of years ago, said: "There is a tide in the affairs of men which, taken at the flood, leads on to fortune. Omitted, all the voyage of their lives is bound in shallows and in miseries." For The American Legion, in this supremely challenging era—this great citizen phalanx near three million strong—let us believe—the tide again is at the flood. Let us take it, and, guided in the night by the stars of an unselfish service, in the day by the compass of consecration to God and Country, sail on to that fortune which alone is our true wealth, the respect and honor of our own generations, and of the generations yet to be.

NEW YORK TIMES LAUDS NATIONAL DRIVE TO IMPROVE READING SKILLS

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. PUCINSKI. Mr. Speaker, this Nation has long suffered from a chronic shortage of competent readers. Our schools have produced a wasteland of nonreaders, who have had to suffer the consequences of inadequate training in reading for the rest of their lives. My colleagues will recall that I called their attention to the woefully deficient reading level of our student population in a speech before this body on August 2, 1968. At that time I called on the Congress to place priority on reading achievement in all programs supported under title I of the Elementary and Secondary Education Act. I also urged that the national assessment project emphasize evaluation of reading skills being produced in our Nation's schools.

Therefore, I am highly encouraged to learn that U.S. Commissioner of Education James E. Allen, Jr., intends to place greatest emphasis on reading programs, so that by 1980 every student will be able to read capably before he leaves school. I wish to recommend to my colleagues the following editorial which appeared in the New York Times on September 30, 1969, in praise of Dr. Allen's new directive:

A NATION OF ILLITERATES?

The youth who leaves school without being able to read—and read well enough to cope with the demands of modern life and employment—enters society crippled. Worse, his deficiency is likely to impel him to become a drop-out, a frustrated, embittered and easy victim of delinquency, drift and crime. At present, an estimated one-third of the nation's schoolchildren are embarked on such a dismal course, and in the nation's big cities, the hopeless army is probably closer to half of the total enrollment.

It is to this intolerable situation that James E. Allen Jr., the United States Commissioner of Education, addressed himself in opening a nationwide war against reading retardation. His target is to make sure that by 1980 no youngster will leave school unable to read.

Few priorities ought to command more unquestioned support. Dr. Allen is justified in asking for a public determination as compelling as President Kennedy's earlier goal of landing a man on the moon. But this parallel could be misleading unless it is remembered that the triumph in space was accomplished not just by enthusiasm but by the hard work of experts and the single-minded deployment of resources.

What has not yet been acknowledged is the need to teach children, at an early age, individually or in small groups. This must be done by teachers sure of their methods and skills. The teacher training institutions have not remotely begun to satisfy the demand for such teachers. School systems still fail to understand the importance of the kind of saturation effort that will not allow pupils to fall by the wayside.

The Allen plan will go down to defeat as long as schools leave it to remedial instruction to pick stragglers up later. Once the frustrations build up and the momentum is lost, reading becomes a hateful chore that infects the entire enterprise of learning.

These are the pitfalls the Allen crash program must avoid. The teams of experts whom he properly wants to place at the disposal of the states and local systems must avoid becoming embroiled in methodological controversies and action-delaying research. They must help speedily to spread the benefits of demonstrably successful operations.

Experts differ—as they should—about the best way to teach children to read, and Dr. Allen does not intend to impose governmental control and standardization. But there can be no disagreement over the end result. The public has a right to know what is being accomplished. Tests can and should be devised to provide a national yardstick; schools must be held accountable for their ability to accomplish their basic mission.

EARLY ASSESSMENT CAN PREVENT SCHOOL FAILURE

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. WALDIE. Mr. Speaker, the early failure in school of a young and sensitive child can have a profound effect upon his future behavior pattern and thus his entire life. If the educational institution can provide children with early assessment, for each child is, of course, different, we can thus know what he is capable of and what help he needs.

It is this early assessment that can prevent early failure, frustration, and possibly negative reaction.

Dr. Harvey R. Wall, psychologist for the Mount Diablo Unified School District and associate professor at California State College, Hayward, recently made an excellent presentation on this subject before the California State Assembly Education Subcommittee on Instruction and Teacher Relations.

