down, Eagle," said a young North Carolinian named Charlie Duke from Houston's Manned Spacecraft Center.

"Houston, Tranquillity Base here," replied Neil Armstrong at 4:17 p.m. EDT July 20, 1969. "The Eagle has landed."

WHERE WERE YOU?

It immediately reminded people of remarks made in the past when something happened to change our lives: "Well, I made it . . ." "Watson, come here, I want you . . ." "What hath God wrought?"

What had been wrought this time? When men began to ponder it, they found they couldn't. Now that it had happened, it was something that made minds spin. Man on the moon . . . It sounded at once so simple and so absurd that it became a useless exercise to relate the event to anything on earth.

It was a little bit like the day Pearl Harbor was attacked or the day the war ended in Europe or the day darkness came to the Northeastern United States in the middle of rush-hour traffic.

Where were you when the lights went out? Where were you when two men landed on the moon? Almost no answer would ever make sense. "I was brushing my teeth." "Drinking." "Kissing my girl." "Having dinner with friends." "Fighting with my wife."

If the landing put people in shock, what took place almost seven hours later was even more boggling to the mind.

Wearing a cumbersome white pressure suit and a bulky backpack that rose over his shoulders, Neil Armstrong backed out of the Eagle's open hatch and down a 10½-foot ladder. He reached out to pull a lanyard and a television camera came out, aimed squarely at the ladder and at Armstrong coming down.

"Man," said Duke, a quarter of a million miles away. "We're getting a picture on the TV."

Suddenly, there Armstrong was, on television screens the world over, backing down the ladder like some surrealistic image to the moon's surface. The first man on the moon was about to take his first steps on the moon and the whole world was watching him do it.

Clear and stark in sharp blacks and whites, the picture of a craggy moon, a landing machine and a man in the foreground was eerie in its beauty, incredible in what it all meant.

"It looks like a Kline painting," said Norman Mailer, who came to Houston to write about what he felt it meant for Life magazine. It *did* look like a painting by the late abstract expressionist Franz Kline, who worked with broad and bold sweeps of black and white, until you suddenly realized that the man in the picture was moving.

Armstrong reached out his left foot. "I'm going to step off the Lem now," he said—and did it.

"That's one small step for man," Armstrong declared. "One giant step for mankind."

A QUICK ADJUSTMENT

Just how big a step only time will tell, but one thing was certain even as Armstrong moved out of range of the television camera, looking like some apocalyptic vision in his white space suit and fishbowl helmet: man had forever changed his destiny. In some small respects, Armstrong's first steps on the moon were like the first steps man took on his own planet after he'd crawled up out of the sea 2 million years ago.

Just 15 minutes after Armstrong had come down the ladder, Aldrin joined him. Moving rapidly about in the airless, one-sixth gravity, both men quickly adjusted to their surroundings and at times behaved like small boys at a summer picnic.

"Notice how you can pick up the rocks," Armstrong said. "Yeah, they bounce and then . . . Boy, you can really throw things far out here, can't you? And Neil, didn't I say we might see some purple rocks? They're small and sparkly."

Growing more serious, as if they remembered why they were there, Armstrong and Aldrin unveiled the plaque they had carried with them from earth, the plaque that said: "We came in peace for all mankind."

With that, the two men planted an American flag.

While you knew it was happening, you couldn't quite believe it. A woman watching Armstrong's first steps around the landing craft, listening to his first words, said later she had no idea of time or even where she was. "I didn't know whether the children were up," she said, "in bed or racing around in the back yard."

Both men climbed back into their landing craft at about 1 a.m. "Adios amigos," said Aldrin as he climbed the ladder.

History had been made, though not easily.

THE OTHER SIDE OF THE MORATORIUM DAY

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 21, 1969

Mr. TEAGUE of Texas. Mr. Speaker, on Sunday, October 19, 1969, there appeared an editorial in the Dallas Times Herald written by my good friend Felix McKnight which should be read by every Member of this body. It is food for thought and perhaps some people in this country should partake of it:

MEMO TO HANOI: DON'T BE MISLED

(By Felix R. McKnight)

Lest Hanoi get the twisted idea that this entire country took its eye off the ball on Wednesday and danced in the streets, 200 million strong, there should be another message sent its way.

It is the inalienable right, the privilege, of free people to go their unfettered way, to voice opinions on "Moratorium Day"—something not even the McCarthys, the McGoverns, the Kennedys or the Yarboroughs could imagine on the streets of Hanoi.

It is also cricket, in American streets and on campus, to disagree with the president of the United States. No heads are chopped for such license.

But it should be signaled to North Vietnam and its sickening foot draggers in Paris that a few other things also were happening in the United States on Wednesday.

Ninety-nine per cent of the citizenry—which also loathes war but prefers to get out of Vietnam the valid, thoughtful way proposed by the President—very normally went about their daily chores and responsibilities.

Babies were born in ten thousand places—hopefully into a better world.

Ten million students did not drop out of classes and go barefoot and unshaven to "peace meetings" marked with upsidedown American flags.

The magical Mets pounced on Baltimore—after 55,000 tyranny-free fans thundered out "The Star Spangled Banner" in their beloved Shea Stadium.

Fifty thousand automobiles—and washing machines, refrigerators, food, medical remedies, clothing—came off assembly lines and started to the people.

People thronged clothing, food and drug stores to buy their necessities—with money they earned in a land with its lowest unemployment level of history.

Men who learned their skills in the open universities of this land transplanted hearts and kidneys.

The sensitive hands of surgeons saved human lives on a thousand operating tables.

Men and women did not glance up from microscopes and lab work as the quest for cures to cancer and other killers went on and on. Not cures for Americans—but for all mankind, including the Viet Cong.

Men and women of government, from village to Washington level, stayed with their jobs to assure equal job opportunities, housing and justice for all citizens.

On corner lots, in city parks and playgrounds, a half-million kids—black and white—played PeeWee football, tackled hard and wound up shaking hands.

In ten thousand places men built airports, hospitals, schools, homes and industries—and stayed on the job.

In cathedral, church and synagogue men and women who seek the true peace gave silent prayer for the safe return of battlefield warriors—and the end of war's evils.

In the Congress men dissented—but all held to the indestructible thread of freedom, of dedication to the purpose of this country. Some drifted into the valleys of partisanship, others to the peaks of statesmanship. But none, Hanoi, would sell out on your terms.

No, Hanoi didn't get confused about the status of the United States of America.

Wednesday wasn't "a day off" in the national life. It might have seemed so to you from reading and hearing the chant of a few self-appointed "saviours" among the New Left politicians and commentators.

A fractional few protested in our streets against a President who worked for peace even as they jeered. No one was shot.

Recall, Hanoi—and the restless sideline coaches of this nation—that on another day, a year ago, an enlightened Communist took his people to the streets in protest. Protest blunted by tanks and guns.

Dubcek of Czechoslovakia today is stripped of his right to do anything. The protest of his people has been muted.

In this free, enlightened land there can be protest. There was on Wednesday.

But it will not derail the orderly, honorable withdrawal—and eventual peace we all seek.

SENATE—*Wednesday, October 22, 1969*

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

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

Eternal Father, Lord of men and nations, on this national day of prayer, teach us how to pray, when to pray, what to pray, and to whom to pray that the life of prayer may be the way of life in this good land. Make us mindful of our godly heritage. Restore in us the faith of our fathers that we may trust not in our own strength but in the wisdom and light which comes from Thee.

O Lord, chasten and correct us wherein we are wrong. Confirm and strengthen us wherein we are right. Save us from violence and discord, from distrust of one another and from disobedience of divine law. Unite us in heart and mind and action that we may be one people whose might is in the right and whose strength is in Thee.

We pray now for the President and his

Cabinet, for the Congress, for all in the executive, legislative, judicial, diplomatic, and military services that they may know and do Thy will. Be especially near the youth of this land in pursuit of knowledge, on missions of mercy and in the military services, guarding them in temptation and strengthening them in times of peril. Be with the prisoner of war in his loneliness and separation, assuring him that nothing can separate him from Thy tender care. Be near the poor and the disadvantaged and help us to bear one another's burdens.

O Lord, guide by the mind of the Prince of Peace the longing peoples of the world that all mankind may be drawn together in a firm spiritual alliance so that Thy kingdom may come and Thy will be done on earth. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, October 21, 1969, be dispensed with.

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

MESSAGES FROM THE PRESIDENT—APPROVAL OF JOINT RESOLUTION

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on October 20, 1969, the President had approved and signed the joint resolution (S.J. Res. 112) to amend section 19(e) of the Securities Exchange Act of 1934.

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, and withdrawing the nomination of Charles A. Bane, of Illinois, to be U.S. circuit judge for the Seventh Circuit, which nominating messages were referred to the appropriate committees.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed the bill (S. 632) for the relief of Raymond C. Melvin, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 1706. An act to provide for the conveyance of certain mineral rights in and under lands in Pike County, Ga.;

H.R. 2963. An act for the relief of Mrs. Barbara K. Diamond;

H.R. 5936. An act for the relief of Kong Wan Nor;

H.R. 9591. An act for the relief of Elgie L. Tabor; and

H.R. 14195. An act to revise the law governing contests of elections of Members of the House of Representatives, and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the President pro tempore:

S. 74. An act to place in trust status certain lands on the Standing Rock Sioux Indian Reservation in North and South Dakota;

S. 775. An act to declare that the United States shall hold certain land in trust for the Three Affiliated Tribes of the Fort Berthold Reservation, N. Dak.;

S. 921. An act to declare that certain federally owned land is held by the United States in trust for the Cheyenne River Sioux Tribe of the Cheyenne River Indian Reservation;

H.R. 2768. An act to amend title 38 of the United States Code in order to eliminate the 6-month limitation on the furnishing of nursing home care in the case of veterans with service-connected disabilities; and

H.R. 3130. An act to amend title 38, United States Code, to provide that the Administrator of Veterans' Affairs may furnish medical services for non-service-connected disability to any war veteran who has total disability from a service-connected disability.

HOUSE BILLS REFERRED

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

H.R. 1706. An act to provide for the conveyance of certain mineral rights in and under lands in Pike County, Ga.; to the Committee on Interior and Insular Affairs.

H.R. 2963. An act for the relief of Mrs. Barbara K. Diamond;

H.R. 5936. An act for the relief of Kong Wan Nor; and

H.R. 9591. An act for the relief of Elgie L. Tabor; to the Committee on the Judiciary.

H.R. 14195. An act to revise the law governing contests of elections of Members of the House of Representatives, and for other purposes; to the Committee on Rules and Administration.

EXPORT EXPANSION AND REGULATION ACT OF 1969

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Bankruptcy be discharged from H.R. 4293, the House companion bill of S. 2696, which is now the unfinished business of the Senate, and that H.R. 4293 be ordered placed on the calendar.

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

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

THE RECORD OF THE SELECT COMMITTEE ON SMALL BUSINESS

Mr. MANSFIELD. Mr. President, I am in receipt of a communication from the distinguished chairman of the Select Committee on Small Business, the senior Senator from Nevada (Mr. BIBLE), in which he has compiled the record of the Select Committee on Small Business to date. I ask unanimous consent that this very meritorious report and the attachments be printed at this point in the RECORD.

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

U.S. SENATE,
SELECT COMMITTEE ON
SMALL BUSINESS,
Washington, D.C., October 9, 1969.

Memorandum to: Senator MIKE MANSFIELD.
From: ALAN BIBLE, chairman, Select Committee on Small Business.
Subject: Small Business record.

You may wish to have the following preliminary list of bills introduced and other actions taken by the Senate during the 91st Congress on behalf of the Nation's 5½ million small businessmen. I believe this establishes a record of the concern by the Congress for the more than 90% of American business firms who are small businessmen and who provide employment for 40 million people and contribute approximately 40% of the country's gross national product of some $808 billion annually.

LEGISLATION PASSED

S. 2815.—A clean bill reported by the Banking and Currency Committee, passed the Senate on August 13. It provides for (1) raising the authorization ceiling on local development company loans, (2) authorizing banks to purchase SBIC debentures. and (3) permitting SBIC's to invest in unincorporated businesses.

S. 2610.—Called for maximum feasible participation of minority businesses in areas involved in all federally-assisted urban renewal projects. It became section 404 of S. 2864, a clean bill reported on September 5 (S. Rept. 392) and passed by the Senate on September 23.

LEGISLATION REPORTED

S. 2540.—To explicitly authorize SBA guarantees of private loans to small business investment companies. Reported August 11 by Senate Report 91-369.

OTHER BILLS INTRODUCED

S. 336.—To raise the permissible amount of a Regulation A stock offering from $300,000 to $500,000.

S. Res. 176.—To have SBA study the capital requirements of small meat processors faced with compliance with the Wholesome Meat Act.

S. 1750.—To provide disaster loans to meat packers and other firms faced with Federal deadlines who cannot obtain the requisite credit on reasonable commercial terms.

S. 2638.—Would add a guaranty authorization to the Small Business Act of 1953 parallel to that proposed by S. 2540 for the 1958 Small Business Investment Act.

S. 1212 and 1213.—Would strengthen the SBIC program by the creation of a Capital Bank and other measures. Section 7 of S. 1212 was carried over into S. 2815.

Amendment No. 88 to H.R. 12290.—Exempting small business from repeal of the investment tax credit up to $25,000 of investment, with a cutoff of eligibility at $1 million of income. Amendment No. 92 by Senator McGovern is to the same effect.

Amendment No. 72 to H.R. 12290 by Senator Sparkman.—Would continue the 7% investment tax credit on investment up to $150,000 per year.

S. 2079.—Would establish an Annual Cattle Industry Trade Conference to survey import problems and export possibilities.

S. 2190.—Would require the Department of Agriculture to submit a businesslike annual

report on the net balance of payments effects of all trade in agricultural commodities.

S. 2787.—Would upgrade security for air cargo shipped by small and other businessmen by requiring principal contractors to submit quarterly reports on cargo damaged, lost, or presumed stolen.

OTHER ACTIONS IN BEHALF OF SMALL BUSINESS

I. Members of Small Business Committee submit resolution in favor of continued independence of SBA, March 18, 1969. Ten Senators support this measure with floor statements, March 20, 1969.

II. Small Business Committee Chairman Bible requests restoration of $170.2 million Congressionally approved loan authority for SBA business loan programs frozen by the Executive Branch (a 58.5% cut). Letter and floor statements, June 25, 1969.

III. Subcommittee Chairmen Randolph, Harris, and McIntyre challenge SBA and Department of Commerce cutbacks in programs of transferring technology to small business. Letters, September 22, 1969. No public statement as yet.

SMALL BUSINESS PROGRAMS AT THE CROSSROADS

Mr. BIBLE. Mr. President, as chairman of the Select Committee on Small Business, I feel it incumbent to advise the Senate that I have today transmitted by letter to President Nixon a resolution adopted by our committee expressing serious concern about the future independence of the American small businessman's spokesman on the national level—the Small Business Administration.

I ask unanimous consent that the text of the resolution and the transmittal letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BIBLE. There are persistent and recurring reports, published and otherwise, that an Executive reorganization is under consideration that would merge or, shall we say, "submerge" the Small Business Administration into the Department of Commerce. Secretary of Commerce Maurice Stans has been qnoted as saying at the National Press Club, in Washington, D.C., on March 5, that the Small Business Administration "by definition belongs in the Department of Commerce."

Of course, I must disagree completely and unequivocally with Secretary Stans because that statement flies in the face of the language of the Small Business Act of 1953 itself which established the agency. The law reads that the SBA "shall not be affiliated with or be within any other agency or department of the Federal Government."

Mr. President, it is my judgment that this country's almost 5½ million small businessmen view the Small Business Act of 1953 and the Small Business Investment Act of 1958 as two of the oustanding legislative achievements of the Eisenhower-Nixon administration. Certainly, Congress and the administration must have felt at that time that the specific language setting forth that SBA was not to be affiliated within any other agency or department represented a strong mandate. It represented a conviction that the small businessman was entitled to a strong, clear, independent voice in his Government—a voice free from the pressure and influence of big business special interest groups whose competitive purposes would not be dedicated to serving the small business community.

It was important for SBA to speak independently for the small businessman during the Eisenhower-Nixon years of the 1950's. It was equally important for SBA to remain independent during the succeeding Democratic Kennedy-Johnson administration, during which at least one abortive merger effort was shot down before it became airborne. Today, it is even more urgent that SBA remain an independent agency during a difficult economic cycle for small businesses marked by high interest rates, shortage of capital, fiscal uncertainties, and the march of corporate giantism, mergers of small businesses into big business, and the advent of the conglomerate umbrella. These have and do provide real threats to the small businessman as a viable force in protecting himself in the world of competition.

The Nation's 5½ million small businessmen must retain their spokesman—SBA—at the national level if they are to continue to provide employment for 40 million people and contribute approximately 40 percent of the country's gross national product of $808 billion annually.

It is my deep hope that these published and increasingly recurrent reports about a proposed SBA merger or submerger with the Commerce Department continue to be only from the rumor mill.

In my letter to the White House transmitting the Small Business Committee's resolution, I have urged upon the President, as the son of a small businessman himself, to keep the executive agency voice of the small businessman alive and let the Small Business Administration continue to do a commendable, outstanding job.

Certainly, this subject would not be complete without an in-depth examination of the background of congressional attentiveness to the small businessman and the great force he represents in our daily economic life.

Over the past three decades, Congress has taken many initiatives in order to build a series of small business institutions in this country. This movement began with the creation of the Smaller War Plants Administration, and the Small Defense Plants Administration during World War II, and the Korean war. In 1950 the Senate and House Committees on Small Business were established. Then, in 1953, the Small Business Act was enacted by the Congress and signed by President Eisenhower. This established the Small Business Administration as a permanent independent Federal agency, with its Administrator reporting directly to the President. For the first time there existed a national policy in favor of smaller business in this country, as follows:

"It is the declared policy of the Congress that the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small-business concerns in order to preserve free competitive enterprise . . . and strengthen the overall economy of the Nation."

This was followed by the passage of the Small Business Investment Act of 1958, which also gained the approval of the Eisenhower administration, of which President Nixon was a part. The 1958 act chartered small business investment companies through which Government and private capital were imaginatively united in the task of building a true "venture capital" industry in this country.

Associated with this small business program have been some of the most distinguished names in American political life: Leaders in the Senate have included the distinguished chairman of the Banking and Currency Committee, the Senator from Alabama (Mr. SPARKMAN); the former majority leader, President Johnson; the former assistant majority leader, Vice President Humphrey; the chairman on the Finance Committee, the Senator from Louisiana (Mr. LONG); the chairman of the Joint Economic Committee, the Senator from Wisconsin (Mr. PROXMIRE); the present chairman of the Small Business Subcommittee of the Banking and Currency Committee, the Senator from New Hampshire (Mr. MCINTYRE); the distinguished Senators from New York, Illinois, and Texas (Mr. JAVITS, Mr. PERCY, and Mr. TOWER), and many distinguished former Members of this body, such as Senators Saltonstall, Smathers, Bartlett, and Morse. Senators John F. Kennedy and BARRY GOLDWATER distinguished themselves as members of the Senate Small Business Committee.

Thus, the advocacy and support for small business has transcended parties, regions, and political philosophy. The impulses for this work are deep rooted. They arise and are nourished by the concern for the little man, the independent, and the entrepreneur who dares to risk his money and his career in the founding and building of his own business.

As we come increasingly into the age of giant national and international corporations, expanding Government action on all levels, the recurrence of international crises, and the rapid advance of technology, the problems of small and independent business have proliferated. That is a fancy word, but I believe it expresses the feelings of small businessmen who must contend with seemingly ever-mounting demands of bookkeeping, reports, taxation, and regulation, in addition to more rigorous competition in domestic and foreign markets.

As I have said on a number of occasions, the lawmakers whom I have mentioned were among the first to perceive changes in our economy which required a special focus for attention to the problems and potentials of small business. They then pioneered in writing a response to these changes into the law of the land.

These labors have benefited the entire economy, in which 5½ million small businessmen provide 40 percent of the national product and one-half of all the jobs. But most of all, this work has benefited the less affluent, and more remote areas of the Nation, the places where capital and management expertise are most scarce, the areas visited by natural and economic disasters, and those of individuals in this country who put their beliefs in the free enterprise system to the daily test of establishing and maintaining their own small businesses.

During my years in the Senate, I have been proud to be associated with these efforts. I should point out that during much of this time, small business advocates have been fighting an uphill battle against several of the most formidable enemies in the world—special economic interests, bureaucracy, and indifference. For example, it was only in 1966 that a piece of small business legislation received the formal sponsorship of the executive branch for the first time. Programs of the Small Business Administration have been beset with periods of financial stringency stemming from natural disasters, tight money, and budget cutting of various kinds.

However, the record of accomplishment on the statute books and in the annual reports of the Small Business Administration, in spite of these obstacles, deserves the highest praise which the Nation can bestow on dedicated public servants who made it possible.

Central to this story is the Small Business Administration: a little, and in the past often little-noticed agency, which in 15 years has turned in one of the most remarkable performances of any governmental agency.

Since 1953 it has made over 85,000 business loans totaling nearly $4 billion; it has been on hand to make about 75,000 disaster loans totaling nearly $750 million; small communities have received almost 2,000 local development company loans approaching $500 million; and the small business investment companies have in addition made about 30,000 loans aggregating about $1.4 billion.

Each of those loans represents more than a statistic—it is a vital factor in the life and fulfillment of men and families. The establishment and growth of these firms has made the promise of the free enterprise sys-

tem and the American dream into reality, not only for the 200,000 businesses directly involved, but for the Nation as a whole.

Now would be the time to build upon this record and to extend it in areas of need and opportunity so that the momentum of success can be maintained.

It is unfortunate, instead, that the picture has become clouded in recent days. Reference can be made to reports in newspapers that the Secretary of Commerce feels that the Small Business Administration "by definition" ought to be part of the Commerce Department.[1] Additional credence is lent to these reports by the action of President Nixon on March 5 in signing an Executive order which transfers the coordination of programs on minority busines enterprises from the Small Business Administration where it had previously been, to the Department of Commerce. For the information of all concerned, I ask that articles on this subject published in the Washington Post, the Washington Evening Star, the Wall Street Journal, and the New York Times, together with the Executive order of March 5, 1969, be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BIBLE. Although it does not appear in the press reports, it appears from the Executive order that the function of coordinating Advisory Councils on minority enterprise are to be transferred from the Small Business Administration to the Department of Commerce. The order also states that the Department of Commerce shall "provide the managerial and organizational framework through which joint or collaborative undertakings with Federal departments or agencies or private organizations can be planned and implemented" and that "the head of each Federal department and agency shall keep the Secretary informed of all proposed budgets, plans, and programs of his department or agency affecting minority business enterprise."

Further, Mr. Stans informed a reporter of the Wall Street Journal that his department could "conceivably" end up absorbing many functions now placed elsewhere.

These statements raise substantial questions about the role of the Small Business Administration. What is clear, however, is that instead of continuing on the highroad of SBA's success, the Nixon-Agnew administration is placing SBA and Small Business programs at a cross roads. No one can be sure at this point whether we are going ahead, going off at right angles, or doubling back the way we came.

Mr. President, the position of the Select Committee on this matter is clear. Our committee resolution strongly supports the existence of an independent Small Business Administration. The language of the Small Business Act of 1953 should be before us. Section 4(a) states:

"In order to carry out the policies of this Act there is hereby created an agency under the name 'Small Business Administration' . . . which Administration shall be under the general direction and supervision of the President and shall not be affiliated with or be within any other agency or department of the Federal Government."

This language was deliberately conceived by the Congress to safeguard an independent voice in Washington for the small businessman. This independence was required because experience had demonstrated that small business matters would not be given appropriate attention within the Department of Commerce, the Department of the Treasury, or the other departments, agencies, or offices of the Federal Government which had long been in positions of influence over the destiny of small business. The historical record is clear on that point. It was the subject of extended debate in the Senate, which was summarized by the distinguished senior Senator from Alabama (Mr. SPARKMAN) as recently as February of 1966.[2] This legislative history, which is certainly no reflection upon the current Secretary of Commerce, establishes that the lack-luster record of the Department of Commerce in the field of small business prior to 1953, was a major reason for the grant of independent status to the SBA.

Accordingly, any reversion to the Department of Commerce of small business functions will almost surely represent a stride backward into a past where the distinctions between small business and giant business become increasingly blurred. It would be a retreat to an era when the Congress and the Nation were asked to believe that the problems of small, local, independent, and family enterprises were no different from those of multibillion-dollar, multi-national, conglomerate corporations. It would be a throwback to a time when Government spokesmen for small business were required to have their policies, statements, and budgets cleared by several layers of officials in the Department of Commerce who might have very little interest in the small businessman.