Mr. Speaker, I would like to submit Dr. Wall's remarks for the RECORD so that my colleagues can share his views on this important subject:

To California Assembly Education Subcommittee on Instruction and Teacher Relations, March K. Fong, Chairman.
From Dr. Harvey R. Wall, Psychologist, Mt. Diablo Unified School District and Associate Professor, California State College at Hayward.
Re Testimony Regarding Early Education Readiness, Assessment, and Prescriptive Primary Education.
Date September 19, 1969, San Francisco.

INTRODUCTORY STATEMENTS

The prevention of failure in our public schools can represent a savings in human resources, a savings in public expenditures, increased teacher effectiveness, and immeasurable decrease in child and family life stresses.

Professional education and the behavioral sciences have long recognized that children's learning rates vary and that individual prescriptive learning (programs) can be adapted to accommodate individual differences. However, the system of mass education has unfortunately been slow to recognize the potentialities of implementing what we now know. Furthermore, it can be shown that an early educational intervention into the life of a potentially failing student can prevent the necessity for the apparent proliferation of remedial programs which now hopefully respond to the later identification of symptoms related to school failure.

Because, in our society, the educational life of a child is a mandatory or virtually conscriptive one, it would seem only appropriate that his 13 years be made as free of undue frustration and as full of meaning and success as possible.

It is rather common knowledge that lack of school success is common to those whose lives are characterized by delinquency, dropping out of school and society, and unemployment. An individual's perception about his total school success may well determine his perception of himself as a contributing or a hostile member of society.

Thus, economy of human resources and funding would seem to favor prevention over remedy.

1. *The essential components* of a comprehensive early assessment procedure must call upon the disciplines of teaching, child psychology, curriculum development, medicine, speech and language development, administration, and parenthood. Specifically, experience and the research literature have demonstrated that children learn best when the following developmental characteristics are adequately represented in the young child:

(a) Acculturation in broadest definitions which includes an awareness and responsiveness to the surrounding environment.

(b) Physical growth, stamina, and neuromuscular ability to respond to small and large muscle demands of the learning and socialization process.

(c) Social competence to respond to the teacher to child and child to child relationships found in group instruction.

(d) Dependence versus independence criteria which characterize a child's readiness to respond to direction while knowing when to request and accept help.

(e) Speech and hearing so that the receiving and expressing of ideas and facts are unencumbered.

(f) Visual-motor skills give the child the ability to manually and visually do what the teacher and the brain demand in his basic curriculum.

(g) Emotional stability permits him to respond to the many requirements of the daily learning processes.

(h) General mental ability gives the child a global aptitude to comprehend and integrate the learning into a meaningful experience.

2. *Initial comprehensive pupil examinations* are valuable when administered prior to school entry. But, they serve a *continuing* purpose when the results of these assessments contribute to program, instructional, and curricular adaptations geared to the unique requirements of the examined children. Far too often, schools have administered "screening" examinations for the express purpose of determining that the child is either "ready" or "too immature" for the kindergarten program. Examinations should preferably be administered as an initial step in developing purposeful prescriptions for all of the children.

Far too often we have told parents that conforming girls meet our program standards and that active boys cannot succeed in our female-oriented system.

Examinations are important but prescriptions are vital.

3. *Increased academic performance* has been observed in children who have undergone preschool examinations and have then participated in prescriptive activities during kindergarten and grade 1. Because the evidence is somewhat limited, we need pilot programs for the purpose of developing and refining prevention systems.

One of our District's schools, located in an area of cultural disadvantage, has demonstrated that improved academic performance does result from a well planned and executed system for potentially unsuccessful children. The improved academic work of the children is, however, only one of the many positive outcomes emanating from this approach: improved parent-school relations, improved self-worth indicators in the children, improved teacher involvement with program development, and a decrease in school vandalism.

Basic components of this project are:

(a) Early assessment of pupil characteristics finds principal, teachers, specialists, and aides examining prospective kindergarten children several months before the fall entry.

(b) Many ongoing conferences by the principal with small groups of parents in their homes using the approach "You invite your friends and I'll bring the coffee and cookies."

(c) Use of a wide range of developmental materials in kindergarten and grade 1 stressing language and listening skills, physical skills, small and large muscle training activities.

(d) Extended language development periods with a teacher-pupil ratio of 10.

(e) Extensive and well planned use of para-professionals.

(f) Individual conferences directed at home prescriptions which supplement school-related skill development.

(g) Parent guidebook giving them several tips and directions for improving child competencies.

Increased funding through Title I, ESEA, and an exhaustive work week for the principal further characterize this program.

After two years of active commitment to the assessment and prescription system, this school's grade 1 reading test scores have shown dramatic improvement. Other basic pupil skills have similarly improved.

Although less funding will be available, four more schools in non-target communities of the District are involved in similar programs beginning this fall. Thus, these data are not available at this time.

Many other and varied programs could be described. They range from the bombardment-immersion approach of Bereiter and Engelmann of Illinois to the less dramatic Ilg-Ames Gesell Institute commitment to the "let the child's maturation rate show us the way."

4. *Assurance of program adaptations* can be realized after competent pupil assessments when some of the following characteristics are present:

(a) Training of prospective teachers should include a variety of interventions geared toward the prevention of individual pupil failure.

(b) Re-training of the current force of teachers through state-sponsored scholarships, funded in-service training activities, and state or regionally developed materials to aid in the intervention process.

(c) Careful and goal-directed teacher selection.

(d) Revision of the kindergarten through grade 3 curriculum and its methodologies (a program of continuing value must acknowledge more than a kindergarten commitment to individualization).

(e) Provision for the active and continuing involvement of specialists for assisting teachers and parents.

(f) Pre-school assessment programs and facilities which can be available for children as early as three years so that prevention prescriptions can be realized at a stage in child development when interventions can be the most productive. (Schools or school-related agencies could provide such services on the Well Baby Clinic model. Prevention of disorders has been an effective aspect of the program for physically handicapped children at age three years.)

(g) School districts applying for special funds for implementing prescriptive programs should show evidence that (1) adequate pupil assessments will occur, (2) adequate evidence exists that the districts will, in fact, design programs which are geared to observed characteristics of the examined children for the primary level school years, and (3) parent education and training is an ongoing activity as an aspect of their application.

(h) Supervision of program development is available from local and state sources.

(i) Funding for research staff should assist districts in adequately evaluating the success of the program design and implementation.

5. *Present pilot projects* are responding to pupil prescriptions after assessment when teachers and administrators are convinced that the present primary program is *inadequate* and they are involved in developing something better. Furthermore, it has been found that increased funding must be available so that there is a significant decrease in pupil-adult ratios in the primary school years. Increased staff may be specialists and/or they could come from ranks of the para-professionals who can free the well-trained teacher to make the necessary curricular and teaching interventions necessary for realizing a successful prevention of failure program.

6. *Cost of implementing programs* directed at preventing school failure will vary from *impact* upon the problem to an *optimum* attack at eliminating many of the currently operating remedial programs.

For each child retained in a school grade level, a cost of $800.00 to $1,000.00 can be added to the education of the child.

Failure to succeed can become a cost of overwhelming proportions and relates to the spectrums of public welfare, Youth Authority, special education, remedial education, police, mental hygiene agencies, and the economy as a whole.

Our State's attempts at remedying mental, physical, social, and educational disorders now require annual expenditures in nine figures.

Isn't it, therefore, time for us to spend a mere fraction of this amount in systematically trying to prevent some of these disorders?

It would appear that we should implement the knowledge that we already possess.

This Subcommittee is commended for its interest in a problem of such far-reaching consequence.

NATIONAL CATHEDRAL DESECRATED

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 1, 1969

Mr. RARICK. Mr. Speaker, the magnificent structure known as the Washington National Cathedral has been constructed over a period of half a century by the contributions, both direct and indirect, of the Christian American people who have felt that such a house for the worship of God was appropriate to the capital city of a nation of Christians.

Technically the cathedral is the Episcopal Cathedral of Saints Peter and Paul, the seat of the Episcopal bishop of Washington. Because of the fundraising appeal to all Americans, it has long been customary to permit responsible leaders of other Christian denominations to worship and to preach in the cathedral on special occasions.