There has been considerable splendid comment by the new administration about the participation of the private sector in necessary programs. The record of the SBA on private participation is clear and positive. There have been intensive efforts to involve the private banking industry and the trade and other private associations in the loan participation and guaranty programs, especially in the creation of minority entrepreneurship in order to maximize the private role in these areas. There has been considerable achievement in these endeavors. This does not mean that more could not be done. And in doing more, the assistance of the Department of Commerce or any other department or agency could be helpful and would certainly be welcome. But, assistance is not the same as control.

Mr. President, I believe that I can assure all who are concerned with the small businessman that Congress will not stand by and allow this kind of retrogression. To the extent that the administration undermines, in law or in fact, the authority and programs of the Small Business Administration, not only will they incur the opposition of our committee, but also, I believe the great majority of Congress will make its voice be heard loudly and clearly.

EXHIBIT 1

U.S. SENATE, SELECT COMMITTEE ON SMALL BUSINESS,
Washington, D.C., March 18, 1969.

RESOLUTION

Whereas in 1953 the Congress established the Small Business Administration as an independent agency "under the general direction and supervision of the President," and provided specifically that the Small Business Administration "shall not be affiliated with or be within any other agency or department of the Federal Government"; and

Whereas a new Administration has assumed control of the Executive Branch of the Federal Government, and a new Administrator of the Small Business Administration has been appointed; and

Whereas printed and other reports persist that the future of the Small Business Administration as an independent agency may be in doubt; and

Whereas any departure from absolute independence for the Small Business Administration as a government agency would be contrary to the stated intent of Congress, and would patently abrogate the legislation creating the Small Business Administration as an independent agency of the Federal Government, and would lessen considerably the effective voice at the Federal level of the Nation's five and one-half million small businessmen: Now, therefore, be it

Resolved, That the Select Committee on Small Business of the United States Senate strongly favors the continuation of the Small Business Administration as an independent agency and strongly recommends that its function not be transferred to, or assumed by, any other department or agency of the Federal Government.

ALAN BIBLE, Nevada, chairman; JOHN SPARKMAN, Alabama; RUSSELL B. LONG, Louisiana; JENNINGS RANDOLPH, West Virginia; HARRISON A. WILLIAMS, Jr., New Jersey; GAYLORD NELSON, Wisconsin; JOSEPH M. MONTOYA, New Mexico; FRED R. HARRIS, Oklahoma; THOMAS J. MCINTYRE, New Hampshire; MIKE GRAVEL, Alaska; JACOB K. JAVITS, New York; MARK O. HATFIELD, Oregon; ROBERT DOLE, Kansas, MARLOW W. COOK, Kentucky.

U.S. SENATE SELECT COMMITTEE ON SMALL BUSINESS,
Washington, D.C., March 18, 1969.

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

DEAR MR. PRESIDENT: May I call your attention to the enclosed resolution adopted this week by the U.S. Senate Select Committee on Small Business strongly favoring continuation of the Small Business Administration as an independent agency and opposing any proposal to merge it with or subordinate it to any other department or agency of the Federal Government.

The Committee's affirmative action stems from persistent and recurring reports, published and otherwise, that such an Executive reorganization proposal is under consideration. Secretary of Commerce Maurice Stans has been quoted as stating at the National Press Club on March 5 that the Small Business Administration "by definition . . . belongs in the Department of Commerce".

It is my judgment that this country's almost 5½ million small businessemen view the Small Business Act of 1953 and the Small Business Investment Act of 1958 as two of the outstanding legislative achievements of the Eisenhower-Nixon Administration. The former specifically provided that SBA "shall not be affiliated with or be within any other agency or department of the Federal Government."

Certainly, Congress and the Administration must have felt at that time that such language clearly represented a strong mandate that the small businessman was entitled to a strong clear, independent voice in his Government—a voice free from the pressure and influences of big business special interest groups not dedicated to serving the small business community.

It was important for SBA to speak independently for the small businessman during the Eisenhower-Nixon years of the 1950's. It was equally important for SBA to remain independent during both succeeding Democratic Administrations during which at least one merger effort was discouraged. Today, it is even more urgent that SBA remain an independent agency during a difficult economic cycle marked by high interest rates, shortage of capital, fiscal uncertainties and the march of corporate giantism, mergers of small businesses into big business and the advent of conglomerates. These have provided real threats to the small businessman as a viable force in protecting himself.

The Nation's nearly 5½ million small businessmen must retain their spokesman—SBA—at the national level if they are to continue to provide employment for 40 million

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Footnotes at end of article.

people contributing approximately 40 percent of the country's gross national product of $808 billion annually.

As the son of a small businessman yourself, you must be appreciative of the concern of the country's small business community about any proposed merger of the Small Business Administration with the Executive Department charged primarily with assisting and supervising big business—the Department of Commerce.

I sincerely hope you share this Committee's concern, and as Chairman of the Senate Small Business Committee, I respectfully urge your support for the continued independence of the Small Business Administration.

Cordially,

ALAN BIBLE,
Chairman.

EXHIBIT 2

[From the Washington (D.C.) Post, Mar. 6, 1969]

MINORITY-BUSINESS OFFICE SET UP—NIXON SIGNS ORDER TO AID ENTERPRISES

(By Carroll Kilpatrick)

President Nixon yesterday signed an executive order establishing an Office of Minority Business Enterprise to promote and expand business ownership by minority groups.

The new office, which will be established in the Commerce Department, will help fulfill Mr. Nixon's promise to promote "black capitalism" and also enterprises by Mexican-Americans and other minority groups.

Secretary of Commerce Maurice H. Stans, who will supervise the operation of the new office, said that "we are trying to abandon the term 'black capitalism' in favor of the minority business enterprise because there are other minorities entitled to the benefits of this program."

[From the Washington (D.C.) Evening Star, Mar. 5, 1969]

NIXON TO CREATE A "MINORITY" BUSINESS POST

(By Philip Shandler and Richard Critchfield)

President Nixon reportedly will centralize in the Commerce Department the administration's effort to help "minority business enterprise."

The President soon will create a new Commerce post of special assistant to the secretary of minority enterprise, with a staff of about 10 borrowed specialists, and will establish a citizen advisory council, sources said.

The steps would be the first major administrative action to implement Nixon's pledge to help Negroes and other minority-group citizens get a bigger "piece of the action" in business.

The action is expected to stir negative reaction from some Negroes and government officials outside Commerce, however.

NO STATEMENT

The President is not expected to accompany his announcement with a statement of what kinds of help and how much of it he intends to give, leaving much of this for Commerce Secretary Maurice H. Stans to recommend. And some officials in other agencies do not see Stans as properly oriented to the need.

The President was to meet today with Stans, other Cabinet members, several Negro leaders and Hilary J. Sandoval, the Mexican-American head of the Small Business Administration.

The White House described today's session as "two-way discussion on minority business enterprise."

The Negro leaders planning to attend are Roy Innis, director of the Congress of Racial Equality, and Roy Wilkins, executive secretary of the National Association for the Advancement of Colored People.

The Cabinet members were to include George W. Romney, John A. Volpe, Clifford M. Hardin, Robert H. Finch, and George P. Shultz, the secretaries, respectfully, for Housing and Urban Development; Transportation; Agriculture, Health, Education and Welfare, and Labor.

MOYNIHAN, FARMER

Also to be present were Nixon's urban affairs adviser, Daniel P. Moynihan, and Assistant HEW Secretary James Farmer, founder of CORE.

Nixon pledged during the presidential campaign to help develop "black capitalism." Last week, however, Stans said the administration's new slogan is "minority enterprise."

The shift from "black" to "minority" reflects a sensitivity to the feelings of Puerto Ricans, Indians and Mexican-Americans, as did the naming of Sandoval to head SBA.

But liberals within the administration are not convinced that the switch from "capitalism" to "enterprise" reflects a commitment to the kind of economic-development help they think is needed.

Nixon has not yet taken a position, for example, on legislation embodying a $1 billion CORE plan for the creation of community-development corporation, in which residents of target areas would be able to buy stock and share in the enterprise.

And the first minority-enterprise effort by the administration, announced last week by Stans, is to implement a program of tax assistance to a Watts corporation—a project launched by the Johnson administration.

These liberals believe Stans is too bound to the traditional "capitalism" approach—that is, help to individual entrepreneurs or partnerships, rather than to community-based enterprise.

They would prefer, therefore, that direction of the program be vested in what they regard as a more socially-conscious agency, such as HEW or the Office of Economic Opportunity.

A prospectus prepared for the President by Commerce, however, calls for that department to have the power to coordinate 116 separate programs conducted by "21 Cabinet departments and executive agencies."

"SPEAK EFFECTIVELY"

The "focal point" would be Stans and the new assistant, "to speak effectively and convincingly to government agencies, the business community, minority business, labor, foundations and other economic and social groups."

"Efforts should be made to get many of the staff on long-term loan from industry, foundations and financial institutions," the paper says.

The National Advisory Council on Minority Business Enterprise would serve as "a communications link with all relevant non-federal groups, a coordinating link in the evolution of strategy, a vehicle for generating new ideas, and an external sounding board for new program proposals."

A key question not expected to be answered immediately is what will happen under the anticipated reorganization to agencies such as SBA.

Stans reportedly wants to absorb SBA into Commerce; several congressmen want to keep it independent, although some, troubled by the Negro oriented activities of former SBA head Howard Samuels, may prefer to put it under what they regard as Stans' suitably conservative wing.

[From the Wall Street Journal, Mar. 6, 1969]

NIXON SETS UP OFFICE TO FURTHER MINORITIES ENTRY INTO BUSINESS—COMMERCE CHIEF HEADS NEW UNIT THAT WILL SEEK TO COORDINATE EFFORTS OF 116 U.S. PROGRAMS

WASHINGTON.—President Nixon established an office of Minority Enterprise, headed by Commerce Secretary Stans, to help disadvantaged groups become part of the mainstream of American business.

The new office, equipped with a staff of 10 professionals, will perform a coordinating function—attempting to sharpen the focus of some 116 programs, operated by 21 different Federal agencies, that currently support the development of new business enterprises either by loans, grants, guarantees or contracts.

In addition, the new office will attempt to draw upon the resources of private industry, voluntary organizations and foundations to help minority-group members become businessmen. The Presidential order also created an Advisory Council for Minority Business Enterprise, to comprise experts from the banking, business, foundation and other fields, that will give advice. And the order established an information center to collect examples of successful minority-business ventures.

"I have often made the point that to foster the economic status and the pride of members of our minority groups we must seek to involve them more fully in our private enterprise system." Mr. Nixon declared in a statement. "Black, Mexican-American, Puerto Ricans, Indians and others must be increasingly encouraged to enter the field of business, both in the areas where they now live and in the larger commercial community, and not only as workers, but also as managers and owners," he said.

Mr. Nixon's Executive Order was significant for several other reasons:

It laid to rest the term "black capitalism" that the President had used so extensively during his election campaign. The Nixon Administration wants to appeal to a broader spectrum of minority groups, not just the black population. So "black capitalism" has become "minority enterprise" and Mr. Nixon addressed his statement to "blacks, Mexican-Americans, Puerto Ricans, Indians, and others."

It costs the inflation-conscious Administration no budgetary expense, except for staff salaries; nor does it call upon Congress for new legislative programs. Mr. Stans, at a news conference, said that if new funds or legislative authority is deemed necessary, that will be decided later on. He added that the use of new tax incentives to stimulate new business and jobs in the slums, as advocated by Mr. Nixon during his campaign, was a matter still "under study." He said it was "premature" to discuss whether such incentives would be proposed to Congress.

It doesn't propose any transfer of Federal programs or agencies. Mr. Stans said that the new office wouldn't operate any programs of its own, but would seek to persuade those agencies that do operate programs affecting minority business to make extra efforts in that direction. The Commerce Secretary won't have formal, direct power over other Federal agencies, but will have the force of Mr. Nixon's policy order behind him.

[From the Wall Street Journal, Mar. 6, 1969]

FOREIGN INVESTMENT RULES TO BE WAIVED FOR "HUNDREDS" OF SMALL FIRMS, STANS SAYS

WASHINGTON.—The Nixon Administration is moving toward exempting "many hundreds" of relatively small companies from controls over foreign direct investment, Commerce Secretary Stans said.

At a National Press Club luncheon, Mr. Stans added that some form of relief also is in the works for large corporations, reiterating an earlier comment that he hopes for action in about 30 to 60 days.

While Mr. Stans dodn't go into detail, the relief for small companies presumably would be in the form of raising the current $300,000 ceiling on dollars that may be dispatched in 1969 to foreign subsidiaries without regard to the mandatory regulations on investment abroad.

This cutoff point was originally set at $100,000 when the controls were imposed by President Johnson on Jan. 1 1968, and was raised to $200,000 last August. Under consideration now, it's understood, is an increase in this "minimum investment quota" to a level that might well exceed $500,000.

To help larger corporations, the department is believed to be weighing an increase in the "incremental earnings" quota. Instead of the standard formulas limiting the investment outflow according to past activity in a base period, a company this year can instead have investment quotas equal to 20% of the 1968 earnings of its foreign affiliates in each of the three specified geographic areas. The simplest form of liberalization, analysts say, would be for the department to raise the percentage to, for instance, 25% or 30%.

President Nixon appears willing, Mr. Stans said, to take the "calculated risk" that the projected easing of controls—which currently apply to about 3,200 companies—will to a "slight degree" worsen this year's expected overall balance-of-payments deficit. Such a deficit, which occurs when foreigners acquire more dollars than they return in all dealings, could be "very substantial" this year anyway, he warned.

Thus, Mr. Stans emphasized, the controls that Mr. Nixon criticized sharply in his campaign can't be removed altogether without risking "a crisis for the dollar" internationally. But Mr. Stans said he agrees with businessmen who are pressing him "to get rid of those damn controls" on the ground that they would be "self-defeating" if retained indefinitely. He said the controls are "destructive" of opportunities for U.S. companies to build plants in foreign markets that would result in gains in exports and earnings.

The major weak spot in the payments situation, Mr. Stans said, is the shriveling in 1968 of the U.S. surplus on exports over imports to the lowest level since the late 1930s. In this context, Mr. Stans expressed sympathy for U.S. textile companies faced with an "unbelievable" increase in imports of synthetic fibers and textile products. If this continues, he said, it could do "great harm" to the industry.

While emphasizing that "at heart, we are free traders," Mr. Stans expressed hope that the Administration will be able to persuade foreign synthetic fiber companies to accept "voluntary" limits on their sales to the U.S., akin to the steel-import limits which, he said were "pretty well resolved" on a voluntary basis late in the Johnson Administration.

Whether textile quotas will be discussed on his trip to Europe in April hasn't yet been decided, Mr. Stans said. He suggested that a separate negotiating team might tackle this later so as not to "interfere with free and open discussion" on broader trade matters. Also undecided is whether Agriculture Secretary Hardin may accompany him or go later, Mr. Stans said as he expressed hope that textiles wouldn't get tangled with a Common Market move toward a special tax that could severely hurt U.S. soybean exports. The U.S. hopes for textile pacts with Japan, Hong Kong, Korea, Taiwan, and other non-European nations as well, Mr. Stans added.

PROTECTIONIST MOVES

Discounting suggestions that his trip could trigger greater professional moves by Europeans, Mr. Stans said nontariff barriers are already spreading in Europe to an extent that "all of the supposed benefits of the Kennedy Round" of tariff-cutting could be lost before the rate reductions are fully implemented. He complained that the proliferation of "taxes on value added" in Europe pose a "very serious" danger to the U.S., which is "defenseless" because international rules permit such levies to be applied against imports and rebated on exports.

The question of whether the U.S. should institute such a tax—which basically applies to the difference between what a company pays for materials and the price it gets for its finished products—is one that will shortly be studied, Mr. Stans said. But he cautioned that it will be "several years" before a position could be taken. Asked about Japan's limits on operations by U.S. auto makers, Mr. Stans said it would be "better to ask Japan to impose barriers" on its own exports of autos to the U.S. But, he quickly withdrew the remark as "facetious."

Disavowing any intent to be an "empire builder," Mr. Stans said that Federal reorganization efforts conceivably could end up with a transfer from the White House to his department of the functions of special ambassador for trade negotiations and special assistants for consumer protection and telecommunications. Certain oceanographic functions might also be logically added to his department, he said, adding that "by definition" the Small Business Administration ought to be part of the Commerce Department.

Stressing that he hasn't taken any position on such possible transfers, Mr. Stans said he is aware that there has been "some decline in the prestige" of the Commerce Department since the time Herbert Hoover was secretary. The department shouldn't try to be the "voice of business" in Washington nor should it have the role of communicating the Administration's wishes to the business community, Mr. Stans said. Its goal, he said, should be sponsoring "growth and strength" in the economy, a role that would be implied if its name were the "Department of Economic Development."

[From the New York Times, Mar. 6, 1969]

STANS TO PROMOTE A MINORITY BUSINESS ENTERPRISE—COMMERCE CHIEF TO SET UP NEW DEPARTMENT TO DIRECT PROGRAMS FOR THE POOR

(By Walter Rugaber)

WASHINGTON, March 5.—Secretary of Commerce Maurice H. Stans was named today as the Nixon Administration's main promoter of capitalism for the nation's Negroes and other minority group members.

President Nixon assigned the job to Mr. Stans and the Commerce Department when he signed an Executive order at a White House ceremony attended by 37 Negro, Mexican-American, Puerto Rican, and Indian leaders.

The Secretary, who said he would establish an office of minority business enterprise within the department, indicated later at a news conference that the new operation would work largely on coordinating Government and private efforts.

Mr. Stans declared that his office would not conduct programs of its own, would not take funds from other agencies, and would not direct other Federal offices on how to spend their money.

Mr. Stans said the new office would have a "limited group of perhaps 10 experts in various fields," such as banking, business, philanthropy and agriculture.

CONCERN IN LIBERAL CIRCLES

There was some concern in liberal anti-poverty circles that Mr. Stans, who has a reputation as a conservative, might interfere with minority business development efforts to other agencies.

The Secretary's move to portray his new unit as an administrative and coordinating group appeared to mollify several of these sources only partly.

"It still means that if O.E.O. [the Office of Economic Opportunity] wants to make grants to black business in Watts or Bedford-Stuyvesant it's got to check with Stans," one observer said. "It's just another layer of clearance."

"They will still run their own programs," Mr. Stans insisted at his news conference. "The money in O.E.O. will stay there and the money in the S.B.A. [Small Business Administration] will stay in the S.B.A."

There are 116 Federal programs that might help minority group members go into business for themselves, Mr. Stans said, administered by 20 different departments and agencies.

"Some have done a poor job and one or two may have done a pretty good job," Mr. Stans said. "The point is, we want to focus their attention and stimulate their activity in the field of minority enterprise to a degree that has not been possible before."

None of the appointees to the new office were named. Mr. Stans disclosed that the director would not be a minority group member but that some Negroes and Mexican-Americans would work on the staff.

Roy Wilkins, executive director of the National Association for the Advancement of Colored People, and the Rev. Ralph David Abernathy, president of the Southern Christian Leadership Conference, were invited to the White House but did not appear.

Mr. Wilkins and other civil rights leaders have criticized the "black capitalism" concept that President Nixon put forth during the campaign on grounds that building "Negro" business would tend to perpetuate ghettos.

The White House identified the persons attending today's meeting as follows:

T. M. Alexander, Courts & Co.

Richard Allen, Economic Resources Corporation.

Mrs. Margaret L. Belcher, National Association of Negro Business and Professional Women's Clubs.

John Belindo, executive director, National Congress on Indian Opportunities.

Senator Edward W. Brooke, Republican of Massachusetts.

Berkeley Burrell, president, National Business League.

Sammie Chess Jr., president, Friendly-Leader Manufacturing Company.

John Clay, Business Development Corporation.

Clifford Coles, director of urban affairs, American Management Association.

Wardell Croft, president, National Insurance Association and Wright Mutual Insurance Company.

John Davis, Commerce, Labor, Industry Corporation of Kings.

The Reverend Walter Fauntroy, Micco, Inc.

Charles B. Fisher.

Joe Gomez, United Steel Workers of America.

William Hamilton, president, National Association of Real Estate Brokers.

Mrs. Dorothy Height, president, National Council of Negro Women.

Judge Alfred J. Hernandez.

Norman Hodges, president, Green Power Foundation.

Roy Innis, national director, Congress of Racial Equality.

Dr. Edward Irons, executive director, National Bankers Association.

John H. Johnson, president, Johnson Publications.

Napoleon Johnson, National Urban League.

Joe Kirven, president, Abco Building Maintenance Company.

Representative Manuel Lujan, Republican of New Mexico.

Luis Nunez, executive director, Aspira, Inc.

Mrs. Myrtle Ollison, National Association of Colored Women's Club.

Robson B. Reynolds, the Philadelphian Apartments.

Eliu Rumero, Taos, N.M.

George E. Sandoval, Tucson, Ariz.

Dr. John Torres, Bronx Terminal Market.

Clarence Townes Sr., Richmond, Va.

Mayor Walter E. Washington of Washington, D.C.

Johns Wheeler, president, Mechanic and Farmers Bank.

Charles William, National Business League.
John Wooten, executive director, Black Economic Industrial Union.
Dr. Harding Young, dean, School of Business Administration.

[From the office of the White House Press Secretary, Mar. 5, 1969]

THE WHITE HOUSE EXECUTIVE ORDER PRESCRIBING ARRANGEMENTS FOR DEVELOPING AND COORDINATING A NATIONAL PROGRAM FOR MINORITY BUSINESS ENTERPRISE

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

Section 1. *Functions of the Secretary of Commerce.* (a) The Secretary of Commerce (hereinafter referred to as "the Secretary") shall—

(1) Coordinate as consistent with law the plans, programs, and operations of the Federal Government which affect or may contribute to the establishment, preservation and strengthening of minority business enterprise.

(2) Promote the mobilization of activities and resources of State and local governments, businesses and trade associations, universities, foundations, professional organizations and volunteer and other groups towards the growth of minority business enterprises and facilitate the coordination of the efforts of these groups with those of Federal departments and agencies.

(3) Establish a center for the development, collection, summarization and dissemination of information that will be helpful to persons and organizations throughout the nation in undertaking or promoting the establishment and successful operation of minority business enterprises.

(b) The Secretary, as he deems necessary or appropriate to enable him to better fulfill the responsibilities vested in him by subsection (a), may—

(1) Develop, with the participation of other Federal departments and agencies as appropriate, comprehensive plans of Federal action and propose such changes in Federal programs as may be required.

(2) Require the submission of information from such departments and agencies necessary for him to carry out the purposes of this order.

(3) Convene for purposes of coordination meetings of the heads of such departments and agencies, or their designees, whose programs and activities may affect or contribute to the purposes of this order.

(4) Convene business leaders, educators, and other representatives of the private sector engaged in assisting the development of minority business enterprise or who could contribute to its development to propose, evaluate, and coordinate governmental and private activities in furtherance of the objectives of this order.

(5) Confer with and advise officials of State and local governments.

(6) Provide the managerial and organizational framework through which joint or collaborative undertakings with Federal departments or agencies or private organizations can be planned and implemented.

(7) Recommend appropriate legislative or executive actions.

Sec. 2. *Establishment of the Advisory Council for Minority Enterprise.* (a) There is hereby established the Advisory Council for Minority Enterprise (hereinafter referred to as "the Council").

(b) The Council shall be composed of members appointed by the President from among persons, including members of minority groups and representatives from minority business enterprises, knowledgeable and dedicated to the purposes of this order. The members shall serve for a term of two years and may be reappointed.

(c) The President shall designate one of the members of the Council as the Chairman of the Council.

(d) The Council shall meet at the call of the Secretary.

(e) The Council shall be advisory to the Secretary in which capacity it shall—

(1) Serve as a source of knowledge and information on developments in different fields and segments of our economic and social life which affect minority business enterprise.

(2) Keep abreast of plans, programs and activities in the public and private sectors which relate to minority business enterprise, and advise the Secretary on any measures to better achieve the objectives of this order.

(3) Consider, and advise the Secretary and such officials as he may designate on, problems and matters referred to the Council.

(f) For the purposes of Executive Order No. 11007 of February 26, 1962, the Council shall be deemed to have been formed by the Secretary.

(g) Members of the Council shall be entitled to receive travel and expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5701–5708) for persons in the Government service employed intermittently.

(h) The Secretary shall arrange for administrative support of the Council to the extent necessary including use of any gifts or bequests accepted by the Department of Commerce pursuant to law.

Sec. 3. *Responsibilities of other Federal departments and agencies.* (a) The head of each Federal department and agency, or a representative designated by him, when so requested by the Secretary, shall, to the extent permitted by law and funds available, furnish information and assistance, and participate in all ways appropriate to carry out the objectives of this order.