Americans who have built this cathedral are entitled to know the use to which it is currently being put as a stage and platform from which to propagate doctrines the antithesis of Christianity. Articles reporting this desecration follow my remarks:

[From the Washington Post, Sept. 29, 1969]

GANDHI: CEREMONY FOR "A UNIVERSAL MAN"

(By B. J. Phillips)

On the 100th anniversary of the birth of Mahatma Gandhi, Indian Foreign Minister Shri Dinesh Singh and former Vice President Hubert H. Humphrey came to the National Cathedral to talk about Gandhi. And Ravi Shankar came to play sitar music composed especially for the centennial celebration of Gandhi's birthday.

What was said bounced and echoed in the high stone ceilings, at times understood, at times not understood. But Shankar's music was never lost in the Cathedral. It turned the ornate home of one culture into a sounding board for another.

"I want the cultures of all lands to be blown about my house as freely as possible," was the quotation from Mahatma Gandhi's writings which appeared on the leaflet passed out by ushers containing the order of service.

In its pomp and prayers, it was a service not unlike that followed by the English men and women who had colonized India. Twenty-two years after he led India to independence from Great Britain, committees across the world have arranged birthday anniversary celebrations such as the United States' observance yesterday at the Cathedral.

Gandhi, the originator of passive resistance and nonviolent political action, was, like his disciple, Dr. Martin Luther King Jr., killed by an assassin, less than six months after India became an independent nation.

The service, attended by church ladies in hats and gloves, Shankar devotees in blue jeans and Indian women in saris, began with a processional. It would have seemed like any other service at the Cathedral—altar boys carrying the cross and two giant candles, church officials in purple robes—but for the white-saried members of the Indian Embassy choir and the low platform beneath the pulpit where Shankar would play.

Dean Francis B. Sayre welcomed the worshippers, who included an overflow of several dozen who stood throughout the service, to "a celebration of the grandeur of Gandhi's spirit."

Humphrey read passages from the scriptures of the world's major religions.

Foreign Minister Singh spoke of Gandhi as "a universal man, a man deeply in love with humanity as a whole."

A hymn was sung and, during the last verse, incense carried into the Cathedral heralded Shankar's entrance.

Shankar and Miss Kamala, who accompanied him on the tanpura, removed their sandals and climbed onto the platform. Cradling the sitar with one foot, Shankar began to play.

Ravi Shankar is a delicately-built man, with small hands and feet. When he plays, his chest appears to expand as though he only breathes in, never exhaling. He seems to grow as his music grows, in carefully controlled, intricately developed expansion of the theme.

The National Cathedral reaches seem to hold the low brooding quarter-tones and turn them into a background for the shimmer of the developing theme. For more than 20 minutes, Shankar's sitar owned the Cathedral as fully as the medieval saints carved into the pulpit above his head.

Finally he finished, exhaled, picked up his incense and waited for the long line of choir-boys and officials to file out before falling into the recessional.

At evening services, the Cathedral again was filled to capacity. This time there were no gloved ladies; there were strike buttons and "boycott grapes" lapel pins.

Cesar Chavez, leader of the California farm workers, was the main speaker at a church service-union rally attended by Mrs. Robert F. Kennedy, Sen. Walter Mondale, Rep. John O'Hara, Mrs. Fannie Lou Hamer and an overflow crowd of students and union workers.

The service began with folk singer Joe Glazer leading a two-stage sing-in. First he led the audience in the original words to "John Brown's Body" and "We Are Climbing Jacob's Ladder," followed by the rewritten versions: "Solidarity Forever" (in English and Spanish) and "We Are Building a Strong Union."

Chavez sat quietly in a black vinyl-covered aluminum rocking chair while the speeches by Sen. Mondale, Father John McCarthy, of Texas; Mrs. Hamer, one of the founders of the Mississippi Freedom Democratic Party, and Rep. O'Hara praised him for his efforts to organize farm laborers.

"There is a shameful thing in this country," Chavez said. "Those who plant, irrigate, cultivate and harvest the food that reaches the table of every American have no food for themselves."