(b) The head of each Federal department or agency shall, when so requested by the Secretary, designate a senior official to have primary and continuing responsibility for the participation and cooperation of that department or agency in matters concerning minority business enterprise and activities as required by this order.

(c) The head of each Federal department or agency, or his designated representative, shall keep the Secretary informed of all proposed budgets, plans, and programs of his department or agency affecting minority business enterprise.

Sec. 4. *Construction.* Nothing in this order shall be construed as subjecting any function vested by law in, or assigned pursuant to law to, any Federal department or agency or head thereof to the authority of any other agency or officer, or as abrogating or restricting any such function in any manner.

RICHARD NIXON.

THE WHITE HOUSE, *March 5, 1969.*

INDEPENDENCE OF SBA

Mr. KENNEDY. Mr. President, recent articles in the press have raised some doubts about the continued independence of the Small Business Administration.

The concern which these reports have caused, in the Senate, is reflected by Senator BIBLE dispatching to the White House today a resolution in behalf of the Senate Select Committee on Small Business which strongly restates the position that the agency should remain independent.

I support the committee's position. I hope the status of the Small Business Administration does not become a partisan matter or a controversy.

A Democratic Congress and a Republican administration united in 1953 to make the SBA a permanent and independent Federal agency, as a voice for the 5½ million small business owners throughout the country. Its importance to New England has been demonstrated by the strongly bipartisan support received from the former Senator from Massachusetts and longtime ranking minority member of the Senate Select Committee on Small Business, Mr. Saltonstall, the present chairman of the Legislative Small Business Subcommittee (Mr. MCINTYRE) and another consistent and vigorous advocate of small business, the Senator from Vermont (Mr. PROUTY). The Smaller Business Association of New England, probably the leading regional association of small firms in the Nation, has strongly and consistently defended SBA independence.

Mr. President, the large national and multinational corporations, backed by blue-ribbon law firms, public relations firms, and often representation in national and State capitals, have little difficulty in obtaining a hearing within the Government. To balance the scale somewhat has required that all of the friends of small business work and stand together. It has been this spirit of cooperation which has made possible the accomplishments in the past 15 years in the small business field.

What differences in judgment existed about the independent status of SBA were fully debated in 1953. At that time, President Kennedy, then the junior Senator from Massachusetts and later a member of the Senate Select Committee on Small Business, said:

"If such an agency is to be of real help to small business in providing technical assistance, long-term capital, and procurement opportunities, all of which are of primary importance in expanding the economies of New England and the United States, the following defects must be corrected:

"First, such an agency must be truly independent and not subject to the veto power of the Commerce and Treasury Departments. Experience has shown that such independence is necessary to give small business an effective voice in the Government."

It was, thus, after mature deliberation and positive action by the Congress that SBA independence was established. The factors that were weighed in that decision have been summarized on several occasions, and the Senator from Alabama (Mr. SPARKMAN) did so on February 4, 1966, in the CONGRESSIONAL RECORD, volume 112, part 2, page 2124. Senator SPARKMAN'S presentation has convinced me that nothing has changed to alter the validity of the congressional judgment of 1953 that the Small Business Administration must be truly independent to be an effective voice and helping hand for the small business community.

I feel it would thus be unnecessary and regrettable to reopen the question at this time.

EXPERIENCE FAVORS RETENTION OF INDEPENDENT SMALL BUSINESS ADMINISTRATION

Mr. NELSON. Mr. President, there has been increasing concern in recent days about the independence of the Small Business Administration. From what I have read in the newspapers recently, I share this concern with my colleagues in the Senate and the business community in my State.

For instance, an article on page 3 of the Wall Street Journal of March 6 quoted the Secretary of Commerce, Mr. Stans, as saying:

"Federal reorganization efforts conceivably could end up with a transfer . . . to his Department of the functions of the special ambassador for trade negotiations, and special assistants for consumer protection and telecommunications . . . adding that by definition 'the Small Business Administration ought to be part of the Department'."

An article on the following page informed us further that the Office of Business Minority Entrepreneurship had been set up to "coordinate" minority business programs and that it was to have a staff of about 10 experts. Then on March 9, the Washington Post carried a statement:

"The new office in the Commerce Department will begin operations with a small staff, probably not more than twenty or thirty people."

This reported growth of 100 to 200 percent in 4 days must surely be one of the fastest growth rates ever seen in this country and raises serious doubts about what the Department of Commerce and the Administration intend to do in this field. If these activities continue to expand with the same speed, it can safely be predicted that the Department of Commerce could absorb SBA completely, leaving few traces other than a dispossessed and demoralized community of 5½ million small firms in this country.

Before this happens, I think it would be well for the Senate to closely analyze the logical basis which has been stated for the proposition that important functions such as protection of the consumer and the small businessman be made the responsibility of the Department of Commerce.

It is gratifying to me that the Senate Committee on Government Operations will shortly begin hearings on my bill for the creation of a Department of Consumer Affairs. It has been my experience as developed over several years in both Madison, Wis., and Washington, D.C., in holding hearings on many subjects such as drug prices, automobile tires, and other practices of car manufacturers, that there is a significant divergence of interest between the consumer and the businessman and that no man or department can adequately serve both of these masters. In the field of small business, I have been privileged to serve as the Chairman of the Monopoly Subcommittee of the Senate Select Committee on Small Business. On March 15, 1967, we heard the following testimony about business trends from Dr. Willard F. Mueller, then Chief of the Bureau of Economics of the Federal Trade Commission:

"Another disquieting development is the growing aggregate *concentration* and *conglomeration* of American industry. The current merger movement has created vast industrial complexes which operate across numerous industries. . . . By 1963, the 100 largest manufacturing corporations accounted for as large a share of business activity as did the top 200 in 1947. . . . Growing conglomeration raises some rather fundamental questions . . . concerning the future character of the competitive process in our market economy. Because a conglomerate enterprise operates across many different markets, it is not subject to the competitive discipline of any one market. This may pose serious competitive problems for the business enterprise, especially the small company, whose fortunes depend entirely on its success in a particular market." [3]

Mr. Mueller also pointed out:

"The high degree of concentration of financial resources in American manufacturing . . . (where) the 10 largest companies held 18 percent of all manufacturing assets (and) the approximately 400,000 smallest companies with assets below $5 million accounted for only 15 percent of the total." [4]

It was because of these and other such trends in the economy that the Congress determined in 1953 that the Small Business Administration should be an independent agency as a spokesman for the Nation's smaller business firms. Beyond the facts and figures, however, Congress also considered the intangibles such as the sympathy, sensitivity, and depth of commitment which an independent agency dedicated to the small businessmen would have in carrying out the declared congressional policy that—

"The Government should aid, counsel, assist, and protect insofar as it is possible, the interests of small business concerns in order to preserve free competitive enterprise . . . and to maintain and strengthen the overall economy of the Nation." [5]

It is my judgment that another intangible which has a direct influence on keeping our economy dynamic and competitive is the incentive to invent and innovate and to create a business which will bring these new products and services to the public. It has been pointed out to the Senate on several occasions that small business makes a disproportionately high contribution in this area. For instance:

"An intensive study by the U.S. Department of Commerce published in 1967 indicated that, despite the approximately $100 billion spent on research and development in this country in the past two decades, much of it by big business with advanced facilities and organized teams of professions, more than half of the technical and business innovations in our country are still coming from individual inventors and very small companies." [6]

It seems to me that both the tangible information and the intangible factors which are part of my experience confirm the points which have been ably made by Senator Bible and Senator Sparkman. If anything, they add additional weight to the judgments of 1953 based upon the developments which we have seen in our economy since then.

Accordingly, I would like to express my strong support for the Small Business Committee Resolution recommending continued independence of the SBA. I intend to do all that I can to have this position sustained by the Congress and the executive branch and to advance the cause of the small businessman throughout the country.

ASSURING A FUTURE FOR THE SMALL BUSINESS ADMINISTRATION AND THE SMALL BUSINESSMAN OF THIS COUNTRY

Mr. HARRIS. Mr. President, recent statements and actions give rise to the disturbing possibility that the Nixon administration intends to downgrade or perhaps even dismantle the traditional program and independence of SBA.

I feel that those of us in the Senate who are familiar with small business matters should make our views known for the information and whatever guidance the executive branch may wish to derive from them.

Mr. President, small business is not some kind of ornament on the corporate society, like a piece of fancy operational equipment on one of the big-three model automobiles. The small business community accounts for 40 percent of our gross national product and one-half of the 80 million jobs that support our population. Small business is thus central to U.S. economy.

There is a further myth that most small businesses are a kind of historical anachronism, like the buggy-whip. The truth is that the corner grocery store and the neighborhood restaurant have been transformed somewhat and have now emerged as the "7–11 store," the carryout, the franchised hamburger, roast beef, chicken or hotdog drive-in. These businesses which provide a varying but considerable measure of small business ownership and control are among the fastest growing enterprises in the country.

The classic neighborhood small businesses have also been receiving increased attention because of their value to the inner city in improving the availability of goods and services, reducing prices, providing jobs and offering realistic opportunities for ownership by minority businessmen.

Beyond these fields, we have seen breakthroughs in the technology of space and the ocean, transportation and communications, electronics and data processing. These have come in the wake of the $100 million in research and development funds spent in the United States since World War II, much of it coming directly from the taxpayer. These areas offer spectacular opportunities for small business, especially when it is recalled that even though over 90 percent of the research and development has been done by big business, 50 percent of the inventions and innovations continue to come from small business and individual inventors. Examples cited last year, by the Senator from Oregon, Mr. Morse, includes jet engines, the automatic transmission, the helicopter, the catalytic cracking of petroleum, penicillin, polio vaccine, air conditioning, the polaroid camera, FM radio, and the Xerox process.[7] Not only are these discoveries of great value to society as a whole, but they are significant to small business. This is because the large amount of brainpower and relatively low amounts of capital needed to make a start in many of these fields make them ideally suited for the small and new business enterprise.

I know that my colleagues on the Senate Small Business Committee, particularly the chairman (Mr. BIBLE) and subcommittee chairmen, Senator RANDOLPH and Senator NELSON, are as interested as I am in seeing that as many of these technical and management benefits as possible become and remain available to small business.

So if our economy is properly understood there is a great potential profit for small business as well as for the economy if the Federal Government is careful to see that the avenues to enterprise remain open.

However, even more important than the material benefits that can result, are the social, psychological, and political benefits of expanding the small business area to all elements of society, especially those who have been disadvantaged in the past.

A recent nationwide study by the Bank of America indicates that one of every 10 families in this country is involved in a small business. The survey revealed that more than one-half of the small business owners rated job satisfaction as the prime factor in their vocation, with money being mentioned first by 27 percent. The small business community has always been the vehicle for self-reliant, venturesome, and independent Americans. The few examples which I have cited above of their accomplishments, as well as the general affluence of this country, are eloquent evidence that it is worthwhile to labor to keep the advantages of the free enterprise system open to all of our citizens.

We have recently become aware of the extent of the "ownership gap" that occurs because minorities which constitute 12 percent of our population own only 3 percent of our business.[8]

In the course of trying to close the ownership gap, we have uncovered other shortcomings in institutions which are in a position to furnish financial assistance to minority business. Of the Nation's 14,000 banks, perhaps as few as 50 to 150 have any kind of program for lending to business in the intercity ghetto.[9]

The efforts to resolve the complex of problems surrounding the ownership gap is one of the highest priority items of our society.

President Nixon is to be commended for his early attention to the matter, but he should not overlook the great reservoir of experience and expertise of the specialization which the SBA has developed in the area of fostering all new and growing business including minority enterprise.

One of the pressing problems in the minority entrepreneurship field is that of management assistance. It came something of a surprise to me, to learn of the scope of SBA's efforts in this area, as summarized by the following table: [10]

Small businessmen assisted by SBA management assistance programs

[From beginning of program until 1966]

Attendance at workshops	7,500
Individual counseling	178,000
Counseling under SCORE programs	12,000
Attendance at courses and conferences	235,000
Contacts through intra-industry management programs	350,000
Publications sold or distributed in response to requests	33,000,000

Footnotes at end of article.

Since these figures are now 3 years old, the totals have undoubtedly risen since then.

In addition to these SBA strong points, some of the others have been touched upon in remarks of my colleagues, including the record of the agency in the loan programs, procurement assistance and technical assistance.

A review of these accomplishments, together with the historical record, leave little doubt in my mind that whatever the Department of Commerce may have done for small business during the last 50 years, the achievements of the SBA during the last 15 have been brilliantly effective, by comparison and otherwise.

I agree with my colleagues that a large part of the reason for this is SBA's independent status. The Agency has been dedicated solely to the well being of the small business community. It has been in daily contact with its problems and in periodic consultation with those in the executive branch and in the Congress who are concerned with small business matters.

The combination of the interaction and the focus for small business leadership has made progress possible in the past and is needed to make further progress possible in the future.

To downgrade SBA would be to downgrade the position of small business and the free enterprise system in the country. And, to diminish the horizons of small business restricts the outlet for the vision, hopes, and energies of our people. It limits their choice of a career and the other choices which follow from this decision to the extent we allow the trend toward giant corporations to remain unchecked and pass up opportunities to encourage the expansion of small business. We are allowing the balance to swing in the direction of the jobs in a big bureaucracy for all. These factors are especially important to the minorities in our country, who need the self-respect and the independence of ownership more than anyone else.

Mr. President, I hope we can convince all who are concerned with this matter that the public interest as well as the small business interest lies with an independent SBA with the full backing of the President, the Urban Affairs Council and all of the departments of the Government including the Department of Commerce. If we are unsuccessful in this attempt, we will have to consider what our future course will be in this matter.

"TO AID, COUNSEL, ASSIST, AND PROTECT THE INTERESTS OF SMALL BUSINESS CONCERNS"

Mr. PELL. Mr. President, it seems that one of the periodic seasons on the American political calendar is the "small business chill."

Because the Nation's smaller firms do not possess the economic power and influence of the giant corporations, there is a constant temptation to allow their needs to be neglected by the Federal Government. At such times, SBA loans dry up, Government procurement opportunities drift to the larger firms on an increasingly less competitive basis, clouds of doubt gather over the Small Business Administration, and a layer of frost envelops the institutions of the Federal establishments which are in a position to be helpful to beleaguered small businessmen.

I have detected the onset of the small business chill season again. When we were threatened with a similar situation 3 years ago, some of us were quite active in attempts to bring relief to the Nation's small business community. I, for one, took the Senate floor on January 27, February 18, March 2, and March 9, 1966, to speak on the future and programs of the Small Business Administration. The Small Business Administration retained its independence and its programs were strengthened by amendments to the Small Business Act in 1966 and preliminary amendments to the Small Business Investment Act in 1967 which were sponsored by the executive branch, as well as the Congress, and brought great economic and social benefits to our small business community of 5½ million firms in this country.

Unfortunately, Capitol Hill is once again feeling some icy and ill winds blowing down Pennsylvania Avenue which can have the effect of putting small business into a deep freeze.

I refer to remarks made on more than one occasion by the new Secretary of Commerce, Mr. Stans, that the Small Business Administration logically belongs somewhere inside of his department. These statements were quoted in the Wall Street Journal of March 6 and also, I understand, formed part of Mr. Stans' appearance before the National Press Club on March 5. I am among those in the Senate that respectfully disagree with the position of the Secretary of Commerce. It would be helpful, I believe, for me to restate some of my reasons in the hope that the Secretary of Commerce may change his views, or at least that if the Administration desires to proceed with this matter, it will do so with the full knowledge of the consequences.

Mr. President, Rhode Island is a small State with a business community that is predominantly small business. We have, in fact, about 26,000 firms in the State, and 94.8 percent are considered small business by the Small Business Administration.

From the time that the Small Business Administration was established as a permanent independent agency in 1953, Rhode Island small business has received over 1,000 loans totaling more than $33 million. In an area of the country which was in the process of experiencing and exodus by one of its major industries, textiles, this loan assistance was invaluable and formed a significant factor in the economy of our State. This is equally true of the procurement and management assistance which the SBA has extended to Rhode Island firms at times of need and opportunity over the last decade and a half.

Although I did not serve in Washington in the years prior to 1953, I will accept the judgment of the leaders of the Senate as summarized by the Senator from Alabama (Mr. SPARKMAN) that raises substantial doubt about whether Rhode Island business would have received such sympathetic assistance if the Small Business Administration were a small part of a large Department with many other responsibilities.

In the years since 1953 the competitive life of the marketplace has become even tougher for the small businesman. He faces heightened competition not only from established giant corporations in this country and abroad, but new conglomerate corporations which have become a disquieting factor in this country in recent years. I was most interested in the analysis made of conglomerate competition against small business by the distinguished Senator from Wisconsin (Mr. NELSON), who is chairman of the Monopoly Subcommittee of the Small Business Committee. I agree with Senator NELSON that large conglomerates, which can draw profits from several kinds of markets, can subsidize the operations of one of their affiliates against a small businessman who must operate in a much more limited way.

I would like to make it clear, however, that I am not making a blanket condemnation of all mergers. There are, indeed, some large multimarket corporations that are soundly financed, and well managed that do not indulge in forced takeovers of small businesses, nor resort to unfair competitive practices against small businesses. Nevertheless, the incidence of such unfair practices and takeovers is far too great.

There are two points that I wish to add to the Senate's consideration of this matter. The extent to which this merger trend has gone is indicated by the fact that between 1948 and 1965 the 200 largest manufacturing corporations made at least 2,692 acquisitions of companies with combined assets of $21.5 billion. This volume of resources was greater than the total of all assets held by the 150 companies ranking 51 through 200 in 1948. To put it another way, the 200 largest companies acquired assets through merger equal to 25 percent of all manufacturing assets in 1948.

It is apparent to me and should be apparent to any Administration that the merger trend that we are in, and the concentration that it is bringing, constitutes one of the greatest threats to the treasured values of individualism and business ownership in American life. These trends also have profound effects on our social structure as youth, preparing for its careers, realizes that its choices may be more and more confined to a large bureaucracy, and whether this big, highly structured organization is in the field of manufacturing, finance, education or government, it has roughly similar effects on a person's freedom of action and personality. Accordingly, it seems to me that a priority matter in the quality of American life is to strengthen small business opportunity in every way.

Another priority item in making the small business climate more congenial is improving the small businessman's access to the lifeblood of capital. Two factors are now converging to put a capital squeeze on a small business community. The first is tight money in the commercial money markets. As the chairman of the Joint Economic Committee (Senator PROXMIRE) has aptly described, interest rates across the whole spectrum of Government and business loans and investments have risen to the highest levels in 100 years. The prospects are that these interest rate levels will not subside in the near future and might possibly even rise higher.

The Washington Post recently reported Chairman William McChesney Martin, Jr., as saying that the Federal Reserve System will "keep interest rates high and credit tight for as long as necessary to wring the inflationary psychology out of the American economy." This has already begun to affect the day-to-day operations of many small companies, although some commentators are citing the moderating effect of the tax deductibility of interest charges. I would suggest that such a deduction is both minimized and delayed for small firms and should not be a justification for preserving record high interest rates which commonsense and experience confirm damage consumers and small business far more than they do large corporations which have multiple sources of credit.

The second reason for the money squeeze on small firms is that the Small Business Administration, which was created as a lender of last resort for the small businessman in such tight money situations, has been operating on what may be described as an extremely limited basis.

Mr. President, the primary purpose of the SBA is to make direct, participation or guarantee loans to small firms in times of stringency. It is well known that SBA's loan programs have not been expansive in the recent past and the details of this posture are becoming increasingly known.

Rather than making an issue of this at this time, I only make this point to demonstrate that a strong and independent Small Business Administration is needed to secure the funds necessary to sustain the establishment and growth of small business and new business firms in this country. In the governmental battles that are waged for budget funds, it is vital to our 5½ million small businessmen that the SBA have a strong voice and absolute freedom of action rather than deferring its claims, its statements, and its policies to a Department which is obliged to consider its other responsibilities.

If the small business deep freeze is not immediately dispelled, it will be the task of Congress, pursuant to its mandate in the Small Business Act of 1953 to "aid, counsel, assist, and protect, insofar as it is possible, the interests of small business concerns" to consider what steps are called for.

I would like to assure everyone in my State that I will do everything I can to be of help to the small business community in this matter.

THE SMALL BUSINESS ADMINISTRATION AND ITS PROGRAMS ARE VITAL TO THE STATE OF WEST VIRGINIA

Mr. RANDOLPH. Mr. President, it is a privilege to join in active support of the resolution for Small Business Administration independence which the Small Business Committee has transmitted to President Nixon, and which the distinguished Senator from Nevada (Mr. BIBLE) has presented to the Senate today.

The basis for the Committee's action initially was a series of articles in the American press reflecting the attitude of Secretary of Commerce Stans that the Small Business Administration logically belongs within the Department of Commerce. Then, on March 5, the President issued an executive order transfering coordination of minority business programs, including advisory councils for minority business, to the Department of Commerce.

Further information was contained in the internationally known London Economist, which the Senator from Alaska (Mr. GRAVEL) made available to the Senate. Another relevant document is the statement which President Nixon made at the signing of the Executive order. I ask unanimous consent that this statement on minority business enterprise be reprinted in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. RANDOLPH. Mr. President, it should be noted that the following comment, which went unreported in the press, is a part of President Nixon's statement:

"Recently, the Small Business Administration launched a program for the stimulation of minority group enterprise. This program has been well received, and deserves continuing support. With better coordination, a broader range of government resources and assistance can be made available."

I commend President Nixon for including this recognition of the Small Business Administration's minority enterprise program in his remarks. By all reports, SBA's "Project Own" has been successful in tripling the volume of minority loans. It has enlisted broad support from private trade associations, banks, and other elements of the private sector in providing real momentum to minority business ownership in this country. President Nixon's reference to this is important and should be part of the record.

Nevertheless, Mr. President, there are serious questions which remain unanswered.

However, many minority business enterprise programs there may be in the Government, there is little question that the Small Business Administration has been the vigorous leader in this movement. The least which President Nixon's action has done is to transfer the initiative, the coordination, and the Advisory Council function from the Small Business Administration to another agency, the Department of Commerce. The statement indicates that this was implemented "as recommended by the Urban Affairs Council."

The President is certainly entitled to seek and to adopt recommendations from any quarter. It may be that the Urban Affairs Council referred to is the same as the "Council on Urban Affairs" announced on January 23, to be composed of the Vice President, several Cabinet members and White House staff members. This announcement also described the formation of several subcommittees of the Council, including one on Minority Business Enterprise, to be chaired by Secretary of Commerce Stans. If this is in fact the Council which made the recommendation, there does not appear to be any evidence that the Small Business Administration was represented at any stage of the deliberations.

Mr. President, it is clear that the Congress is obliged to exercise its judgment in these matters, and the Congress begins with knowledge of a substantial record of accomplishment by the Small Business Administration in this as well as many other areas.

At this time, several possibilities emerge with regard to the status of SBA. Either the transfers of function under Executive Order No. 11458 are intended to be limited; or they may be the first of several transfers; or, if Mr. Stans' position is adopted, they may signal the intention of the administration to do away with the Small Business Administration entirely and relocate its functions within the Department of Commerce. Considerable confusion has been engendered over what course the new administration desires to follow in this field.

Because of this, I believe it is quite understandable that we in the Senate would react strongly. The historical record as reviewed by the Senator from Nevada (Mr. BIBLE) and the Senator from Alabama (Mr. SPARKMAN) demonstrates beyond any reasonable doubt that the small businessman is benefited more with an independent Small Business Administration, than with a program under the Department of Commerce. It would seem to me unfortunate if the administration's policy is to be a lack of support for the Small Business Administration.

In our State of West Virginia, I know that the small businessman has been well served by having an agency that he may call his own. The loan programs, particularly the community development loans, are vital for our towns and cities. The financial assistance, procurement contracting and subcontracting programs, and the possibilities of transferring some of the new technology to small businesses are vital to the future of my State.

As a member of the Procurement Subcommittee and chairman of the Subcommittee on Science and Technology of the Senate Small Business Committee, I can give specific examples of the advantages of having small business in an independent rather than a subordinate position. During the 1966 proceedings on this matter, the Senator from Rhode Island (Mr. PELL) quoted an editorial from the Washington Evening Star on March 1966, as follows:

"Sponsors of the SBA's independence fear that tucking it in some cranny of Commerce, where big business enjoys major influence, will in effect kill the agency. There is some historical justification for this view. During World War II a couple of small precursors of the SBA did an ineffective job. The Division of Contract Distribution created in 1941, and a subsequent small business unit within Commerce, were both largely paper organizations."

The figures for the SBA procurement assistance program demonstrate that this has been an effective tool in encouraging awards to smaller business firms. In fiscal year 1967, the Small Business set-aside program was responsible for $1.9 billion worth of defense contracts and $310 million worth of civilian contracts being awarded to small firms. This represented approximately 4½ percent of all procurement dollars during that year.[11] The value of this program was further demonstrated during recent years when the role of small business specialists was restricted by the Defense Department in 1966 and 1967. The ratio of set-aside to total defense procurement declined substantially, and the situation was not corrected until the joint set-aside program was revived and small business specialists were reassigned to their previous duties.

Another procurement program which has aided smaller firms in obtaining new Government contracts is the "certificate of competency" which allows a small businessman, whose low bid is rejected by the Government because of supposed shortcoming in capital or credit, to appeal to SBA for such a certificate. Since 1953 SBA has processed over 5,000 applications for COC's, and has issued more than 2,000 with a value to the small firms of approximately $429 million and savings to taxpayers of about $33½ million.[12]

Additionally, the benefits of transferring new science and technology to small businesses hold significant promise and the assistance of SBA in the initial stages of how this may be accomplished has been invaluable.

Mr. President, I am among those who doubt that all of this would take place without the special assistance, special focus, and special concern of an agency dedicated to the small businessman of this country. It is my hope that President Nixon will resolve the existing uncertainty by stating his strong and active support for an independent SBA. However, if he does not, the Members of Congress who feel keenly of responsibilities toward the small businessman, will continue to advance small business interests, with or without this support.

EXHIBIT 1

[From Weekly Compilation of Presidential Documents, Mar. 10, 1969]

MINORITY BUSINESS ENTERPRISE

(Statement by the President upon signing an Executive order providing for a national program, Mar. 5, 1969)

I have often made the point that to foster the economic status and the pride of members of our minority groups we must seek to involve them more fully in our private enterprise system. Blacks, Mexican-Americans, Puerto Ricans, Indians, and others must increasingly be encouraged to enter the field of business, both in the areas where they now live and in the larger commercial community—and not only as workers, but also as managers and owners.

Providing better job training and making more jobs available is only part of the answer.

We must also provide an expanded opportunity to participate in the free enterprise system at all levels—not only to share the economic benefits of the free enterprise system more broadly, but also to encourage pride, dignity, and a sense of independence. In order to do this, we need to remove commercial obstacles which have too often stood in the way of minority-group members—obstacles such as the unavailability of credit, insurance, and technical assistance. Involvement in business has always been a major route toward participation in the mainstream of American life. Our aim is to open that route to potentially successful persons who have not had access to it before.

Encouraging increased minority-group business activity is one of the priority aims of this administration.

The Federal Government has long been involved in various programs to support the development of new business enterprises, and to help struggling new ones become more stable. By one count, there are now 116 such programs, operated by no less than 21 different departments and agencies. These are largely uncoordinated.

Recently, the Small Business Administration launched a program for the stimulation of minority group enterprise. This program

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Footnotes at end of article.

has been well received, and deserves continuing support. With better coordination, a broader range of Government resources and assistance can be made available.

Many private, voluntary organizations, and many major corporations, have done outstanding work in assisting the development of new business enterprises among minority groups. Often, however, their efforts have not had the Government support that they deserve.

As recommended by the *Urban Affairs Council*, I intend to establish within the Department of Commerce an Office of Minority Business Enterprise. Under the leadership of Secretary of Commerce Stans, this new office will be the focal point of the administration's efforts to assist the establishment of new minority enterprises and expansion of existing ones. It will seek to concentrate Government resources, and also to involve the business community and others in order to enlist the full range of the Nation's resources.

This new office will be headed by an Assistant to the Secretary of Commerce, and it will have the direct, personal attention of the Secretary. On its own, it will seek to develop new business opportunities. It will coordinate the efforts of other government agencies in encouraging minority enterprise. It will mobilize financial and other resources, both public and private. It will provide the centralized leadership which in the past has not been sufficiently evident. It will seek to provide a better focus of government programs at the local level, in order to give them the impact intended. It will constantly review both existing and possible new programs for the encouragement of minority business enterprise, and will make recommendations for further executive and legislative action as appropriate.

I have today issued an Executive order directing the Secretary of Commerce to coordinate Federal programs related to the strengthening of minority business enterprise, and authorizing him to take the necessary steps to do so effectively. The order also provides for the creation of an Advisory Council for Minority Business Enterprise, and for the establishment by the Secretary of Commerce of an information center for the compiling and dissemination of information on successful minority business enterprise programs.

This is not a substitute for the many other efforts that continue to be needed if we are to make headway against the ravages of poverty. It is a supplement, dealing with a special but vital part of the broader effort to bring the members of our minority groups into full participation in the American society and economy. Its success will be measured by tangible results, not by the volume of studies.

What we are doing is recognizing that in addition to the basic problems of poverty itself, there is an additional need to stimulate those enterprises that can give members of minority groups confidence that avenues of opportunity are neither closed nor limited; enterprises that will demonstrate that blacks, Mexican-Americans, and others can participate in a growing economy on the basis of equal opportunity at the top of the ladder as well as on its lower rungs.

KEEP SBA INDEPENDENT

Mr. McINTYRE. Mr. President, on February 26, 1969, I had the privilege, as chairman of the Senate Small Business Subcommittee of the Banking and Currency Committee, to question Mr. Hilary J. Sandoval, Jr., the then nominee to be Administrator of Small Business Administration, at some length. Traditionally, the subcommittee has always been quite interested in the commitment and resolve of any future SBA Administrator to "fight the good fight" for the Agency and for the American small businessman. Most of us are aware of the periodic attempts to dilute or water down SBA by placing it within the Department of Commerce or some other agency of the Federal Government.

So it was quite natural for me to discuss SBA's independence in some detail with Mr. Sandoval. On three separate occasions I raised this matter with the nominee, and each time I was unable to tell by his answers the extent of either his commitment or his resolve to protect the independence of SBA. I made my position quite clear and concluded Mr. Sandoval, being very new to Washington, was perhaps suffering from a mild case of stage fright.

You can imagine my surprise when, on March 6, just 8 days later, I read where Secretary of Commerce Stans had stated that "SBA, by definition, ought to be part of the Commerce Department." [23]

It then began to appear as though a move was underway again within the executive branch to strip SBA of its status as an independent Federal agency and place it within the Department of Commerce. Printed and other reports continue to bear this out.

Mr. President, this body well knows how I feel about an SBA-Department of Commerce merger. Along with Senator SPARKMAN, Senator SMATHERS, and Senator BIBLE, I assisted in our successful effort in 1965 to prevent such a merger. It was not wise to weaken SBA then. It is even less wise now.

SBA is a small agency, as Federal agencies go. But I consider this smallness as one of its best assets. This is the key to SBA's effectiveness. If some larger, cumbersome agency were to swallow up SBA, as is now being discussed, SBA's effectiveness and capabilities would be muted, if not strangled and destroyed. It could no longer remain a viable agency, responsive to the needs of the American small businessman.

Mr. President, SBA today serves as the spokesman for over 5 million small businesses which employ over 40 million people. Small business contributes 33⅓ percent to our annual gross national product of over $808 billion.

Small business, then, is small only in terms of store size and number of employees. But it is not small in the impact it has on our economy and on our free enterprise system.

Small business requires and deserves the same services and the same recognition on an equal basis with other important interest groups operating within our economy. SBA, at the executive level of Government, is the only strong and effective advocate for small business.

In 1953, Congress created SBA as an independent agency of the Federal Government. SBA was designed to serve the small businessman as a one-stop shop center, an agency where he could receive assistance of a personal, responsive nature, free from big business influence. Over the years, SBA has proved to be a very effective spokesman for small business. SBA's record is quite good.

During the first decade and a half since the creation of SBA, that agency made over 85,000 regular business loans to small concerns. The total dollar volume of these loans was over $4 billion.

During this same period, over $19 billion in Federal procurement awards were set aside for small businesses.

Since 1953, SBA has distributed over 41 million management publications and conducted over 10,000 management assistance courses.

This fine record exemplifies one word: "service."

Mr. President, I submit that any departure from complete independence for SBA will damage irreparably this service and may cause distress and difficulty in the overall economy.

Certainly, SBA needs to remain independent now more than ever before—during this period of corporate giantism, conglomerate mergers, high interest rates, and fiscal stress—all resulting in a shift of credit availability from small business to big business.

I told Mr. Sandoval on February 23, and I quote:

"If somebody starts pushing you around . . . , you have a lot of friends up here on the hill . . . , you get on the telephone or come running up here."

That states my position quite clearly. I think Mr. Sandoval got the message, which is that this is no time to down-grade SBA by making it subordinate to any other agency or department. This is no partisan matter. I sincerely believe that the vast majority of the Members of both Houses of Congress support the full independence of the Small Business Administration.

SBA'S INDEPENDENCE AGAIN THREATENED

Mr. SPARKMAN. Mr. President, I rise in behalf of the Small Business Administration and the American small businessman. That agency's independence once again is being threatened. Printed and other recent reports indicate a movement is apparently underway within the executive branch which would strip SBA of its statutory independence as the Nation's spokesman for the small businessman at the Federal level. SBA, for at least the third time since 1965, is facing absorption within another agency of the Federal Government, most likely the Department of Commerce. For instance, on March 6, 1969, the Secretary of Commerce said SBA "by definition" ought to be part of the Commerce Department.[24]

SBA was created as an independent agency in 1953 during the Eisenhower-Nixon administration. The Small Business Investment Act of 1958 was passed during the second Eisenhower-Nixon administration. Both of these legislative landmarks recognized the real, urgent need of the American small businessman to enjoy direct, responsive, and realistic representation in Washington. Under the Small Business Act of 1953, the Administrator of SBA reports directly to the President of the United States. Mr. President, I submit there is no better representation than that.

I further submit that, if SBA's independence is watered down, the result will be diminished activity in the small business sector which will be felt throughout the land.

Mr. President, the small business community is 5½ million small firms. These businesses contribute nearly 40 percent of our gross national product of $800 billion annually. They provide employment for 40 million people and support for the families of these small business-owners. Should we deny this bulwark of our free enterprise system independent representation at the Federal level?

If we do, then we apparently believe that the problems and needs of the small, independent businessman are just the same as the problems and needs of General Motors or any other American corporate giant.

Mr. President, commonsense tells us that this line of reasoning just is not so. President Nixon's father was a small businessman. He owned and operated a small service station and grocery store in Whittier, Calif. I seriously doubt if he regarded himself "in the same boat" with any of our better known corporate giants. And neither does any other small shopowner or storekeeper.

During the decade and a half since SBA was created as an independent agency, SBA has served the small entrepreneur well. Some 85,000 small firms have borrowed over $4 billion; small communities have received nearly one-half billion dollars in local development company loans, which, in turn, have created, or saved, 94,850 jobs; and small business in-

Footnotes at end of article.

vestment companies have made approximately 30,000 loans totaling about $1.4 billion.

These figures clearly show the extent to which SBA has served the small business community, the free enterprise system, and the Nation.

Mr. President, while I am quite proud of the fine job done by SBA over the years, it can do an even better job for the country's small businessman in the years immediately ahead. SBA has perhaps the best economic development tools of any agency of the Federal Government. These are proven "working tools," not "pie-in-the-sky" theories. These tools have been honed to a keen edge of effectiveness.

To put it in the vernacular of many of today's young people, SBA has been "doing its own thing," and I might add, it continues to do it very well.

Now is not the time for us to tamper with a proven program. High interest rates, shortage of funds and other fiscal uncertainties are the benchmarks of today's business world. It is therefore urgent and very necessary that SBA remain an independent spokesman for the small businessman during these difficult times.

Recently, Senator ALAN BIBLE, the very able and alert chairman of the Senate Small Business Committee, circulated a committee resolution expressing strong support for the continued independence of SBA. As ranking Democrat on the Small Business Committee, I was pleased to place my signature just below Senator BIBLE'S. This marks the second time in 3 years I have signed such a resolution and at least the third time in 3 years that I have taken the Senate floor to discuss this matter.

Mr. President, at this point I ask unanimous consent that my remarks of February 4, 1966, be reprinted in the RECORD at the conclusion of this statement. My remarks were appropriate then, and they are even more so now.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPARKMAN. I do not feel that it is necessary for me to belabor this point. The record is quite clear. There exists a great deal of opposition in both Houses of Congress to any plan or proposal which jeopardizes the independent status of SBA. I hope my colleagues on both sides of the aisle will study this issue carefully and will not be easily led into a course of action that is clearly detrimental to the future success of the American small businessman.

EXHIBIT 1

[From the CONGRESSIONAL RECORD, Senate, Feb. 4, 1966]

THE RUMORED PROPOSAL THAT THE SMALL BUSINESS ADMINISTRATION BE PLACED WITHIN THE DEPARTMENT OF COMMERCE

Mr. SPARKMAN. Mr. President, there was an article in this morning's Washington Post by Jerry Kluttz saying that the administration has under active consideration a recommendation that the Small Business Administration be stripped of its independent status and placed within the Department of Commerce. Rumors that such a move might be in the making have persisted for several weeks.

Mr. President, I have been concerned about these rumors, and now that they are being reported publicly in the news media, my concern has deepened to the extent that I feel it necessary, as chairman of the Senate Small Business Committee, as a member of the Small Business Subcommittee of the Banking and Currency Committee, and as one who has, down through the years, taken an active interest in matters affecting the 4½ million small businesses of America, that I speak out on this subject.

Mr. President, I would be amazed if serious consideration is given to allowing the Department of Commerce to absorb the Small Business Administration. When this agency was first created there was considerable debate in the Congress on this very question. The matter arose in the form of a conference report submitted to the Senate. The legislation provided for the creation of the Small Business Administration, to be governed by a board comprised of the Secretary of the Treasury, as Chairman, and the Secretary of Commerce and the Administrator of the Small Business Administration as members. During the debate on this conference report, those in the Senate who were sensitive to the needs of the Nation's small businesses and who were sympathetic to meeting those needs, spoke out on this subject.

Among those who stood up for a Small Business Administration independent of the policies and influence of other departments of the executive branch of the Government was the then senior Senator from Texas, now President of the United States, Lyndon B. Johnson. President Johnson had long been a champion of the small business firms of this country and, during that debate, the President said:

"This bill would place the Small Business activities of the Government under two major Departments—Treasury and Commerce, and yet, practically all of us subscribe to the principle that a small business agency cannot be effective unless it is independent."

Another distinguished Member of this body, who later served as a member of the Senate Small Business Committee, was the late President John F. Kennedy, then junior Senator from the State of Massachusetts. President Kennedy said:

"The Small Business Administration which is proposed by the pending legislation is deficient in several respects. If such an agency is to be of real help to small business in providing technical assistance, long-term capital, and procurement opportunities, all of which are of primary importance in expanding the economies of New England and the United States, the following defects must be corrected:

"First, such agency must be truly independent and not subject to the veto power of the Commerce and Treasury Departments. Experience has shown that such independence is necessary to give small business an effective voice in the Government."

Another recognized champion of small business, who served as a member of the Senate Small Business Committee from June 1, 1950, until December 29, 1964, and who was serving as chairman of its Retailing, Distribution, and Marketing Practices Subcommittee at the time of his election to the high office of Vice President of the United States, and who now serves in that office, was Vice President Hubert H. Humphrey. Senator Humphrey said:

"I say we are not going to have the friendship of small business if we allow the Secretary of Commerce and the Secretary of the Treasury to have too much to say about the definite standards to be set with respect to small business, because I do not believe either one of them is particularly noteworthy as a champion of small business enterprise. That is not their record. They have competence in other fields, but not in this one.

"I am delighted the committee has come forward with a bill that gives the Administrator of the Small Business Administration powers unto himself, that makes him the chairman of the loan policy board, and that restricts the activities of the Secretary of the Treasury and the Secretary of Commerce to being advisers. Let the record be clear. An adviser does not mean a proprietor. The Administrator can take advice, or he can reject it. The advisory board is exactly what its name implies. It is to advise.

"I suggest that Congress keep a very careful, watchful eye upon how the advisers act. I think we shall have an opportunity to see whether the activities of the Small Business Administration will be in the spirit of truly helping small, competitive business enterprise."

The senior Senator from Massachusetts, Senator Saltonstall, who serves now as the ranking minority member of the Senate Small Business Committee, also spoke out on this subject. Senator Saltonstall said:

"The Small Business Administration provided for by S. 1523 would be a completed independent agency. This, in the opinion of the many Massachusetts businessmen who have written to me on the subject, is a very important feature. A small business agency should have as its primary responsibility the assistance of small business. The experience of the last 10 years has made that inescapably clear. I am glad, therefore, that the Senate Committee on Banking and Currency has corrected the feature of the Hill bill which was recently before us and which would have made the head of the Small Business Administration subject to the direction and control of the Secretary of the Treasury and the Secretary of Commerce. The present bill wisely confines their advisory functions to the field of loan policy."

Mr. President, I had the privilege of participating in that debate and I said this at that time:

"The second difference between the Senate bill and the House-approved bill relates to the advisory board. It will be recalled that when the conference report on the defense production bill was before the Senate, many Senators objected to the provision relating to the advisory board, on the ground that it became not simply an advisory board, but actually a governing board. Instead of the governing authority being in the Administrator, the authority was vested in a board, of which the Administrator was not even the chairman; the Secretary of the Treasury was the chairman.

"In the pending bill, as has been so well explained today by the chairman of the Committee on Banking and Currency, the board is advisory, the Administrator is chairman, and it is not intended in any way that the board shall administer the business of the agency or shall govern the agency itself. I believe those two changes are significant and material, and make the Senate bill a decided improvement over the House bill."

Mr. President, I feel just as strongly today as I felt then that the Small Business Administration can operate effectively in the interest of the Nation's small business firms only as an independent agency of Government.

Those who have been charged with the responsibility of serving as Administrator of the Small Business Administration have likewise recognized the need of independent status for the agency. Of course, John Horne, who served as Administrator from 1961 until 1963 was serving as my administrative assistant at the time the SBA was created as an independent agency. He actively assisted me in the debate which led to the creation of the agency and the establishment of its independent status. The fact is that John Horne's position on the question of independence for the SBA was so well-known that I have been unable to recall, that, during his tenure as Administrator he was ever questioned on the subject. Had he been, however, I know what he would have said because I know that he believed in the independence of the agency as strongly as any person in Government. When John Horne was moved to the Home Loan Bank Board in 1963, President Kennedy nominated Mr. Eugene P. Foley to replace him as Administrator.

At the time of his nomination, Mr. Foley was serving as deputy to the Secretary of Commerce, and since the question of the independence of the agency versus placing it under Commerce had been of such concern to the Congress originally, it was only natural

that the Congress would inquire into his views of this matter. It was my privilege to make that inquiry during the course of the confirmation hearings before the Banking and Currency Committee on July 30, 1963. I said to Mr. Foley at that time:

"There was discussion originally and there were proposals that the Small Business Administration * * * be a part of the Department of Commerce. One of the fights we had in setting up the Small Business Administration was whether or not it should be an independent agency * * * This was a plan that was worked out by this committee and a plan which I think has functioned quite well."

I then asked Mr. Foley, "You subscribe to this idea, don't you, of an independent agency?" His reply was, "I do wholeheartedly, Senator. I assure you that as far as it is within my power there will be no change. I don't expect a change."

Mr. President, in view of the history of this controversy, the highlights of which I have tried to recite above, I just cannot believe that the report which appeared in the Washington Post this morning is accurate in saying that a proposal to place the Small Business Administration within the Department of Commerce is being seriously considered by the administration. I certainly hope that it is not accurate, because I do not believe that this controversy should again be a subject of lengthy debate before the Congress.

THE SMALL BUSINESS ADMINISTRATION SHOULD REMAIN INDEPENDENT

Mr. GRAVEL. Mr. President, as chairman of the Joint Economic Committee, I would like to add my comments on the resolution submitted today by the distinguished chairman of the Senate Small Business Committee, Senator BIBLE.

This resolution, in my opinion, was justified by the reports which have circulated not only in our national press, to which the Senator has referred, but in some international journals as well. For example, the London Economist of March 1, 1969, reports on certain statements by the Secretary of Commerce and others in the Nixon administration which, in the opinion of the reporter, "would impinge directly on SBA's Project Own." For the information of those concerned, I ask unanimous consent that the brief article be printed following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRAVEL. Mr. President, there are some opinions in this article which I would not share. The record is clear, for instance, that the Select Committee on Small Business of the Senate, under a distinguished series of chairmen—Senators SPARKMAN, SMATHERS, and BIBLE—has been in the forefront of every small business matter, and that this body has done so out of an abundance of concern for advancing the interests of all of the Nation's small businessmen. It would be accurate, I believe, to say that the combined efforts of the Senate and House were successful in preventing SBA programs from "disappearing into the maw of another Government agency" in recent years.

Mr. President, the State of Alaska has for many years, been represented on the Small Business Committee. I am proud to follow in the footsteps of Senator E. L. "Bob" Bartlett in this regard. During my career it has been brought home to me forcibly that the desire among Americans to own their own businesses is very deep and very widespread. The surveys available in 1964 indicated that fully half of all American wage earners either attempt to go into business for themselves or intend to do some time during their lives.[15]

Senator BIBLE has described how the SBA has turned this dream into a reality for 200,000 small businessmen. The Economist article points out how the SBA has been extending this effort to minority groups with the so-called Project Own. The article states that SBA loans and guarantees to aspiring minority businessmen for the last quarter of 1968 rose to more than $31 million, more than triple the amount granted in the same months of 1967. According to official Government estimates, the loan approvals under this program are to rise from $32 million in 1968 to $306 million in fiscal year 1970, an increase of 856 percent.[16]

Said the Economist:

"Significantly some three-fifths of all these (1958) loans were made by private lending institutions with guarantees up to 90 percent from the SBA (allowing) the SBA to increase its activity among Negroes and other racial minorities without running up against the budgetary ceilings on its lending and spending powers."

Thus, it seems to me that SBA has been a notable success, not only in its recent attempts to foster minority business ownership, but in its historic venture of assisting all small businessmen in our cities and countryside to survive and expand, and consequently to provide a growth factor in the economy.

My information is that small business accounts for 40 percent of the gross national product and about 50 percent of all the jobs in the United States. It is thus a major factor throughout the country, and especially in my State. The record of the Small Business Administration in Alaska has been exemplary. Within hours of the Good Friday, 1964, disaster, SBA had a team of personnel en route to Alaska, and within 6 months 490 business disaster loans and 455 home disaster loans had been granted. As Senator Bartlett said last year.

"Thanks in no small measure to this help, Alaska now has a healthy and expanding economy."[17]

As the Senator from Wisconsin (Mr. NELSON) has pointed out, small business has also been a surprisingly potent force in innovation and competition in the United States during recent years, even in the teeth of the growth that we have seen in giant corporate business. This competition and innovative play a direct role in furnishing alternative and substitute products and services, and thus tending to keep price levels down and exercising a restraint on inflation—a function which the traditional free market can perform with great benefits to all.

Mr. President, I hardly need to point out that inflation remains one of our most urgent concerns. During the last 6 months the prime interest rate has risen from 6¼ to 7½ percent and the Federal Reserve discount rate from 5¼ to 5½ percent. Other market rates have escalated proportionately, bringing interest rates to their highest levels in 100 years.

These credit pressures, of course, tend to fall most heavily upon small businessmen.[18]

It therefore seems to me that what we need is to have more support, more assistance, and more funds for the Small Business Administration. The independence of this agency has demonstrated its worth over the last 16 years and its programs, including Project Own, have proven their worth. A transfer of functions, and a consequent undermining or destruction of the Small Business Administration, in my opinion would constitute a definite step backward. I am therefore glad to join in expressing my support of the resolution presented by the Senator from Nevada (Mr. BIBLE) and restating my support for SBA programs of assistance to American small businessmen.

Footnotes at end of article.

EXHIBIT 1

WHOSE BLACK CAPITALISM?

WASHINGTON, D.C.—After a patronage struggle between Senators Dirksen and Tower, President Nixon has at last decided in favour of the latter's candidate to head the Small Business Administration. He is Mr. Hilary J. Sandoval, a businessman of Mexican descent, a political figure in his home country of west Texas but little known in Washington. "We do not yet know," confessed an SBA spokesman, "how to pronounce his name."

Mr. Sandoval is walking into the centre of a debate inside the Nixon Administration over how to implement the President's campaign to promote "black capitalism." In his half-year at the SBA, the outgoing Democratic administrator, Mr. Howard Samuels, bade fair to transform it into an agency for such capitalism, with an effort which he called Project Own. SBA loans or guarantees of $31 million given to aspiring black businessmen between September and December last year were more than triple the amount granted in the same months of 1967. Significantly some three-fifths of all these loans were made by private lending institutions with guarantees of up to 90 per cent from the SBA; this allowed the SBA to increase its activity among Negroes and other racial minorities without running up against the budgetary ceilings on its lending and spending powers.