Chavez asked that "Americans band together to bring justice to the tortured valleys of our land."

There was another round of songs, led by Mrs. Hamer; then the concert and union hall was quiet after a day Cathedral Dean Sayre said happened "because the church cares."

[From the Evening Star, Sept. 29, 1969]

CESAR CHAVEZ AT THE CATHEDRAL: CHAVEZ SAYS PENTAGON PROLONGS GRAPE STRIKE

The leader of the nationwide grape boycott charged last night that the Pentagon has sharply boosted its purchase of grapes and has thus kept the bitter, 4-year-old strike alive.

Cesar Chavez, beginning a week of boycott activity spoke to an estimated 2,000 persons at Washington Cathedral, claiming the Pentagon had undermined the boycott by increasing its grape purchases by 30 percent last year, and by shipping 350 percent more grapes to Vietnam.

He said the Department of Defense told him that servicemen's "routine craving" for grapes was responsible for the increased purchases.

More grapes are also going into fruit cocktails, and being used as raisins, Chavez said, to make up for what he claimed was a 30 percent decrease in the sale of grapes since the strike began in September, 1965.

Chavez also charged that the Federal Mediation and Conciliation Service had ignored his request to summon grape growers back after negotiations broke down recently.

Chavez, 42, accused the Food and Drug Administration of failing to find evidence of dangerous pesticides on grapes after a supermarket chain said it had found the poison. Some 80 percent of the pickers in his native Delano, Calif., are affected by the pesticides, he said.

Sen. Walter Mondale, D-Minn., another speaker at the fund-raising rally, supported Chavez' charge against the FDA. Mondale said the agency's study discounting reports of dangerously contaminated grapes was "partial, unfair, and unresponsive."

Chavez was to testify today on the pesticide question before Sen. Mondale's subcommittee on migratory labor. Sen. George Murphy, R-Calif., a supporter of the grape growers affected by Chavez' strike, was also scheduled to testify.

Chavez told the predominantly young crowd that he pledged his workers' support to the Vietnam moratorium scheduled Oct. 15 in the nation's colleges.

Chavez' appearance here was his first outside of California since he went on a 25-day fast 18 months ago.

The boycott supporters will hold a rally Tuesday night, and then a "surprise-in" led by Chavez. Speakers at last night's meeting indicated the "surprise-in" would include demonstrations at Sen. Murphy's home and at local supermarkets where grapes are sold.

HOUSE OF REPRESENTATIVES—*Thursday, October 2, 1969*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Teach me, O Lord, the way of Thy statutes; and I will keep it unto the end.—Psalm 119: 33.

O Thou who dost reveal Thyself to man in endless ways, deepen within us the sense of Thy presence as we lift our hearts unto Thee in this our morning prayer. As our fathers came to this altar to worship Thee, so do we bow before Thee humbly and reverently.

With grateful hearts may we learn to labor in Thy spirit, to live in harmony with Thy laws, and to let love lighten and brighten our lives.

Turn Thou our strength to the tasks of justice, mercy, and peace that as we work for the common good we may find joy and satisfaction in useful living.

In Thy holy name we pray. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

CALIFORNIA EARTHQUAKE

(Mr. WALDIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALDIE. Mr. Speaker, last night in northern California there was an earthquake of considerable proportions that had its epicenter in Santa Rosa, which is approximately 50 to 60 miles north of San Francisco. There was considerable damage done in the area of the epicenter, the damage in property costs ranging in the thousands and, in addition, a number of people were injured. There was additional damage done in the immediate San Francisco Bay area from this particular earthquake.

I joined recently with Representative MINK, of Hawaii, and others expressing concern about the consequences and risks that were unknown relative to the Amchitka underground testing of nuclear weapons that is scheduled for today. At that time my concern was predicated upon the consequences and risks that the Representatives in Hawaii and Alaska believed were present as a result of these proposed nuclear tests.

I am now expressing the concern of the people of the bay area of California, which I represent, which is a seismic unstable area of considerable extent, that this test may further jeopardize that instability which was in motion as of last night's earthquake.

I intend to contact the President today to urge that the test scheduled for this evening in Alaska be reconsidered until