By October Mr. Samuels was in trouble. Following hearings that month the conservative Select Committee on Small Business of the House of Representatives warned him that "discrimination (in favour of minority groups) in the business loan programme cannot be permitted." Had Mr. Samuels retained his job, says one member of the committee, "we would have caught up with him by March." The SBA, according to congressional critics, was created under President Eisenhower not as a welfare agency but to foster a tenet of white America: that the little local businessman should prosper. In December the incoming Secretary of Commerce, Mr. Maurice Stans, laid claim all but openly to Project Own's activities when he said that "one of the first decisions" for him would be whether to absorb some of the SBA's activities into the Department of Commerce. Early in February the President told the department's employees that they would be given new responsibilities to provide "all people" with a chance "to become owners and managers in this great private enterprise system of ours."

Debate in the Administration has not stopped there. When the President wrote to Congress last week about the future of the Office of Economic Opportunity one sentence in the message read:

"It is also my intent that the vital Community Action Programmes (CAPs) will be pressed forward, and that in the area of economic development OEO will have an important role to play, in co-operation with other agencies, in fostering community-based business development."

The idea now, according to one member of the Administration, is "to convert CAPs to capitalism."

This would impinge directly on the SBA's Project Own. So also would the idea of a national Community Development Bank being put forward vigorously by Mr. James Farmer, the Negro leader from New York, who is shortly to join as an Assistant Secretary yet another, more muscular arm of the administration, the Department of Health, Education and Welfare. Such a bank would lend or guarantee loans to local development banks and businesses, just as SBA has been doing. Meanwhile the House Small Business Committee is preparing to fight (as it did most successfully under President Johnson)

to prevent any SBA programme disappearing into the maw of another government agency; in this case the programme in question is disliked by the committee which, for this very reason, wants to keep it under its thumb.

A decision on how to deal with black capitalism is promised by the White House in "weeks rather than months." The President's Counsellor, Mr. Arthur Burns, who is presiding over the whole uncomfortable debate, believes in devolving the project as much as possible on to private business through tax and other incentives. But he has to make peace among the departmental warriors who are determined to corral Mr. Nixon's social solutions into their own empires.

SOME SUGGESTIONS REGARDING THE SMALL BUSINESS ADMINISTRATION

Mr. LONG. Mr. President, it has come to my attention that the administration of President Nixon is in the process of making up its mind about the status of the Small Business Administration.

As an indication of the concern that any action affecting SBA's independence would bring in the Senate is the resolution presented today by the chairman of the Small Business Committee (Mr. BIBLE).

This, however, is only a preliminary indication of what would surely be a wider and deeper concern that would follow an attempt to put the SBA in a subordinate position inside the Department of Commerce or any other Department.

When the Select Committee on Small Business was established in the Senate in 1950, I was appointed as one of its original members, along with the Senator from Alabama (Mr. SPARKMAN) and the Senator from Minnesota, Vice President Humphrey. I have thus participated in the deliberations of the last 18 years, including those surrounding the enactment of the Small Business Act of 1953 and the Small Business Investment Act of 1958. I have witnessed the steady growth of small business institutions in this country, which Senator BIBLE has described. As a member and then chairman of the Committee on Finance, I have had further opportunities to consider many tax bills affecting small business and free enterprise and to make some contribution to the advancement of both through the Small Business Tax Amendments Act of 1958, the Revenue Reduction Act of 1964, and other small business tax legislation. During the 89th Congress, as assistant majority leader, I was involved when the Johnson administration carefully considered and then rejected the possibility of changing the stauts of the SBA.

It may be, therefore, that my observations would add something to the present discussion of this matter.

As I recall, the formality of Federal assistance to small business began in 1941 when a "Small Business Unit" was established in the Bureau of Foreign and Domestic Commerce of the U.S. Commerce Department and directed to study problems encountered by smaller firms because of their size and to plan a program of assistance. During the ensuing years of World War II, several of the ideas developed by the Commerce Department Unit were absorbed into the Smaller War Plants Corporation, which was created as a part of the War Production Board on June 11, 1942, to broaden small business participation in military procurement. The scope of these efforts was, of course, restricted to manufacturing and to defense work, until the SWPC was abolished by Executive order as of January 1946.[18a] In the early years of the Korean war, the small business functions were first made a part of the National Production Authority[19] and then, by unanimous congressional action, conferred upon the Defense Plants Administration in 1951.[20]

Footnotes at end of article.

Then in 1953 the Small Business Administration was established as the first inaepenaent agency of the Government specifically charged with the responsibility of fostering the interests of all of the small business community. So, it was not until the Small Business Act of 1953 and the Small Business Investment and Tax Acts of 1958 that small business institutions in this country reached the takeoff point.

I do not believe that anyone would seriously contend that small businesses do not have unique problems because of their size. President Eisenhower, who had a good record on small business, recognized this fact on several occasions with active efforts to identify these problems and attempts to resolve them. For instance, in setting up a Cabinet Committee on Small Business in May of 1956 the President stated, as part of his mandate:

"(T)he conditions of our modern economy are such that many small concerns confront substantial hindrances to their growth. It is my wish that the Federal Government keep fully abreast of developments that affect small business . . . To that end I am establishing (the said committee)."

In the first progress report of August 7, 1956, the Cabinet Committee made 14 recommendations for the betterment of small business conditions, many of which have since been enacted, including No. 8 which called for the continuation of the Small Business Administration as a permanent and independent agency of the Government.

Another example is that Small Business Administrator Wendell Barnes, writing in the winter of 1959, about the Small Business Investment Act of 1958, stated:

"This legislation is designed to fill a gap in small business financing. Equity capital and long-term loans for growth and development purposes have never been readily available to small business. Commercial banks furnish short and intermediate-term loans, but not venture capital and long-term credit. Existing institutions which could provide venture capital are not able to assist smaller firms, since the cost for public sale of securities is disproportionately high to small business issuers.

"The Small Business Administration, under its regular lending program, can assist small business concerns with intermediate-term loans, but cannot provide the long-term funds needed for growth and development. As a result, there has been no institutional source to which small business could turn to meet its capital needs. It is this so-called institutional gap which the Small Business Investment Act of 1958 is designed to fill."[21]

It seems to me that every administration over the years has recognized that small business has these special problems, and that it is especially vulnerable to economic reverses during periods of recession and tight money, and that small companies take longer to recover from the reverses than large national corporations.

One of the notable features of this history is the seeming absence of any outstanding accomplishments, or even decisive initiatives in behalf of small business by the Department of Commerce. After 1941, when the President or the Congress wished to move ahead in this field, they turned to special agencies, the White House Committee and, ultimately, as the SBA gained in stature, to that agency. The measure of stature which this little agency has attained was well summarized on the occasion of its 15th anniversary last year by several Members of this body.[22]

It is my feeling that SBA's greatest achievement has been to bring the Federal Government closer to many of the people of this country. I know that this has been the case in my own State of Louisiana. An outstanding example followed hurricane Betsy, when the SBA mobilized its resources and concentrated them throughout the State to deal with the widespread needs for loans to rebuild the damaged businesses and homes. I have been at numerous conferences on procurement contracting and subcontracting opportunities, or lease guarantees, on management assistance, and other programs developed by the Small Business Administration. These, as well as the funds from the loan programs, have brought countless small businesses of my State into the economic mainstream of this country. The assistance of SBA has been the difference, in many business situations, between success and failure, between ownership and going to work for another man.

These individual and aggregate accomplishments of SBA are not just a matter of the quantity of activity; they are matters of its quality—the willingness of the local and national representatives of SBA to extend their resources, their time, and their best thoughts for the benefit of the little businessman. These commitments do not arise out of organizational charts or logical syllogisms. They are intangibles, like self-respect or job satisfaction or independence. These intangible values are deep in the bones of the people of Louisiana and of this country.

The livelihood of one family out of 10 depends upon the welfare of a small business. As the Senator from Alaska (Mr. GRAVEL) has pointed out, about half of our working people would like to be in business for themselves if they could find a way to do so.

Over the years we have found a way for more than 200,000 of these people to make that American dream into a reality. They have come to the SBA as an agency which they feel can help them realize these goals. The business community of this country has come to think of the SBA as their agency. They feel that its independence strengthens their independence, and they are right.

To diminish the SBA in stature by making it a small part of any large department would, in my judgment, not only be a symbolic but an actual downgrading of small business values within the Government and throughout the country. An independent Small Business Administrator can talk with the President of the United States about small business needs. He can, and often does, testify before the Congress. He can devote his full time and energy and that of his staff and organization on what is best for the small businessman.

If SBA is made a part of the Department of Commerce, the Small Business Administrator can do only what the Secretary of Commerce tells him he can do, after waiting around to hear from the Secretary about whether he can do it or not.

I do not say this as any reflection upon the present Secretary of Commerce, Mr. Stans, or upon any previous Secretary. It is just naturally a part of the character of bureaucracy.

Mr. President, I have been disturbed by the statements of some people within the administration who do not seem to be familiar with our experience in these matters.

I have become concerned over actions transferring the coordination of certain programs, and the advisory councils on these minority business enterprise problems, from the SBA to the Department of Commerce. I cannot help but note that the council, and the subcommittee set up to deal with urban problems and minority business enterprise problems, does not include the Office of the Small Business Administrator. I believe that it would be in the public interest, as well as in the interest of the 5½ million small businessmen in this country, for those who are in control of the executive branch to do some further thinking about these problems.

In addition, I might suggest that there

be some visible encouragement to the Small Business Administration to carry forward its excellent record of achievement, to provide it with adequate funds for its programs, and to give it its rightful place in the councils of government. By taking steps in this direction, the new administration can assure that SBA can continue in the work that it has pioneered, and has done so well.

Mr. President, I hope that these recommendations may be of some value, and that this matter can be worked out rather than fought out. As in the past, the junior Senator from Louisiana is ready to follow either course where the interests of the small business community of my State and Nation are involved.

FOOTNOTES

[1] See article entitled "Foreign Investment Rules To Be Waived, etc." Wall Street Journal, March 6, 1969, page 3:2.

[2] See article entitled "Foreign Investment Rules To Be Waived, etc.," Wall Street Journal, March 6, 1969, page 3:2.

[3] "Status and Future of Small Business" hearings before the Select Committee on Small Business, 90th Congress, First Session. Part 2, Page 485.

[4] "Status and Future of Small Business" *loc cit*, Page 468.

[5] "Small Business Act of 1953," Sec. 2(a).

[6] "The 15th Anniversary of the Small Business Administration—A Milestone for Free Enterprise." Remarks on the Senate Floor by Senator Wayne Morse, CONGRESSIONAL RECORD, vol. 114, pt. 18, p. 24156. The report referred to was "Technical Innovation: Its Environment and Management," by the Panel on Invention and Innovation, Robert A. Charpie, Chairman, U.S. Department of Commerce, January 1967.

[7] "The 15th Anniversary of the SBA—A Milestone for Free Enterprise," remarks on the Senate floor by Senator Morse, CONGRESSIONAL RECORD, vol. 114, pt. 18, p. 24156.

[8] "SBA Plan to Aid Ghetto Merchants—New Program to Rely on Private Financing," by Paul G. Edwards, Washington Post, August 14, 1968.

[9] "SBA Plan, etc." Loc Cit; Aiding Black Capitalism, SBA Aims to Boost Negro Ownership of Ghetto Business by Backing More Bank loans," Newsweek Magazine, August 26, 1968.

[10] See "Assuring a Future for Small Business and the SBA," remarks on Senate floor by Senator Wayne Morse, February 25, 1966, CONGRESSIONAL RECORD, page 4143.

[11] See 18th Annual Report of the Select Committee on Small Business, Senate Report No. 1155, 90th Congress, second session, at page 20.

[12] 1967 Annual Report of the Small Business Administration, at page 17.

[13] See article entitled "Foreign Investment Rules To Be Waived," The Wall Street Journal, Mar. 6, 1969, page 3.

[14] See article entitled "Foreign Investment Rules to be Waived," the Wall Street Journal, ar. 6, 1969, page 3.

[15] "Can Small Business Survive," by Senator WILLIAM PROXMIRE, Regnery Co., 1964, p. 3.

[16] The Budget of the U.S. Government, fiscal year 1970, U.S. Government Printing Office, January 1969.

[17] "Small Business and SBA pass important milestones," remarks on the Senate floor by Senator Bartlett, CONGRESSIONAL RECORD, vol. 114, pt. 19, p. 25431.

[18] See for instance, "Changes in Administered and in Market Rates," research letter of Salomon Brothers & Hutzler, March 3, 1969.

[18a] Executive Order No. 9665, December 27, 1945.

[19] 64 Stat. 798 (1952).

[20] 65 Stat. 131 (1951).

[21] "What Government Efforts Are Being Made to Assist Small Business", by Wendell Barnes, Law and Contemporary Problems, winter, 1959, page 18.

[22] "The 15th Anniversary of the Small Business Administration—A Milestone for Free Enterprise," remarks on the Senate floor by Senator Wayne Morse, CONGRESSIONAL RECORD, vol. 114 pt. 18, p. 24156. "The Small Business Administration's 15 Years of Help to American Business," remarks by Senator BIBLE, CONGRESSIONAL RECORD, vol. 114, pt. 19, p. 24974. "Small Business and SBA Pass Important Milestones," remarks by Senator E. L. Bartlett, CONGRESSIONAL RECORD, vol. 114, pt. 19, p. 25431.

SMALL BUSINESS CAUGHT IN TRIPLE CREDIT SQUEEZE—ADMINISTRATION SHOULD RELEASE $170 MILLION IN SBA LOAN AUTHORITY NOW

Mr. BIBLE. Mr. President, I invite the attention of the Senate to the credit problems of small business firms, which are becoming increasingly acute.

Earlier this month, the Select Committee on Small Business, on which I serve as chairman, concluded preliminary hearings on the legislative oversight of the Small Business Administration.

Evidence developed in the course of this inquiry indicates that the executive branch has reduced the business loan program of the Small Business Administration by 58.48 percent for fiscal year 1969. In other words, for the 12 months ending on June 30 of this year, the White House has allowed SBA to loan only about two-fifths of the sums budgeted and approved by both Houses of Congress for this period. The amounts withheld are in three categories as follows:

SBA BUSINESS LOANS

[In millions of dollars]

Fiscal year 1969	Direct loan program	Immediate participation loans (SBA share)	Small business investment company program
Loan authorization approved by Congress	77	184.0	30.0
Loan authorization committed	18	94.1	8.7
Loan authority remaining on June 20, 1969	59	89.9	21.3
Total			170.2

The officials of the SBA testifying at our hearings agreed that if this remaining $170 million of loan authority is not released by the end of the fiscal year, it will lapse and therefore become permanently unavailable for any assistance to the 5½ million small business firms of this country.

In an effort to restore this loan money, I have, on behalf of the Small Business Committee, forwarded to the White House a letter urging the President and the Bureau of the Budget to take all steps necessary to assure that this loan authority is carried forward on the books for a period adequate to actually make it available to small business borrowers through the approval and disbursement of the loans attributable to this authority.

The urgent need for such action can be demonstrated by a brief review of what is happening in the private money markets.

STRINGENCY IN PRIVATE CREDIT MARKETS

As the Members of this body are aware, the prime bank interest rate has risen five times in the past 7 months, in the following sequence:

Increase in prime interest rate, December 1968 to date

	Percent
On Dec. 2, 1968, from 6.25 percent (6.0 percent for some banks), to	6.5
On Dec. 18, 1968, to	6.75
On Jan. 7, 1969, to	7.0
On Mar. 17, 1969, to	7.5
On June 10, 1969, to	8.5

The March increase to a then record high, in the words of one reporter: "received the silent approbation of Government officials who had warned Americans not to expect any relief soon from the highest interest rates in history in light of today's overheated economy." [1]

There followed, 2½ months later, the most recent and unprecedented jump to 8½ percent. To realize how unusual this full point increase was, it must be remembered that of the 33 changes in the prime rate since World War II, all of the shifts from 1945 to 1955 were of one-fourth point. After 1956 there were nine changes of one-half point. The June 10, 1969, rise has been the only change as large as 1 percent ever made in the prime rate, either up or down.[2]

Of course, other money market instruments have followed suit—and continue to escalate along with bank rates of interest.[3]

In the real world of finance, it is recognized that this prime rate states the basic cost of money to national corporations with the finest credit ratings. It thus tells only part of the story.

A factor not reflected is the "compensating balance." These are funds which borrowers are informally required to maintain on deposit in noninterest paying accounts at the lender's bank. The level of compensating balances is now about 20 percent, meaning that "the best corporate customers are paying an effective rate—of interest—of 10.6 percent." [4]

Another consideration is that relatively few loan applications are granted the "prime rate." Every month the Federal Reserve System publishes a tabulation of the interest rates on various sizes of loans. The most recent table, covering February 1969 when the prime rate was 7 percent, demonstrates that it is the big borrowers who get the premium rates, while small businesses must accept interest rates scaled up to 1½ points above the prime:

BANK RATES ON SHORT-TERM BUSINESS LOANS, FEBRUARY 1969

[Percentage distribution of dollar amounts]

Interest rate (percent per annum)	Size of loan				
	$1,000 to $9,000	$10,000 to $99,000	$100,000 to $499,000	$500,000 to $1,000,000	$1,000,000 and over
7 or less	16.3	18.9	28.4	38.1	59.2
7.01 to 7.49	13.6	13.1	24.8	33.2	24.6
7.5 to 7.99	30.8	36.1	25.1	15.8	10.7
8 to 8.49	26.8	19.6	13.6	8.8	3.9
8.5 and over	12.3	12.3	8.3	4.0	1.6
Total	[1] 100.0	100.0	[1] 100.0	[1] 100.0	100.0

[1] Numbers may not add due to rounding.

Source: Federal Reserve Bulletin, May 1969, table A31.

Not only are the large corporations favored with lower interest rates, but they can and, as the Wall Street Journal points out, have taken other self-protective measures.

"But for large segments of the economy, especially big corporations and financial institutions other than commercial banks, the credit squeeze is less painful than in 1966 . . . major national companies have thus far managed to insulate themselves in large degree against credit restraint. They are bidding aggressively for funds in the commercial paper market, in which they offer unsecured corporate promissory notes for short-term funds at high interest rates. In addition, following the 1966 crunch, the companies rushed to establish firm loan commitments with their banks, refunded short-term debt into long and accumulated assets that could quickly be turned into cash. These preparations have paid off in recent months." [5]

The Journal believed these factors explain "the easily overlooked fact that broad Government policies of stringent credit restraint hit various kinds of borrowers unevenly" and specifically weigh most heavily upon small businesses, governmental borrowers, and the housing industry—which is also predominantly composed of small firms.

With this background in the private sector, a massive cutback of 58½ percent in the public credit program of the SBA—which is intended to be the lender of last resort—puts the small business community between the jaws of a vise, crushing it from two directions.

The full impact of these forces, we fear, is immediately ahead.

Financial statistics show that the ratio of loans to bank deposits, a commonly accepted measure of credit pressures, stood at 71 percent in May 1969, significantly higher than during the tightest period of the 1966 credit shortage. Because of a new method in calculating required reserves at the end of the month, commercial banks have postponed the effect of tax borrowings and other recent credit demands until the end of this month so that "their problem is still ahead." [6]

Reports emanating from the International Monetary Conference of the American Bankers Association were that we may see still another increase in interest rates in the near future.[7]

INVESTMENT TAX CREDIT IN JEOPARDY

However, there is a third element on the horizon, the administration's proposal to repeal the investment tax credit. The Secretary of the Treasury and other administration witnesses have refused to consider a continuation of the credit for small business firms.

On May 20, a statement was presented to the Ways and Means Committee of the House of Representatives on behalf of myself, as chairman, and the Senator from New York (Mr. JAVITS), as ranking minority member of the Small Business Committee. We urged the committee to retain the investment tax credit for small business firms and farmers up to $25,000 in investment, with a cutoff at $1 million in income, so that large firms would not gain a windfall from a measure intended as relief for small business.

We pointed out the particular advantages of the tax credit to small and dynamic companies, which have the greatest needs for growth capital, and the entire free enterprise system which would flow from continuing the credit for small firms only. We also emphasized that there would be a "substantial revenue gain" from the adoption of our proposal, probably over $3 billion. This is so because truly small firms account for a very minor share of existing investment tax credits and not as high as is being claimed by some Treasury Department spokesmen.

On June 12, the Senator from Alabama (Mr. SPARKMAN) expressed his judgment that the investment tax credit should be retained at the $150,000 level of investment for balance of payments, among other compelling reasons. I was impressed by the Senator's historical research on the subject. It reminds us that the Treasury Department, in 1961, after considering a wide variety of tax devices for bringing us abreast of foreign governments in the tax field, chose the investment tax credit, "primarily because it increases the profitability of investment far more per dollar of revenue cost than any of the other alternatives." [8]

I hope that the House, the Committee on Finance, and the Senate, will consider these contentions as the current surtax legislation moves through the Congress.

THESE THREE FORCES ARE CONVERGING ON SMALL FIRMS

In the meantime, the prospects are that a combination of the three forces I have described: that is, record interest rates and intensifying stringency in the private money markets: the cutback of 58½ percent in the public SBA lending programs; and the proposed elimination of the investment tax credit for small business, will create intolerable financial pressures on smaller and independent businesses.

Under these circumstances, small firms which would ordinarily survive will go out of business. Others that would have been successful will be less so, or will experience reverses that may take years to overcome. Others which may escape setbacks will be denied their fair share of economic expansion. The system of free enterprise itself—ease of entry, competition, and growth of firms supplying new products and services—will be impaired. Opportunities for men of imagination and enterprise will be limited.

Mr. President, as one commentator has said, "money markets are reeling under the cumulative pressure of a tight-money policy that keeps squeezing, squeezing, squeezing." [9]

In my judgment, it is primarily small business that is getting caught in this triple squeeze. It seems apparent that the small and independent firms are absorbing more of their share of the restraints on the economy. I feel that they should not in the future continue to bear a disproportionate part of the sacrifices necessary to achieve the country's domestic and international goals.

I wonder if there are any other domestic programs which have been reduced by three-fifths in a single year. I am concerned that small business, because it is not strong enough to protect itself, has been singled out for the worst treatment.

The members of our committee share this concern. Many of us have discussed these matters in detail, and several, including the Senator from Alaska (Mr. GRAVEL), have made timely and important contributions to the committee's work in this area.

WHAT CAN BE DONE

Fortunately, there are steps which can be taken that will provide some measure of relief to hard-pressed small firms. One of these is to free the SBA loan authority already provided by the Congress. Accordingly, I have urged the White House, in the letter to President Nixon to which I referred, to take immediate action in order to release the $170.2 million in SBA loan authorizations, and to take all other action which may be necessary to assure that the funds are carried over on the books of the SBA until the actual loans can be approved and disbursed. Of course, if any further congressional action is needed to reach this result, we urge the President to inform us of this, with his recommendations. The important thing is to get the job done.

Mr. President, it seems unfortunately clear that small business is headed for a credit crisis. I hope the administration will do what it can to avoid it. The action we have suggested can be taken now to mitigate some of the most undesirable consequences.

I, therefore, call upon the administration to begin its relief to the small business community by releasing the full amount of the lending authority for the section 7(a) business loan programs and small business investment company lending, together with other steps which are necessary to implement this action which are administrative and, therefore, conveniently within the control of the executive department.

We on the Small Business Committee stand ready to cooperate in these matters and will continue to do all we can in the Senate to meet this gathering emergency with affirmative and effective action.

For the information of all who are concerned, I ask unanimous consent that our letter to the President requesting release of SBA loan authority for fiscal year 1969 be printed in the RECORD.

Following is the letter previously referred to.

FOOTNOTES

[1] "Interest Raised to 7½% High; Move Backed in U.S. Fight on Inflation," by Frank C. Porter, *Washington Post*, March 18, 1969, p. A1:8.

[2] "Comments on Credit," Salomon Brothers & Hutzler, June 20, 1969, p. 4.

[3] See for instance, "Bankers' Acceptances Rates Rise ⅛ Point; GMAC, Chrysler Unit Lift Fees on Paper," *Wall Street Journal*, June 23, 1969, p. 4:3.

[4] "How the Crunch Hits: Money Squeeze Falls on Various Borrowers With an Uneven Impact; States and Cities, Mortgage Seekers Suffer, but Big Concerns Don't Fare Badly," by Charles N. Stabler, *Wall Street Journal*, June 20, 1969, p. 1:6.

[5] "How the Crunch, etc.," *loc. cit.*

[6] "Comments on Credit," *loc. cit.* p. 1.

[7] "Another 'Prime' Rate Rise May Be Needed, U.S. Bankers, Meeting in Copenhagen, Say," by Richard F. Janssen, *Wall Street Journal*, June 17, 1969, p. 4:2.

[8] "The Investment Tax Credit—Its Relation to the Balance of Payments and Small Business." Remarks on the Senate floor by Senator Sparkman, June 12, 1969, pp. 15582–15583.

[9] "Money Market Crisis Could Hit This Month," by Peter S. Nagan, *Washington Post*, June 8, 1969, p. G3:3.

U.S. SENATE,
SELECT COMMITTEE
ON SMALL BUSINESS,
Washington, D.C., June 25, 1969.

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

DEAR MR. PRESIDENT: May I respectfully call your attention to several fact situations which I believe are placing the 5½ million small businessmen of this country in an economic straitjacket as a result of skyrocketing bank interest rates and the absence of direct loan money from the Small Business Administration.

The Senate Select Committee on Small Business, of which I have the honor to be Chairman, has just concluded the preliminary phase of hearings on the legislative oversight of the Small Business Administration. Many of our members have expressed deep concern at the drastic reductions in both the budget requests for the SBA loan programs and Executive action reducing loan commitments substantially below amounts approved by the Congress.

According to our Committee's calculations, there remain, within SBA Section a financial assistance and investment company programs, loan authorizations totaling more than $170 million which will expire if not released before the end of this fiscal year. The amounts are in three categories, as follows: for the direct business loan program

$59 million; for SBA's share of immediate participation loans $89.9 million; and for the SBIC lending program $21.3 million, for a total of $170.2 million.

It is my understanding that the release of such authority is for lending rather than spending, so that the budgetary "expenditure" features of these loans would be subject to an immediate offsetting repayment of principal and interest. Moreover, the amounts to be loaned are already in the SBA revolving fund so that no new "appropriations" would be required. Accordingly, expenditure controls would appear to be only a secondary consideration in this matter.

You will recall that last April the Department of Agriculture obtained release of $41 million for the Farmers Home Administration under similar conditions. I feel that small business is entitled to at least comparable treatment in government loan money availability in the face of credit needs of small business which, in the tightening money market, are becoming increasingly acute.

The prime bank rate has reached 8½% and other market instruments have followed suit, raising interest rates to their highest peaks in 100 years. Small, independent, and family businesses, which are less creditworthy than large national firms, customarily pay interest rates scaled upward from the prime.

With this background in the private sector, a cut in the public lending program of last resort in the order of 58.5% is creating a massive squeeze on our 5½ million small businessmen.

Therefore, immediate action is required if small business is not to bear a disproportionate part of the sacrifices necessary to curtail inflation. This may be done administratively, beginning with the release of the full $170.2 million in Congressionally approved loan authority for fiscal year 1969 SBA and SBIC loan programs. This should extend to all necessary technical and implementing measures, which will allow this authority to be carried over on the books until these small business loans can be approved and disbursed. I urge that you instruct the Budget Bureau before June 30 to take the administrative action which is conveniently within your control, and to recommend to Congress whatever additional action may be needed to preserve the budget authority I have described so that it will not become permanently unavailable to the SBA and the small business community.

Very respectfully,

ALAN BIBLE, *Chairman.*

SBA LOAN FUNDS SHOULD BE RELEASED BEFORE JUNE 30

Mr. GRAVEL. Mr. President, the legislative oversight hearings of the Select Committee on Small Business now in progress clearly indicate that the executive branch has been gradually tightening the noose around the loan programs of the Small Business Administration.

As a junior member of this distinguished committee, I strongly support its most recent efforts to obtain economic justice for smaller firms. I commend the chairman, the Senator from Nevada (Mr. BIBLE), for his decision to reconvene the hearings in mid-July so that we may continue our scrutiny over the kind of assistance available to smaller firms from the Small Business Administration, the Department of Commerce, and the Nixon administration as a whole.

At this time, as Senator BIBLE has pointed out, there are few reasons for optimism.

From the testimony at the committee's public hearings June 10–12, it appears that SBA's lending funds have been drastically reduced several times within the past year and a half, and that the direct business loan program of the agency is, in fact, at a complete standstill.

These cutbacks have been of two types; first, reduced requests for funds in the President's budget, and, second, action by the Budget Bureau to roll back lending authority below congressionally approved budget levels. The results have been the same in both cases—the permanent unavailability of loan funds which small businessmen need and Congress is willing to provide through SBA programs. In fact, the results of these executive actions have been cumulative.

Chairman BIBLE has asked for the details of each of these reductions—how they were made and how deeply they have cut into SBA's capacity to do its job. The complete statistics will become available next month, but we are now in a position to review the preliminary figures already on the public record.

It was startling for me to learn that, for this year and next year, the SBA business loan program will actually show a minus figure for net lending, as shown in the following table:

MAJOR CREDIT PROGRAMS—COMMERCE AND TRANSPORTATION

[In millions of dollars]

Agency and programs	Fiscal years			
	1967 actual	1968 actual	1969 estimate	1970 estimate
Small Business Administration	101	176	−16	−46

Source: The Budget of the U.S. Government, for fiscal years 1969 (p. 115) and 1970 (p. 111).

This means Mr. President, that more money is being taken out of the SBA loan program than is repaid in the principal and interest. For the 1970 fiscal year just ahead, the backup will amount to nearly $50 million, which I believe should be immediately available for relending.

The amounts committed in loans by the executive branch are far below the levels which Congress has been willing to appropriate and has actually appropriated during this period. For instance, for fiscal year 1968, Congress approved a loan authority budget level of $88.3 million for the direct loan program. Of this, the executive branch would only commit $54 million. For fiscal year 1969 the SBA should have been provided with at least the previous year's $88 million, plus the restoration of the $34.3 million withheld in 1968 together with some extra funds to grow on. In fact, however, they were only allowed to request budget authority for a far lower direct loan level for current year ending June 30, 1969. Congress approved $77 million for this fiscal year. But the agency was not even allowed to commit this much. The figure was cut all the way back to $18 million. That $18 million was the amount that finally became available for direct loans after all of the cutbacks.

SBA LENDING HAS BEEN VIRTUALLY HALTED

As a consequence SBA ran out of direct loan authority midway through the year. The agency was forced to issue a directive virtually closing down the direct and participation business loan program in the following language:

"As far as FA (financial assistance) programs are concerned the 7(a) direct and immediate participation program levels have been most affected. Our FY 1909 Congressional appropriations submission reflected $77 million for 7(a) direct loans and $184 million for the SBA share of the IP (immediate participation) loans. While the original estimate of the effect of the Congressional action for these loans was a FY 1969 level of $155 million, $41 million direct and $114 million IP (SBA share), further analysis of income and expenditures has resulted in reductions to $18 million for 7(a) direct and $94.1 million for IP.

"In view of our first half year allocations, rates of approval and expenditures, and existing backlog, it became necessary to cut off immediately further acceptance of 7(a) direct loan applications. At the same time it was deemed essential that we preserve for the balance of the fiscal year as much of our 7(a) IP program as possible.

"However, with $52.4 million already allocated for 7(a) IP loans, only $41.7 million (SBA share) will be available for the last six months of the fiscal year; less than $7 million per month nationally."

The cutbacks in the direct loan authority by the executive branch left an unused $59 million in congressionally authorized budget loan level for fiscal year 1969. This authority can be turned over to the Small Business Administration provided action is taken before June 30. As long as the authority is released by that date it will not lapse and will be available for present or future use in the direct loan and participation programs. If this loan authority is not released, it will revert to the U.S. Treasury and will no longer be available for use in any SBA lending program.

Mr. President, anyone who has been reading the newspapers these days is aware of the compelling reasons of taking such action.

SMALL BUSINESS IS NOT KEEPING PACE

Although the economy has been expanding at a rapid rate, small firms have been precluded from gaining their fair share of these advances by the shortage and expense of capital. Defense procurement has flown up and away because of Vietnam but the small business share of military purchases has declined from 21.8 percent in 1966 to 16 percent in the last half of 1968. Corporate profits have likewise soared 32.8 percent, or almost one-third between 1964 and the beginning of 1969, but 50 giant companies at the summit of our economy account for 39.8 percent of all industry profits, according to the annual Fortune 500 survey.

A comparison among some of the advances in national income, with particular attention to professional firms, farm businesses, and other proprietorships which are predominantly small business, is contained in the following table:

Advances from 1964 to the beginning of 1969

[In billions of dollars]

	Percent
Proprietors' income:	
Business and professional	+18.9
Farm	+24.3
Corporate profits (after taxes)	+32.8
Gross national product	+36.1
Wages and salaries	+38.1

Source: "Federal Reserve Bulletin," May 1969, Tables A66 and A67.

It thus appears to me that the income of smaller and independent businessmen and farmers in this country are lagging behind most of the other indicators. One of the leading disabilities of the small businessman in this regard has been the steep climb, since 1965, of the prime interest rate to 8½ percent. Other forms of commercial financing have risen accordingly. As dizzy as the present peaks are, there have been newspaper reports that interest rates may even go higher before they turn down. In addition to this, the Federal Reserve Board, as a prudent anti-inflationary measure, is "reducing liquidity" in our financial system, which boils down to the fact that banks will end up with less money to loan at higher prices.

As the chairman of our committee has said:

"It has been acknowledged that new and small firms are normally under capitalized. The small local, or family firm, or any company with a new product is simply not in a position to compete for credit with a huge national corporation."

This is the background in the private money market against which the massive cutbacks in the public loan program of the Small Business Administration should be viewed. I can think of no reason why small and independent businesses should be paying a disproportionate price for the Nation's involvement in Vietnam while the giant corporations net record profits, which are not even subject to an excess profits tax such as existed during all of the major armed conflicts of this century.

As I have said, the Small Business Committee will reexamine the Small Business Administration and the Department of Commerce with respect to these matters during July. We will be collecting further information upon which to base the committee's ultimate findings and recommendations.

ACTION SHOULD BE TAKEN

In the meantime, there is action which can be taken by the executive branch which can provide substantial relief. That is the release of the $170.2 million in loan authority which the executive branch has impounded for fiscal year 1969, and which will lapse if it is not released by the end of this month. There is a precedent for such a decision in the release of $41 million for Farmers Home Administration loans in April of this year. It seems to me that the small businessmen of this country are entitled to comparable treatment.

I therefore join in the call upon the Bureau of the Budget and President Nixon to release this $170.2 million SBA loan authority before June 30, including the $59 million for direct loans; the $89.9 million representing the SBA share of IP—immediate participation—loans and $21.3 million representing loan assistance to small business investment companies. In other words, I am asking for the release of the full $170.2 million for all SBA programs which the Congress approved for these programs before the end of fiscal year 1969. I understand that Chairman BIBLE has officially made this request in a recent letter to the White House, and I wish to give that recommendation my unqualified endorsement.

As the committee investigation proceeds, I shall continue to do all that I can to support a rebuilding of the SBA direct loan program as well as other SBA and Federal programs which can benefit the small business firms of Alaska and the rest of the Nation in the months and years ahead.

SEPTEMBER 22, 1969.

Hon. HILARY J. SANDOVAL, Jr.,
Administrator, Small Business Administration, Washington, D.C.

DEAR MR. SANDOVAL: As you know, our Senate Committees have been concerned over the years with making the results of taxpayer-financed research and development available to small and independent firms by way of technology transfer.

Through the Subcommittee on Science and Technology of the Select Committee on Small Business; the Subcommittee on Government Research of the Committee on Government Operations; and the Small Business Subcommittee of the Senate Banking and Currency Committee, considerable initiative has been taken in developing programs of technology transfer, which are now in their infancy.

Two general reports have been published: "Policy Planning for Technology Transfer" in 1967 and "The Prospects for Technology Transfer" in 1968. The latter study is presently being used as a model for consideration of these matters in the Executive Branch by the Committee on Scientific and Technical Information.

As you are aware, the public investment made by the Federal Government on research and development has risen to nearly $150 billion. The recent Apollo and Mariner voyages will add further to the reservoir of scientific and technical information in the public domain which we hope will be made increasingly accessible to all U.S. firms, and particularly small business.

At this point, we believe it would be appropriate to have a report of the procedures, status, and results of the technology transfer program within the Small Business Administration and your future plans for pursuing the goal of technology transfer which is of such importance to the small business community. In particular, it would be helpful to know the staff and budget devoted to these purposes in fiscal years 1969 and 1970, the accomplishments of existing programs, the problems encountered, and how it is proposed to resolve such difficulties.

This information will be helpful to us in assessing the possibilities for future activity in this area.

With thanks for your cooperation in this as in other matters, and with kindest regards,

Sincerely,

JENNINGS RANDOLPH,
Chairman, Subcommittee on Science and Technology, Small Business Committee.

FRED R. HARRIS,
Chairman, Subcommittee on Government Research, Committee on Government Operations.

THOMAS J. MCINTYRE,
Chairman, Subcommittee on Small Business, Banking and Currency Committee.

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

WITHDRAWAL FROM VIETNAM

Mr. MANSFIELD. Mr. President, I have come across a column by Joseph C. Harsch entitled "How Fast?" having to do with the situation in Vietnam and the practical and realistic difficulties in which the President of the United States finds himself. The article reads, in part:

There can be no clear or sure answer.

That is, to the question of withdrawal.

It has to be a variable. It must depend on the capacity of the South Vietnam armed forces to provide the necessary security for the withdrawal. And that certainly does mean more time than either the President or the "moratorium" marchers would like to leave.

Mr. President, I ask unanimous consent that this column and a very worthwhile editorial by Hedley Donovan, entitled "Winding Down the War on Our Own," which explains realistically the situation in which the President and we find ourselves in Vietnam, be printed in the RECORD.

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

[From the Christian Science Monitor, Oct. 21, 1969]

HOW FAST?

(By Joseph C. Harsch)

WASHINGTON.—In one sense the issue between President Nixon and the peace demonstrators is now narrow. Everybody (almost) wants peace. Everybody (almost) agrees that American combat forces should be withdrawn. What remains as an issue is only the speed of the withdrawal.

If Mr. Nixon would even fix a specific date, much of the opposition to him would disappear. If he fixed an early date, most of it would disappear.

At this point there are some very real and serious military factors.

ABSTRACT THEORY

In abstract theory it would be physically possible to pull the entire half-million men out in a month.

By commandeering cruise liners from the sea and passenger air-liners from the sky a mass lift in 30 days could be done.

Obviously, no sensible person would dream of doing the withdrawal that way. The equipment could not be taken out at any such pace. To leave the equipment behind in a crash withdrawal program would probably amount, in effect, to giving most of it, perhaps all, to the Viet Cong and North Vietnam forces.

The essential military point is that a sudden withdrawal could all too easily degenerate into a fighting withdrawal.

The present Nixon plan calls for the gradual withdrawal of United States combat forces, leaving air support, communications, and supply until the last.

But leaving perhaps a quarter of a million Americans of those types in Vietnam without American infantry protection could be extremely dangerous. It would be possible only if the South Vietnam Army could be relied upon to provide the necessary security for the noncombat people.

POLITICAL CHAOS

And time is an essential element in the capacity of the South Vietnam Army to provide that protection. A sudden withdrawal would almost certainly mean political chaos in Saigon followed by the breakup of the South Vietnam armed forces. The retreat from the Yalu during the Korean war is an example of what could all too easily happen under such circumstances. Zenophon's fighting retreat from Asia Minor is another. Mr. Nixon, understandably, dare not order the kind of withdrawal program which could lead to a Dunkirk.

So how fast can the withdrawal be managed without running the serious risk of a Dunkirk?

There can be no clear or sure answer. It has to be a variable. It must depend on the capacity of the South Vietnam armed forces to provide the necessary security for the withdrawal. And that certainly does mean more time than either the President or the "moratorium" marchers would like to leave.

THEORETICAL MERIT

The moratorium deadline is the end of 1970. Mr. Nixon would be delighted to get every last American out of Vietnam by November of 1970. Such a deadline would be manna from heaven for every Republican running for reelection that month.

But a November, 1970, deadline would probably not be safe.

What then could Mr. Nixon do with safety to American troops beyond what he has already done?

One useful idea is provided by Human Events, the right-wing information sheet. It says he should send home all conscripts and use only volunteers in Vietnam. The idea has great theoretical merit, and would be welcome in many quarters at the Pentagon, if enough time is provided. It would probably take most of a year to do it safely. You can't risk the breakup of mixed volunteer-conscript units at the front.

Another measure would be to announce a deadline for final withdrawal at a safe time in the future. December, 1970, is probably not safe. November of 1972 ought to be safe.

WINDING DOWN THE WAR ON OUR OWN

(By Hedley Donovan)

Richard Nixon has said he does not propose to be the first American President to lose a war. He might, however, if he and we are lucky, become the third President to set-

tie for a tie. The others were James Madison (War of 1812) and Dwight Eisenhower (Korea), perfectly respectable company for any President to keep.

The President was strangely tense and rigid in his advance comments on the Vietnam Moratorium (he would "under no circumstances . . . be affected whatever"). Many of the Oct. 15 people, to be sure, would not be appeased by anything Mr. Nixon could do, short of immediate and total withdrawal. Yet Mr. Nixon's Vietnam policy is a great deal more realistic and humane than he is getting credit for, in part because he and his administration explain it so badly, in part because criticism of the war has reached so high an emotional pitch.

The President has in fact begun a unilateral withdrawal of the bulk of American forces from Vietnam.

The President has in fact reined in his commanders so closely that in some areas of Vietnam a kind of unilateral cease-fire prevails.

What else should he do? Nixon's acts of de-escalation go further than many Vietnam dissenters were demanding only a year ago. But the point is, of course, that now *is* a year later. LIFE believes there is more the President could be doing to further the prospects for a tolerable outcome in Vietnam: in his dealings with his own men in Washington, with the Saigon government, with Hanoi, and in his dealings with U.S. opinion, which is his most critical negotiation of all.

To start with, we propose that the policymakers of the Nixon administration begin treating with U.S. opinion *in its own right*, not as though its chief importance lay in the interpretation Hanoi places upon it. Mr. Nixon, much to his credit, has never since his inauguration put public blame on the Johnson administration for his Vietnam burden. But he has allowed his administration sometimes to sound like the dug-in L.B.J., equating the Vietnam dissent with aid and comfort to the enemy.

It is a profound question how—and whether—a democracy should conduct a war with only, say 60% of public opinion in support. Our Constitution specifies no fewer than nine matters, none as serious as a war, which require a two-thirds vote for congressional approval. When we are in a war which has never had explicit congressional sanction, and never even been legally "declared," being fought in good part by draftees (chosen by a fantastically capricious system), a war which many (LIFE included) have thought important to win but almost nobody has ever claimed was imperative, and when this war has dragged on inconclusively for years, the wonder is not that there is protest but that there is so much willingness to serve and sacrifice. Mr. Nixon, and Mr. Agnew, too, would do better to marvel at the stability and patience of the nation they are privileged to lead, rather than purse lips and wonder how Hanoi is reading our students today.

Once we start thinking of American attitudes about Vietnam as important for their own sake, not as mirror messages being flashed from here to Hanoi and back, several things fall into place.

We should stop expecting anything out of the Paris peace talks. In recent months the North Vietnamese have not budged one centimeter. (How could a Harvard demonstration make them *more* intransigent?) We should proceed on the assumption there will be no formal settlement with the North. We should of course keep our delegation in Paris, talking and listening. There are some things the U.S. government should be saying to America itself, to South Vietnam and to Southeast Asia that might conceivably interest Hanoi. If so, fine; but if not, our policies must proceed for our own good reasons.

We should be withdrawing our troops, in Hubert Humphrey's good word, "systematically." This means a fairly firm presidential timetable, which no doubt exists. The President is right to resist any public promise to be totally out of Vietnam by some early, exact date, despite the 57% Gallup Poll in favor of Senator Goodell's resolution committing us to be gone by the end of 1970. But Mr. Nixon should conquer the press-conference reflex that leads him to try to outbid the Goodells and Clark Cliffords, suggesting that such critics interfere with his hopes of getting out *sooner*. We have little enough bargaining power vis-à-vis Hanoi since it is so clear that we are disengaging, and since it is unthinkable that we could re-escalate, short of some monstrous provocation.

The American public, we would guess, is willing to support 12 to 18, maybe at most 24, more months of military effort in Vietnam if withdrawals are in progress and if casualties and costs are declining steadily.

The President has already ordered withdrawals of 60,000 men from our peak strength of 540,000, and there are hints that he may announce another cut before the end of the year. Civilians need not be too diffident about entering the numbers game, for it is essentially an appraisal of American sentiment rather than a technical military judgment. For our part, we hope that the President is aiming at a force no bigger than 150,000 by mid-1971. (We still keep 50,000 men in Korea, 16 years after the truce.) Whether there should be such a rear guard at all (chiefly in logistics and air support) could indeed be a subject of negotiation, and is not a point to be given away for nothing.

The hope is that as we withdraw the South Veitnamese army will be improving fast enough to take over more and more of the fighting and the South Vietnamese government will be broadening its support. It may just work. We should press Thieu and Ky on bureaucratic corruption, land reform and political imprisonments.

We should continue shifting the U.S. military effort away from the "maximum pressure" concept toward population protection and training of the ARVN. The new policy has contributed to a marked reduction of American casualties, now at their lowest level in nearly three years. Secretary Rogers thinks the enemy, however unyielding at Paris, has carried out a "very significant" de-escalation in the field, cutting down troop infiltration from the North by as much as two thirds Military brass in Washington and Saigon continue the somewhat ritualistic warning that this may just be the lull before a new offensive. Mr. Nixon should decide whether he agrees with his Secretary of State, and if so, perhaps hasten his next troop withdrawal announcement.

The President has promised a major Vietnam speech for November 3. It is none too soon. We hope he will redefine what is still at stake for us in Vietnam. We hope he will offer a generous vision of a long-term peacetime American interest in the development of Southeast Asia and friendship for all its peoples. (What an irony that we should be on fairly good terms with Communist Russia, talking cautiously about a possible thaw in relations with Communist China, and still so bitterly embroiled with one of the smallest Communist states.)

It will take even more steadiness than the American people have already shown if they are to persist through this winding-down phase of the war and bear further casualties and costs for modest objectives. In this difficult undertaking, the President deserves our sympathy and support, and the country deserves visible, candid and convincing leadership.

PROTECTIVE REACTION IN VIETNAM

Mr. MANSFIELD. Mr. President, there seems to be some difficulty interpreting what Secretaries Laird and Rogers have said about the new military strategy of "protective reaction" ordered last July and put into effect last August. In my opinion, this is a decided shift away from the old "search and destroy" and "maximum pressure" tactics which were employed in the last administration and in the first months of the present administration. To me, the change means we have moved a long distance in the direction of a "cease-fire and stand fast" policy. It is my understanding of the new strategy of "protective reaction" that U.S. forces will fire only when a threat that they will be fired on is developing and that they remain prepared at all times to take whatever action may be necessary to repel any attack which should be in the offing.

It has been charged that this approach would expose U.S. forces to increased casualties and would hand an initiative to enemy forces. It would be my belief that the opposite is the result; that casualties would be decreased as, in fact, they have been reduced since the new strategy has been in effect. As far as the initiative is concerned, U.S. forces remain on guard at all times and take whatever actions are necessary to forestall any attack which might be in the offing but fire only when there is a threat that they will be fired on.

This interpretation of "protective reaction" would appear to be consistent with what a military spokesman in Washington has said:

> Our defense activities include allied reconnaissance in force, sweeps and extensive small patrol operations designed to keep the enemy off-balance and to prevent enemy attacks.

Or, even more specifically, what another military officer at the Pentagon is quoted as saying:

> We're not terribly far from such a condition today (a "de facto cease-fire"). The enemy has pulled back to sanctuaries throughout Vietnam. Infiltration is way down. We're sending out lots of small patrols but we're no longer crashing through the bush with large units spoiling for a fight. Our concentration is on pacification and on helping the Vietnamese take over more of the war. Our casualties keep falling, week by week.

This is certainly a far cry from the tactics of "maximum pressure" and "search and destroy" and to me is an indication that the President is moving toward a cease-fire and standfast policy.

I commend the Secretary of Defense for announcing the policy; the Secretary of State for emphasizing it; and the President for initiating this new and highly significant tactic.

Mr. President, in the Washington Star of October 11, just a week or so ago, appeared an article by Mr. Orr Kelly. The article has to do with a press conference held by Brig. Gen. John W. Barnes, former commander of the 173d Airborne

Brigade in South Vietnam's Binh Dinh Province. I believe this was the general referred to on Thursday, 2 weeks ago tomorrow, at Secretary Laird's press conference, when he announced the new "protective reaction" policy.

General Barnes, until recently, was in command of one of the most heavily Communist-infested areas in the country. He told newsmen he gave his 7,000 troopers strict orders on their pacification experiment begun on April 15. General Barnes' 7,000 troopers were ordered to fire only at uniformed enemy soldiers, or men who were clearly not friendly forces and persons engaged in hostile acts such as throwing a hand grenade.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled "Toward a Cease-Fire," which was published in the Baltimore Sun of October 21, 1969.

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

TOWARD A CEASE-FIRE

Reports from Washington that President Nixon is considering a proposal for a cease-fire in Vietnam are encouraging, as an indication of a continuing search for ways to scale down the scope and intensity of the war. The American efforts in this direction—steps which include the cessation of the bombing in North Vietnam and revision of the "search and destroy" tactics—have undoubtedly been major factors in the general reduction in the so-called level of violence and, more important, in the decrease in battle casualties. A cease-fire proposal could properly be made in line with these steps and in line with the measures being taken to withdraw substantial numbers of American soldiers from South Vietnam.

A proposal of this nature, first of all, would underscore the United States policy, and hope, of bringing the war to an end as soon as possible. A standstill cease-fire, in which all troops would remain in place with combat operations suspended, could possibly open the door to the negotiations for a political settlement which the United States has been seeking, with little or no response, so far as the record shows, from North Vietnam.

But even if serious peace negotiations did not develop, an American initiative toward a cease-fire could point to another way in which the war may be ended; that is, by a steady dwindling of fighting until an undeclared and unnegotiated peace is established. For several years now, some authorities have thought that the war may well be brought to an end in this manner, rather than through an openly negotiated settlement.

Mr. Nixon has strong support in this country now, we believe, for the measures he is taking to control and decrease the level of the war. It seems clear that the American people not only endorse these measures but are urging the President to push on with additional steps. The simple fact is that it becomes more and more difficult to justify continued battle deaths, even when the number of casualties has been greatly reduced, after the major decision has been taken to begin withdrawing American troops. This, we suggest, was uppermost in the minds of many of the Americans who took part last week in the moratorium demonstrations.

Mr. McGOVERN subsequently said. Mr. President, I wish to associate myself with the remarks of the distinguished majority leader with reference to his statement that we are, in fact, moving into a cease-fire. The Senator from Montana (Mr. MANSFIELD) has been advocating that position for several years, both under the previous administration and under this administration. I hope that is the direction in which we are moving.

STATESMANSHIP BY SENATOR MANSFIELD

Mr. SCOTT. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled "Statesmanship by Senator MANSFIELD," which was published in the Philadelphia Inquirer this morning. The editorial is very praiseworthy of the positions taken by the distinguished majority leader and the Senator from Arkansas (Mr. FULBRIGHT). While I have not cleared this matter with the majority leader, I would like to have it printed in the RECORD at this point.

The PRESIDENT pro tempore. In light of the Senator's statement, the Chair is quite certain the majority leader would impose no objection. Without objection, it is so ordered.

The editorial, ordered to be printed in the RECORD, is as follows:

STATESMANSHIP BY SENATOR MANSFIELD

As Democratic Majority Leader in the Senate, and a long-time advocate of peace in Vietnam, Mike Mansfield took the Senate floor to deliver a statesmanlike address that ought to be a keynote for Americans, whatever their party, who genuinely seek an end to the war.

Noting that the Nixon Administration is pursuing a new policy in Vietnam, dedicated to de-escalating the fighting and reducing casualties and bringing U.S. troops home, the senator from Montana declared: "I would like to see the people of this nation get behind President Nixon. . . . I want to say as a Democrat that it will be my intention to support the President." He went on to express his belief that strong public support for Mr. Nixon at this critical juncture in peace efforts would expedite a "responsible settlement" in Vietnam.

There is great wisdom as well as high statesmanship in Senator Mansfield's remarks. At this time, of all times, with the President of the United States initiating bold steps toward a reduction of the fighting while engaging in delicate diplomatic maneuvers to hasten a settlement, the American people should stand united, rather than divided, and should demonstrate support, instead of protest, for the U.S. peace offensive that is already under way and is being accelerated.

Chairman J. W. Fulbright of the Senate Foreign Relations Committee, one of the most outspoken war critics, has acted sensibly in following Senator Mansfield's lead by postponing committee hearings on Vietnam that had been scheduled to begin next week. They will be delayed at least until after President Nixon's address to the nation on November 3, when he is to discuss the Vietnam situation.

There are, of course, some people in this country who claim to be for peace but really seek a Communist victory. It can be expected that they will continue to fan the flames of dissension wherever they can. Other Americans, those who want to act responsibly in the cause of peace, ought to rally to the call of Senator Mansfield.

SPEECH BY VICE PRESIDENT AGNEW IN NEW ORLEANS

Mr. McGOVERN. Mr. President, Sunday's Republican fundraising speech in New Orleans by Vice President SPIRO AGNEW is apparently designed to widen both the generation gap and the credibility gap.

The Vice President has referred to last week's peace efforts as "national masochism"—"an emotional purgative"—as "the work of impudent snobs." He has said that those who call for an end to the war are undercutting "the foreign policy of the President"—that we "prefer to side with an enemy aggressor rather than stand by this free nation."

In a sweeping indictment of this generation of college students, Mr. AGNEW said:

> Education is being redefined at the demand of the uneducated to suit the ideas of the uneducated. The student now goes to college to proclaim rather than to learn.

We are left to wonder what the Vice President is doing if not proclaiming. It has occurred to no one to charge him with excessive learning.

I do charge him with making a deliberate and cynical effort to arouse contempt for the college students of America. He seeks to discredit the patriotism of those of us—young and old alike—who have opposed the war in Vietnam. Is there any doubt that he does this with the approval of the President?

Frankly, I am puzzled by the Vice President. We urge our young people to keep their dissent peaceful and nonviolent; yet, when they do so their patriotism is impugned by the second highest official in the land. That is the kind of official attitude which breeds frustration, anger, and violence.

Mr. Agnew's attitude toward the peace effort and especially the moratorium demonstrates ignorance, both of the struggle in Vietnam and the political process in America.

The moratorium of last week was carefully planned by some of the most patriotic and thoughtful citizens in our land. It was directed by young people and older citizens of every walk of life who love this country enough to call for an end to our involvement in a foolish war—a war that may serve the interest of the Communists, but not of America.

After 5 years of soul-searching debate, we are now told by Mr. Agnew that we should listen in respectful silence while he pontificates.

Before the moratorium even took place, he referred to it as "absurd." What is "absurd" is the thought of SPIRO AGNEW enunciating policy for the most powerful nation in the modern world.

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

Mr. McGOVERN. Mr. President, I ask unanimous consent that I may proceed for an additional 5 minutes.

Mr. FULBRIGHT. Mr. President, reserving the right to object——

The PRESIDENT pro tempore. The Senator from Arkansas reserves the right to object.

Mr. FULBRIGHT. I merely wish to inquire of the Senator. I have two matters to present. I wonder if the Senator would mind. I do not disagree with what he is saying. These are two executive matters. If I could have 3 or 4 minutes I could dispose of them.

Mr. McGOVERN. I will be finished in that length of time. I would be glad to yield to the Senator, but I am going to a luncheon.

Mr. FULBRIGHT. I do not object.

The PRESIDENT pro tempore. There being no objection, the Senator from South Dakota is recognized for an additional 5 minutes.

Mr. McGOVERN. Mr. President, if Mr. AGNEW's speech is a measure of this administration's mental and moral sensitivity, God help America.

He talks of "the spirit of national masochism" in the peace effort; but masochism finds its crudest expression in the sacrifice of our youth to the high priests of war.

He talks of "the dangerous oversimplification" of the war; but the most "dangerous oversimplification" is the confusion of General Thieu's corrupt military dictatorship with the defense of freedom and American honor.

He scorns the present generation of American youth for not quietly swallowing the policies of our rulers.

But, thank God, the youth of America—with all their faults—are not about to swallow the old schemes of forced killing in foreign crusades that destroy both us and others in the name of national honor.

The Vice President talks of our refusal to disassociate the peace effort from Hanoi's expressions. But we call for an end to American involvement in Vietnam, not because of what Hanoi thinks, or Saigon or Paris—but because we want America to assert her own national interest. It is the administration, not the peace advocates, that has said our policy in Vietnam will be determined by Hanoi, Saigon, and Paris rather than by the concerns of the American people.

I participated without question as a combat pilot in World War II because I believed then and I believe now that this was the patriotic and proper role for me to play. I oppose our involvement in the struggle of the Vietnamese people with equal patriotism and propriety. If the Vice President cannot by now see the vast difference between these two challenges, he is not capable of making judgments for himself—let alone trying to instruct the youth of the Nation.

It is ironical that on the front page of Monday's Washington Post, where we read of Mr. AGNEW's attack on the youth of America, we also learn in another news story of secret American military operations in Laos and elsewhere in Asia.

The Senator from Missouri (Mr. SYMINGTON), who is conducting an invaluable investigation of these matters, is quoted as saying of Laos:

> In past years, high government officials have wrapped activities there in a cloak of secrecy, keeping details not only of policy but also of implementation of that policy hidden even from those of us in the legislative branch who have responsibilities in the foreign policy and military fields.

Presumably, Mr. AGNEW would like us to accept these secret preparations and commitments to new battlefronts without question. Then, as old wars continue and new wars begin, he would call on the youth of America to follow the lines of Tennyson:

> Theirs not to reason why; theirs but to do and die.

Presumably, he prefers acquiescence to the policies emanating from on high, including those policies formed without consultation or debate involving the elected representation of the American people.

But that is not the course of American democracy, and I for one will have no more of it. I do not believe in referring to American foreign policy as though it were the private domain of the President without reference to the thoughtful concern of other citizens of the Nation.

I believe that increasing numbers of Americans—young and old—of every political persuasion in every walk of life—are determined to have a voice in those issues that affect their lives. That is what freedom is all about. So let us not fight so blindly to preserve General Thieu in Saigon that we sacrifice freedom and dignity in our own great but deeply troubled land.

Mr. President, I ask unanimous consent that two excellent editorials, one from the Washington Post of October 21, 1969, and one from the Daily Republic of my hometown, Mitchell, S. Dak., be printed in the RECORD.

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

[From the Washington (D.C.) Post, Oct. 21, 1969]

MR. AGNEW: NO LONGER A LAUGHING MATTER

By writ and by tradition the vice-presidency is an office in which there is practically nothing to do. The trick of course lies in doing it well—in standing back and learning, in readying oneself for any emergency, in supporting the President backstairs when one can and in doing nothing that goes against his interest. Clearly, then, in the case of Vice President Agnew we are faced with one of two possibilities. One is that Mr. Agnew with his ten-month roadshow of gaffes, goofs, and raw demagoguery hasn't caught on to his job. The other is that he has—that Mr. Nixon is authorizing and/or approving the Vice President's public dicta as part of some elaborate (and foredoomed) political game. Neither is particularly reassuring, but if the latter is the case, we should be told.

In New Orleans on Sunday the Vice President made this necessary with his comments on the war and on the motivations of those involved in last week's Vietnam moratorium.

"If the moratorium had any use whatever, it served as an emotional purgative for those who feel the need to cleanse themselves of their lack of ability to offer a constructive solution to the problem."

And again:

"A spirit of national masochism prevails, encouraged by an effete corps of impudent snobs who characterize themselves as intellectuals. It is in this setting of dangerous oversimplification that the war in Vietnam achieves its greatest distortion."

And again:

"Great patriots of past generations would find it difficult to believe that Americans would ever doubt the validity of America's resolve to protect free men from totalitarian attack. Yet today we see those among us who prefer to side with an enemy aggressor rather than stand by this free nation."

Mr. Agnew also let it be known that those who participated in the moratorium were guilty of the crime of supporting "a massive public outpouring of sentiment against the foreign policy of the President of the United States" and of not caring to "disassociate themselves from the objective enunicated by the enemy in Hanoi."

Now what is interesting in all this is certainly not the Vice President's line of thought or his ham-handed effort to discredit the motivation and question the loyalty of a large and respectable part of the political community: we have seen and heard all that before. It is not even to the main point to observe that Mr. Agnew has outdone himself in assuring the hostility of a part of the electorate Mr. Nixon has some interest in calming down. Nor does the subject upon which Mr. Agnew chose to discourse with such vehemence permit his remarks to be received with the national giggle they so frequently inspire. This time around the only question worth asking is what the President thought of what Mr. Agnew said.

Mr. Nixon is engaged in a highly chancy and complicated maneuver to end the war in Vietnam in a way which will not do utter violence to this country's interests abroad and which will not result in a terrible rending of the social fabric at home—in a right-to-middle uprising based on charges of betrayal and sell-out. At least that is what you can hear any day of the week from those behind the scenes in his administration who argue the case for his method of disengagement and who beg understanding of it. Simultaneously we witness Vice President Agnew out formenting precisely the kinds of emotions others in the White House profess to fear and claim their strategy is designed in large measure to avoid. It really will not do for Mr. Ziegler, the White House spokesman, merely to indicate that vice presidential speeches for party gatherings are not cleared in advance by the White House. If Mr. Nixon wishes to be in any way convincing in this matter or to preserve the notion that he is acting in good faith, then he must repudiate the excesses of his Vice President or silence him or—ideally—do both.

[From the Mitchell (S. Dak.) Daily Republic, Oct. 18, 1969]

THE MORATORIUM

Despite his advance advisory that he would not be affected by last Wednesday's nationwide Vietnam Moratorium, President Richard M. Nixon will be foolish to ignore the success of the anti-war demonstration.

As has been pointed out repeatedly since the moratorium, this was a most surprising display of widespread sentiment for disengagement from the Vietnam debacle. Surprising because of the broad spectrum of national life represented in the protest. Surprising because of the extremely low incidence of illegal actions by demonstrators. Surprising because of its lack of partisan political overtones.

The Vietnam Moratorium was initiated by a small group of concerned young people, but participation included people of all ages, of all walks of life, of all religions, of all races, of all political persuasions. Hundreds of thousands of them turned out—even in bad weather in some areas—to demonstrate their desire for the United States to come to terms with the realities of the Vietnam situation: there can be no peaceful settlement in Vietnam so long as this country insists on supporting a South Vietnam regime that cannot and will not serve our interests, nor the interests of the population they govern.

Those who are crying that U.S. citizens' anti-war activities are giving aid and comfort to Hanoi and interfering with peace ne-

gotiations in Paris are begging the question. From the beginning, it has been crystal clear that no peace treaty can be achieved on the basis of American dictates and the Thieu-Ky refusal to recognize the National Liberation Front. Unless the U.S. withdraws from military participation in this Vietnam civil war, a solution will never be reached.

President Nixon has committed his Administration to end the war. If he intends to carry out this commitment, he cannot but be affected by public sentiment expressed by the Vietnam Moratorium. By setting up a public timetable for a phased withdrawal from Vietnam, and adhering to it closely as possible, he will be able to achieve his objective. He will open the way for meaningful talks in Paris.

Some American troops will have to remain in South Vietnam for some time. As Michael Novak wrote in *Commonweal* a week ago, "both the U.S. and the North Vietnamese have some stake in overseeing in some minimal way the protection of the people their presence has compromised."

The promise has been made by the Vietnam Moratorium Committee that another such demonstration is scheduled for Nov. 15, and succeeding ones will be initiated until such time as their voices are heard in Washington. Mr. Nixon can serve the best interests of his people by moving in judicious haste to disengage us from the Vietnam morass and set our course on elevating the quality of life at home and abroad.

EXECUTIVE SESSION

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

The PRESIDENT pro tempore. Is there objection?

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

CONVENTION ON CONDUCT OF FISHING OPERATIONS IN THE NORTH ATLANTIC

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Chair lay before the Senate, Executive D, 91st Congress, first session.

The PRESIDENT pro tempore. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider Executive D, 91st Congress, first session, the convention on the conduct of fishing operations in the North Atlantic, which was read the second time, as follows:

CONVENTION ON CONDUCT OF FISHING OPERATIONS IN THE NORTH ATLANTIC

The Governments of Belgium, Canada, Denmark, the French Republic, the Federal Republic of Germany, Iceland, Ireland, Italy, Luxembourg, the Netherlands, Norway, the Polish People's Republic, Portugal, Spain, Sweden, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America,

Desiring to ensure good order and conduct on the fishing grounds in the North Atlantic area;

Have agreed as follows:

ARTICLE 1

(1) The present Convention applies to the waters of the Atlantic and Arctic Oceans and their dependent seas which are more specifically defined in Annex I to this Convention.

(2) In this Convention

"fishing vessel" means any vessel engaged in the business of catching fish;

"vessel" means any fishing vessel and any vessel engaged in the business of processing fish or providing supplies or services to fishing vessels.

ARTICLE 2

Nothing in this Convention shall be deemed to affect the rights, claims or views of any Contracting Party in regard to the limits of territorial waters or national fishery limits, or of the jurisdiction of a coastal State over fisheries.

ARTICLE 3

(1) The fishing vessels of each Contracting Party shall be registered and marked in accordance with the regulations of that Party in order to ensure their identification at sea.

(2) The competent authority of each Contracting Party shall specify one or more letters and a series of numbers for each port or district.

(3) Each Contracting Party shall draw up a list showing these letters.

(4) This list, and all modifications which may subsequently be made in it, shall be notified to the other Contracting Parties.

(5) The provisions of Annex II to this Convention shall apply to fishing vessels r their small boats and fishing implements.

ARTICLE 4

(1) In addition to complying with the rules relating to signals as prescribed in the International Regulations for Preventing Collisions at Sea, the fishing vessels of each Contracting Party shall comply with the provisions of Annex III to this Convention.

(2) No other additional light and sound signals than those provided in the Annex shall be used.

ARTICLE 5

Nets, lines and other gear anchored in the sea and nets or lines which drift in the sea shall be marked in order to indicate their position and extent. The marketing shall be in accordance with the provisions of Annex IV to this Convention.

ARTICLE 5

(1) Subject to compliance with the International Regulations for Preventing Collisions at Sea all vessels shall conduct their operations so as not to interfere with the operations of fishing vessels or fishing gear and shall conform to the provisions of Annex V to this Convention.

(2) For the better implementation of these provisions the competent authorities of Contracting Parties may at their discretion notify the competent authorities of other Contracting Parties likely to be concerned of concentrations or probable concentrations known to them of fishing vessels or fishing gear, and Contracting Parties receiving such notification shall take such steps as are practicable to inform their vessels thereof. The authorised officers appointed in accordance with Article 9 of this Convention may also draw the attention of vessels to fishing gear placed in the sea.

ARTICLE 7

(1) In any disute that rises between the nationals of different Contracting Parties concerning damaged gear or damage to vessels resulting from entanglement of gear, the following procedure will apply in the absence of agreement among the Contracting Parties concerning the resolution of such disputes:

At the request of the Contracting Party of a complainant each Contracting Party concerned will appoint a review board or other appropriate authority for handling the claim. These boards or other authorities will examine the facts and endeavour to bring about a settlement.

(2) These arrangements are without prejudice to the rights of complainants to prosecute their claims by way of ordinary legal procedure.

ARTICLE 8

(1) Each Contracting Party undertakes to take such measures as may be appropriate to implement and enforce the provisions of this Convention with respect to its vessels and gear.

(2) Within the area where a coastal State has jurisdiction over fisheries, the implementation and enforcement of the provisions of this Convention shall be the responsibility of the coastal State.

(3) Within that area the coastal State may make special rules and exemptions from any of the Rules in Annexes II to V to this Convention for vessels or gear which by reason of their size or type operate or are set only in coastal waters, provided that there shall be no discrimination in form or in fact against vessels of other Contracting Parties entitled to fish in those waters. Before making special rules and exemptions under this paragraph in respect of areas in which foreign fishing vessels operate a Contracting Party shall inform the Contracting Parties concerned of their intentions and consult them if they so wish.

ARTICLE 9

(1) To facilitate the implementation of the provisions of the Convention the arrangements set out in this Article and in Annex VI to this Convention shall apply outside national fishery limits.

(2) Authorised officers means officers who may be appointed by the Contracting Parties for the purpose of these arrangements.

(3) Any Contracting Party shall, upon the request of another Contracting Party, notify the latter of the names of the authorised officers who have been appointed or of the ships in which such officers are carried.

(4) Authorised officers shall observe whether the provisions of the Convention are being carried out, enquire and report on infringements of the provisions of the Convention, seek information in cases of damage, where desirable draw the attention of vessels of Contracting Parties to the provisions of the Convention, and shall co-operate for these purposes with the authorised officers of other Contracting Parties.

(5) If an authorised officer has reason to believe that a vessel of any Contracting Party is not complying with the provisions of the Convention, he may identify the vessel, seek to obtain the necessary information from the vessel and report. If the matter is sufficiently serious, he may order the vessel to stop and, if it is necessary in order to verify the facts of the case, he may board the vessel for enquiry and report.

(6) If an authorised officer has reason to believe that a vessel or its gear has caused damage to a vessel or fishing gear and that this may be due to a breach of the Convention, he may, under the same conditions as in the preceding paragraph, order any vessel concerned to stop and board it for enquiry and report.

(7) An authorised officer shall not order a fishing vessel to stop while it is actually fishing or engaged in shooting or hauling gear except in an emergency to avoid damage to vessels or gear.

(8) An authorised officer shall not pursue his enquiries further than is necessary to satisfy him either that there has been no breach of the Convention, or, where it appears to him that a breach has occurred, to secure information about the relevant facts, always acting in such a manner that vessels suffer the minimum interference and inconvenience.

(9) An authorised officer may, in case of damage to a vessel or fishing gear, offer to conciliate at sea, and if the parties concerned agree to this, assist them in reaching a settlement. At the request of the parties concerned the authorised officer shall draw up a protocol recording the settlement reached.

(10) Resistance by a vessel to the directions of an authorised officer shall be deemed as resistance to the authority of the flag State of that vessel.

(11) The Contracting Parties shall consider and act on reports of foreign authorised officers under these arrangements on the same basis as reports of national officers. The provisions of this paragraph shall not impose any obligation on a Contracting Party to give the report of a foreign authorised officer a higher evidential value than it would possess in the authorised officer's own country. Contracting Parties shall collaborate in order to facilitate judicial or other proceedings arising from a report of an authorised officer under this Convention.

(12) An authorised officer shall not exercise his powers to board a vessel of another Contracting Party if an authorised officer of that Contracting Party is available and in a position to do so himself.

ARTICLE 10

(1) Any Contracting Party may propose amendments to the Articles of this Convention. The text of any proposed amendment shall be sent to the depositary Government, which shall transmit copies thereof to all Contracting Parties and signatory Governments. Any amendment shall take effect on the thirtieth day after its acceptance by all Contracting Parties.

(2) When requested by one-fourth of the Contracting Parties, the depositary Government shall convene a meeting of Contracting Parties to consider the need for amending the Articles of this Convention. Amendments shall be adopted unanimously at such a meeting and shall be notified by the depositary Government to all Contracting Parties and shall take effect on the thirtieth day after they have been accepted by all Contracting Parties.

(3) Notifications of acceptance of amendments shall be sent to the depositary Government.

ARTICLE 11

(1) Any Contracting Party may propose amendments to the Annexes to this Convention. The text of any proposed amendment shall be sent to the depositary Government, which shall transmit copies thereof to all Contracting Parties and signatory Governments. The depositary Government shall inform all Contracting Parties of the date on which notices of acceptance of an amendment by two-thirds of the Contracting Parties have been received. The amendment shall take effect with respect to all Contracting Parties on the one hundred and fiftieth day after that date, unless within a period of one hundred and twenty days from the same date any Contracting Party notifies the depositary Government of its objection to the amendment, in which case the amendment will have no effect.

(2) When requested by three Contracting Parties the depositary Government shall convene a meeting of Contracting Parties to consider the need for amending the Annexes to this Convention. An amendment adopted at such a meeting by a two-thirds majority of the Contracting Parties represented shall be notified by the depositary Government to all Contracting Parties and shall take effect with respect to all Contracting Parties on the two hundred and tenth day after the date of notification, unless within one hundred and eighty days from the date of notification any Contracting Party notifies the depositary Government of its objection to the amendment, in which case the amendment will have no effect.

ARTICLE 12

The Contracting Parties shall notify the depositary Government of the competent authorities they have designated for the purposes of each of the relevant provisions of this Convention. The depositary Government shall inform the Contracting Parties of any such notification.

ARTICLE 13

(1) Any dispute between two or more Contracting Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration.

(2) The request for arbitration shall include a description of the claim to be submitted and a summary statement of the grounds on which the claim is based.

(3) Unless the parties agree otherwise, the arbitration commission shall be composed of one member appointed by each party to the dispute and an additional member, who shall be the chairman, chosen in common agreement between the parties. The arbitration commission shall decide on the matters placed before it by simple majority and its decisions shall be binding on the parties. Other details of procedure shall be determined by special agreement between the parties.

(4) Notwithstanding the provisions of paragraph (3), the parties may agree to submit the dispute to arbitration in accordance with another arrangement operating between the parties.

(5) If within six months from the date of the request for arbitration the parties are unable to agree on the organisation of the arbitration, any one of those parties may refer the dispute (as referred to in paragraph (1)) to the International Court of Justice by request in conformity with the Statute of the Court.

(6) Notwithstanding the provision of paragraph (1), the parties may agree to submit the dispute to the International Court of Justice.

ARTICLE 14

(1) Except as provided in paragraphs (2) and (3) below and paragraph (3) of Article 17, no reservations may be made to the present Convention without the agreement of the Contracting Parties and signatory Governments. When one year has elapsed after the entry into force of the Convention, the agreement of the Contracting Parties only shall be required.

(2) At the time of signature, ratification, approval or accession any State may make a reservation to Article 13 of the present Convention.

(3) Any State may, at the time of signature, ratification, approval or accession, make a reservation to paragraphs (5) and (6) of Article 9 with respect to one or more of the other Contracting Parties or signatory Governments.

(4) Any State which has made a reservation in accordance with the preceding paragraphs or paragraph (3) of Article 17 may at any time withdraw the reservation by a communication to that effect addressed to the depositary Government.

ARTICLE 15

The present Convention shall be open for signature at London from 1st June to 30th November, 1967. It is subject to ratification or approval. The instruments of ratification or approval shall be deposited as soon as possible with the Government of the United Kingdom of Great Britain and Northern Ireland.

ARTICLE 16

(1) The present Convention shall enter into force on the ninetieth day following the date of deposit of the tenth instrument of ratification or approval.

(2) Thereafter the Convention shall enter into force for each State on the ninetieth day after deposit of its instrument of ratification or approval.

ARTICLE 17

(1) Any State which has not signed the Convention may accede thereto at any time after the Convention has entered into force, provided that three-fourths of the Contracting Parties and signatory Governments agree to the proposed accession. When one year has elapsed after the entry into force of the Convention, the agreement of three-fourths of the Contracting Parties only shall be required.

(2) Accession shall be effected by the deposit of an instrument of accession with the Government of the United Kingdom of Great Britain and Northern Ireland. The Convention shall enter into force for each acceding State on the ninetieth day after the deposit of its instrument of accession.

(3) At any time up to the entry into force of the Convention for a State which accedes under this Article, a Contracting Party may make a reservation to paragraphs (5) and (6) of Article 9 with respect to that State.

ARTICLE 18

(1) Any Contracting Party may, when depositing its instrument of ratification, approval or accession, or at any later date, by declaration addressed to the depositary Government, extend this Convention to any territory or territories for whose international relations it is responsible. The provisions of this Convention shall enter into force for such territory or territories on the ninetieth day after receipt of such declaration, or on the date on which the Convention enters into force in accordance with paragraph (1) of Article 16, whichever is the later.

(2) Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn according to the procedure laid down in Article 19.

ARTICLE 19

At any time after four years from the date on which this Convention has entered into force in accordance with paragraph (1) of Article 16, any Contracting Party may denounce the Convention by means of a notice in writing addressed to the depositary Government. Any such notice shall take effect twelve months after the date of its receipt. The Convention shall remain in force as between the other Parties.

ARTICLE 20

When the present Convention has entered into force, it shall be registered by the depositary Government with the Secretariat of the United Nations in accordance with Article 102 of its Charter.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed the present Convention.

DONE at London this first day of June, 1967, in the English and French languages, each text being equally authentic, in a single original which shall be deposited in the archives of the Government of United Kingdom of Great Britain and Northern Ireland, which shall transmit a certified true copy thereof to each signatory and acceding Government.

For the Government of Belgium: J.V.D. Bosch.

For the Government of Canada: C.S.A. Ritchie.

For the Government of Denmark: Erling Kristiansen.

For the Government of the French Republic: G. de Courcel.

For the Government of the Federal Republic of Germany: Blankenhorn.

For the Government of Iceland: Gudm. I. Gudmundsson.

For the Government of Ireland: J. G. Molloy.

For the Government of Italy: Gastone Guidotti.

For the Government of Luxembourg:

For the Government of the Netherlands: for the Kingdom in Europe, D. W. van Lynden.

For the Government of Norway: Arne Skaug.

For the Government of the Polish People's Republic: the Government of the Polish People's Republic does not consider itself

bound by the provisions of Article 13, which state that any dispute between two or more Contracting Governments in respect of the interpretation or application of the Convention may, at the request of any of the parties to the dispute, be submitted to arbitration or placed before the International Court of Justice for settlement. The Government of the Polish People's Republic states that submitting the dispute to arbitration as well as placing it before the International Court of Justice requires the consent of all parties concerned in the dispute in each individual case.

The Government of the Polish People's Republic does not consider itself bound by the provisions of Article 9, paragraphs 5 and 6 of the Convention relating to those signatory and Contracting Governments with whom the Polish People's Republic has no diplomatic relations. M. Fila.

For the Government of Portugal: Manuel Rocheta.

For the Government of Spain: With reservations in respect of paragraph 5 of Article 13 and paragraphs 5 and 6 of Article 9, applicable to all Contracting Parties and signatory Governments, as also to those Governments which shall in future accede to the Convention in accordance with Article 17 thereof. Santa Cruz.

For the Government of Sweden: Sous réserve de ratification avec l'assentiment du Riksdag. Gunnar Fagrell.

For the Government of the Union of Soviet Socialist Republics: (Translation) Reservation to Article 13: The Government of the Union of Soviet Socialist Republics consider that any dispute between two or more Contracting Parties regarding the interpretation or implementation of the Convention may be submitted to the International Court only with the consent of all the Contracting Parties participating in the dispute. A. Nshkov.

For the Government of the United Kingdom of Great Britain and Northern Ireland: George Brown.

For the Government of the United States of America: Raymund T. Yingling.

ANNEX I: AREA OF APPLICATION OF CONVENTION

The waters of the Atlantic and Arctic Oceans and dependent seas to which this Convention applies are the waters seaward of the baselines of the territorial sea within the area bounded:

(*a*) in the south by a line drawn due west along 36° north latitude to 42° west longitude, thence due south to 35° north latitude, thence due west along 35° north latitude;

(*b*) in the west by a line drawn southward from a point on the coast of Greenland at 78° 10′ north latitude to a point in 75° north latitude and 73° 30′ west longitude, thence along a rhumb line to a point in 69° north latitude and 59° west longitude, thence due south to 61° north latitude, thence due west to 64° 30′ west longitude, thence due south to the coast of Labrador, and thence south along the coast of North America;

(*c*) in the east by 51° east longitude, but excluding—

(i) the Baltic Sea and Belts lying to the south and east of lines drawn from Hasenore Head to Gniben Point and from Gilbierg Head to the Kullen; and

(ii) the Mediterranean Sea and its dependent seas as far as the meridian of 5° 36′ west longitude.

ANNEX II: IDENTIFICATION AND MARKING OF FISHING VESSELS AND GEAR

Rule 1

(1) The letter or letters of the port or district in which each fishing vessel is registered and the number under which it is registered shall be painted on the bow of the fishing vessel at both sides, and may also be painted on the upper part of the fishing vessel so as to be clearly visible from the air.

(2) The name of the fishing vessel, if any, and the name of the port or district in which it is registered shall be painted on the fishing vessel so as to be clearly visible.

(3) The names, letters and numbers placed on a fishing vessel shall be large enough to be easily recognized and shall not be effaced, altered, made illegible, covered or concealed.

(4) Small boats and, where practicable, all fishing implements shall be marked with the letter or letters and number of the fishing vessel to which they belong. The ownership of nets or other fishing implements may be distinguished by private marks.

Rule 2

(1) Each fishing vessel shall carry on board an official document, issued by the competent authority of its country, showing the name, if any, and description of the vessel, its nationality, its registration letter or letters and number, and the name of the owner or of the firm or association to which it belongs.

(2) Each fishing vessel shall carry a national flag in good condition to be shown at the request of the competent authorities.

(3) The nationality of a fishing vessel shall not be concealed in any manner whatsoever.

ANNEX III: ADDITIONAL SIGNALS TO BE USED BY FISHING VESSELS

Rule 1

General

(1) Subject to compliance with the International Regulations for Preventing Collisions at Sea, the Rules herein are intended to prevent damage to fishing gear or accidents in the course of fishing operations.

(2) The Rules herein concerning lights shall apply in all weathers from sunset to sunrise when fishing vessels are engaged in fishing as a fleet and during such times no other lights shall be exhibited, except the lights prescribed in the International Regulations for Preventing Collisions at Sea and such lights as cannot be mistaken for the prescribed lights or do not impair their visibility or distinctive character, or interfere with the keeping of a proper look-out. These lights may also be exhibited from sunrise to sunset in restricted visibility and in all other circumstances when it is deemed necessary.

(3) For the purpose of these Rules the words employed shall have the meaning set down in the International Regulations for Preventing Collisions at Sea except that the term "fishing vessel" shall have the meaning assigned to it in Article 1 (2) of this Convention.

(4) The lights mentioned herein shall be placed where they can best be seen. They should be at least 3 feet (0.92 m.) apart but at a lower level than the lights prescribed in Rule 9(*c*) (i) and (*d*) of the International Regulations for Preventing Collisions at Sea 1960. They shall be visible at a distance of at least 1 mile, all round the horizon as nearly as possible and their visibility shall be less than the visibility of lights exhibited in accordance with Rule 9(*b*) of the above Regulations.

Rule 2

Signals for Trawling and Drift Netting

(1) Fishing vessels, when engaged in trawling, whether using demersal or pelagic gear shall exhibit:

(i) when shooting their nets:
two white lights in a vertical light one over the other;

(ii) when hauling their nets:
one white light over one red light in a vertical line one over the other;

(iii) when the net has come fast upon an obstruction:
two red lights in a vertical line one over the other.

(2) Fishing vessels engaged in drift netting may exhibit the lights prescribed in (1) above.

(3) Each fishing vessel engaged in pair trawling shall exhibit:

(i) by day: the "T" flag—"Keep clear of me. I am engaged in pair trawling", hoisted at the foremast;

(ii) by night: a searchlight shone forward and in the direction of the other fishing vessel of the pair;

(iii) when shooting or hauling the net or when the net has come fast upon an obstruction: the lights prescribed in (1) above.

(4) This rule need not be applied to fishing vessels of less than 65 feet (19.80 m.) in length. Any such exception and the areas in which fishing vessels so excepted are likely to be numerous shall be notified to the competent authorities of the other Contracting Parties likely to be concerned.

Rule 3

Light signals for purse seining

(1) Fishing vessels engaged in fishing with purse seines shall show two amber coloured lights, in a vertical line one over the other. These lights shall be flashing intermittently about once a second in such a way that when the lower is out the upper is on and vice versa. These lights shall only be shown while the fishing vessel's free movement is hampered by its fishing gear, warning other vessels to keep clear of it.

(2) This rule need not be applied to fishing vessels of less than 85 feet (25.90m.) in length. Any such exception and areas in which fishing vessels so excepted are likely to be numerous shall be notified to the competent authorities of the other Contracting Parties likely to be concerned.

Rule 4

Sound signals

No sound signals shall be used other than those prescribed by the International Regulations for Preventing Collisions at Sea and the International Code of Signals.

ANNEX IV: MARKING OF NETS, LINES AND OTHER GEAR

Rule 1

Anchored gear

(1) The ends of nets, lines and other gear anchored in the sea shall be fitted with flag or radar reflector buoys by day and light buoys by night sufficient to indicate their position and extent. Such lights should be visible at a distance of at least 2 miles in good visibility.

(2) By day the westernmost (meaning the half compass circle from south through west to and including north) end buoy of such gear extending horizontally in the sea shall be fitted with two flags one above the other or one flag and a radar reflector, and the easternmost (meaning the half compass circle from north through east to and including south) end buoy shall be fitted with one flag or a radar reflector. By night the westernmost end buoy shall be fitted with two white lights and the easternmost end buoy with one white light. In addition a buoy fitted with one flag or a radar reflector by day and one white light by night may be set 70–100 metres from each end buoy to indicate the direction of the gear.

(3) On such gear extending more than 1 mile additional buoys shall be placed at distances of not more than 1 mile so that no part of the gear extending 1 mile or more shall be left unmarked. By day every buoy shall be fitted with a flag or a radar reflector and by night as many buoys as possible with one white light. In no case shall the distance between two lights on the same gear exceed 2 miles.

(4) On such gear which is attached to a fishing vessel a buoy shall not be required at the end attached to the fishing vessel.

(5) The flagpole of each buoy shall have a height of at least 2 metres above the buoy.

Rule 2

Drift gear

(1) Nets or lines which drift in the sea shall be marked at each end and at distances of not more than 2 miles by a buoy with a pole not less than 2 metres above the buoy. The pole shall carry a flag or a radar reflector by day and a white light by night visible at a distance of at least 2 miles in good visibility.

(2) On gear which is attached to a fishing vessel a buoy shall not be required at the end attached to the fishing vessel.

ANNEX V: RULES GOVERNING THE OPERATIONS OF VESSELS

Rule 1

Subject to compliance with the International Regulations for Preventing Collisions at Sea all vessels shall conduct their operations so as not to interfere with the operations of fishing vessels, or fishing gear.

Rule 2

Vessels arriving on fishing grounds where fishing vessels are already fishing or have set their gear for that purpose shall inform themselves of the position and extent of gear already placed in the sea and shall not place themselves or their fishing gear so as to interfere with or obstruct fishing operations already in progress.

Rule 3

No vessel shall anchor or remain on a fishing ground where fishing is in progress if it would interfere with such fishing unless required for the purpose of its own fishing operations or in consequence of accident or other circumstances beyond its control.

Rule 4

Except in cases of *force majeure* no vessel shall dump in the sea any article or substance which may interfere with fishing or obstruct or cause damage to fish, fishing gear or fishing vessels.

Rule 5

No vessel shall use or have on board explosives intended for the catching of fish.

Rule 6

In order to prevent damage, fishing vessels engaged in trawling and other fishing vessels with gear in motion shall take all practicable steps to avoid nets and lines or other gear which is not being towed.

Rule 7

(1) When nets belonging to different fishing vessels get foul of each other, they shall not be severed without the consent of the parties concerned unless it is impossible to disengage them by other means.

(2) When fishing vessels fishing with lines entangle their lines, the fishing vessel which hauls up the lines shall not sever them unless they cannot be disengaged in any other way, in which case any lines which may be severed shall where possible be immediately joined together again.

(3) Except in cases of salvage and the cases to which the two preceding paragraphs relate, nets, lines or other gear shall not under any pretext whatever, be cut, hooked, held on to or lifted up except by the fishing vessel to which they belong.

(4) When a vessel fouls or otherwise interferes with gear not belonging to it, it shall take all necessary measures for reducing to a minimum the injury which may result to such gear. The fishing vessel to which the gear belongs shall, at the same time, avoid any action tending to aggravate such damage.

ANNEX VI: RULES APPLYING TO AUTHORISED OFFICERS

(1) An authorised officer shall carry a document of identity written in English, French and the language of the authorised officer (if different) in a form agreed by the Contracting Parties on the request of the depositary Government.

(2) Any orders to stop given by an authorised officer shall be given by the appropriate signal in the International Code of Signals.

(3) On boarding a vessel an authorised officer shall exhibit his document of identity.

(4) On boarding a vessel an authorised officer may require the master of the vessel to exhibit the document specified in Annex II Rule 2(1) and the fact of such document having been exhibited shall immediately be endorsed upon it by the authorised officer or on some other official document of the vessel

(5) On each occasion on which an authorised officer boards a vessel, he shall draw up a report in the form set out in the Appendix indicating the circumstances of the boarding and the information he secures.

(6) This report shall be drawn up in the language of the authorised officer and shown to the master of the vessel boarded, who shall be given an opportunity of adding in his own language any remarks he or any member of his crew may wish to make. The authorised officer shall sign the report in the presence of the master and give him a copy. A copy of the report shall be sent to the competent authority of the country of the vessel boarded. In cases of damage copies of the report shall also be sent to the competent authorities in the countries to which the other parties concerned belong.

(7) Whenever an authorised officer observes a vessel infringing the provisions of the Convention, he may report the occurrence to the competent authority of the country of the vessel, having first made every effort to communicate to the vessel in question by signal or otherwise his intention to report the infringement. If he orders the vessel to stop but does not board it, he shall report the circumstances to the competent authority of the country of the vessel.

(8) Ships carrying authorised officers, which may be vessels as defined in Article 1(2), shall fly a special flag or pennant. The special flag or pennant shall be in a form agreed by the Contracting Parties on the request of the depositary Government. Authorised officers shall exercise their powers under paragraphs (5) or (6) of Article 9, and communicate with vessels, only from surface craft.

APPENDIX: REPORT IN ACCORDANCE WITH PARAGRAPH (5) OF ANNEX VI TO THE CONVENTION

Authorised officer

1. Name and nationality.
2. Name of ship carrying him.

Position, date and time of occurrence

3.

Provisions of the convention in question

4.

Information on each vessel involved

General

5. Nationality.
6. Vessel's name and registration.
7. Skipper's name.
8. Owner's name and address.
9. Position, date and time of boarding.

At the time of occurrence

10. Fishing gear in use.
11. Stopped, anchored or estimated course and speed.
12. Signals or lights displayed and sound signals made.
13. Warnings given to other vessel(s).
14. Direction in which gear was shot or lying.
15. The horizontal distance gear extended from the vessel.

Conditions at the time of occurrence

16. Visibility.
17. Wind force and direction.
18. State of sea and tide and direction and strength of currents.
19. Other relevant conditions.
20. Describe, with the help of diagrams if necessary, the relative positions of vessels and gear.
21. Marking of any anchored or drifting gear involved.

Additional information

22. Full particulars of loss or damage, giving conditions of any gear involved.
23. Narrative description of occurrence.
24. Comments by Authorised Officer.
25. Statements by Witnesses.
26. Statements by Skippers of vessels involved.
27. Statements of photographs taken, with description of subjects (photographs to be attached to copy of report submitted to flag State).

Signature of Authorised Officer_____

The above report was prepared and signed by the Authorised Officer in our presence.

Signatures of Skippers_____

Signatures of Witnesses_____

Certified a true copy:

[SEAL] V. A. TODD,

For Librarian and Keeper of the Papers for the Secretary of State for Foreign Affairs.

DECEMBER 1, 1967.

Mr. FULBRIGHT. Mr. President, I wish to make a brief statement.

Mr. President, the Convention on the Conduct of Fishing Operations in the North Atlantic was unanimously reported by the Committee on Foreign Relations, and, so far as I am aware, there is no opposition to it. This multilateral convention, signed by the United States and 16 other nations, provides a modern, up-to-date code of conduct for those engaged in fishing operations in the zone approximately encompassed north of a line drawn between Cape Hatteras and Gibraltar.

To allay some fears, I might point out that this convention does not enter the bramblebush of controversy surrounding either the breadth of the territorial sea or the extent of exclusive fishery zones; rather, the convention proscribes specific rules and regulations aimed at promoting harmony and cooperation among all nations engaged in exploiting the living resources of the North Atlantic.

I ask unanimous consent that a portion of the committee's report describing in some detail the background and the intent of this convention be inserted at this point in the RECORD, together with the statement by Donald L. McKernan, Special Assistant to the Secretary of State for Fisheries and Wildlife who presented before the committee the administration's favorable recommendation on this treaty.

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

MAIN PURPOSE

This convention seeks to overcome the disorders and disturbances arising from increasing congestion on the fishing grounds of the North Atlantic. Accordingly, it establishes a uniform set of rules and regulations to govern the conduct of fishing operations in the North Atlantic fisheries zone, which the convention defines as approximately encompassing the area north of a line drawn between Gibraltar and Cape Hatteras (35°N).

BACKGROUND

By a resolution adopted at the conclusion of the January, 1964 European Fisheries Conference, the attending nations requested the United Kingdom to invite all countries par-

ticipating in the Northeast Atlantic fisheries, plus Canada and the United States, to a technical conference for the purpose of drafting a convention which would update the rules and regulations of the 1882 Convention for Regulating the Police of the North Seas Fisheries. While few nations had ratified this convention, "its code of conduct was generally followed by the European fisherman, and it served its basic purpose until the mid-Twentieth century." During the period from April, 1965 to March, 1967, the Government of the United Kingdom hosted four conference sessions, with the text of the Convention on the Conduct of Fishing Operations in the North Atlantic being adopted on March 17, 1967.

SUMMARY OF MAJOR PROVISIONS

With a view to providing standard rules and regulations for the conduct of fishing operations in the North Atlantic, Articles three through six set forth requirements relating to (1) identification of vessels involved in fishing operations; (2) use of signals in addition to the International Regulations for Prevention of Collisions; (3) marking of nets, lines and other gear, anchored or drifting, in order to establish location and extent; and (4) rules of conduct so as not to interfere with the fishing operations of others. Annexes two through five complement these articles by stipulating specific rules and/or technical procedures. In order to expedite the settlement of damage claims, there is a provision (Art. VII) for the establishment of special review boards, without infringing upon the right to normal legal procedures if desired.

While each of the contracting parties agree to implement and enforce the conventions' rules and regulations (Art. VIII), added meaning is given to the implementation and enforcement procedures by Article IX which establishes a mutual inspection system permitting authorized officers from the Contracting Parties to enforce compliance, including the boarding of vessels if necessary. Rules governing the conduct of authorized officers are spelled out in Annex six. A detailed explanation of the inspection provisions is contained in the statement of Donald L. McKernan, Special Assistant to the Secretary of State for Fisheries and Wildlife, which is contained in the appendix. It should be made clear, however, that neither the inspection system nor the convention's other rules and regulations impinge upon the coastal state's jurisdiction over the conduct of fishing operations in its exclusive fishery zone.

Articles X and XI provide for amendments to the Convention's substantive provisions and to the annexes, respectively; amendments to the former require the advice and consent of the Senate, while amendments to the latter do not. According to the Department of State, this formulation provides a needed degree of flexibility for altering, if necessary, the technical rules and procedures contained in the annexes.

Reservations to the convention are permitted only to those provisions providing for compulsory arbitration (Art. XIII) and the boarding of vessels by authorized officers (Art. IX, paragraphs 5 and 6). Spain and Poland signed with reservations to both provisions. The Soviet Union signed with a reservation to Article XIII, and Portugal ratified the convention with a reservation to paragraphs 5 and 6 of Article IX.

The U.S. Government played an active role in the formulation of this convention; it has expressed the belief that the major agreement achieved on Articles IX and XIII is particularly significant, and it has stated the hope that this convention will set a pattern for other agreements where overcrowding on high seas fisheries is causing similar problems. To date, the United States and sixteen other nations have signed the convention, with Iceland, Norway and Portugal having already deposited their instruments of ratification. The convention will enter into force ninety days after ratification by ten countries.

COMMITTEE ACTION AND RECOMMENDATION

The Convention on the Conduct of Fishing Operations in the North Altantic was submitted to the Senate on April 18, 1969 and was referred to the Committee on Foreign Relations.

On October 7, 1969, pursuant to notice, the Committee held a public hearing at which Donald L. McKernan, Special Assistant to the Secretary of State for Fisheries and Wildlife, presented the Administration's favorable recommendation. During this hearing, the Committee inquired whether or not the convention's rules and regulations could be extended on behalf of the United States by Executive Agreement to areas outside the Atlantic. Mr. McKernan stated that, without Senate approval, the convention's coverage could not be extended beyond the Atlantic region, but that it could be extended by Executive agreement to the entire Atlantic, that is beyond the North Atlantic. The Committee accepted the need for such flexibility in this instance but expressed the view that its approval in this case should not be looked upon as a precedent for incorporating similar flexibility in other kinds of treaties. The record of this hearing is printed in the appendix for the information of the Senate. The Commitee knows of no opposition to this treaty.

Immediately following its hearing of October 7, 1969, the Committee met in executive session and ordered that this treaty be favorably reported.

The United States Government has actively sought effective rules and regulations for the policing of high seas fisheries where fishing operations are intense among several nations. The Convention on the Conduct of Fishing Operations in the North Atlantic is designed to meet this objective and represents a significant step forward in helping to bring about more orderly exploitation and development of the high seas fishery zone of the North Atlantic.

The Committee on Foreign Relations recommends that the Senate give its advice and consent to this treaty at an early date.

STATEMENT BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE, OCTOBER 7, 1969

THE CONVENTION ON THE CONDUCT OF FISHING OPERATIONS IN THE NORTH ATLANTIC

(By Donald L. McKernan)

Mr. Chairman, the rapid increase in the exploitation of North Atlantic fisheries has resulted in congestion on the fishing grounds by mounting numbers of fishing vessels of various countries. The proposed Convention on the Conduct of Fishing Operations in the North Atlantic, signed at London June 1, 1967, is designed to provide a modern code for the conduct of fishing operations and related activities and thus to relieve the problems and dangers associated with such congestion. The Convention establishes a system of identification, marking, and light signals for fishing vessels, which will be useful not only for the purposes of the Convention but for other purposes as well, such as search and rescue. It sets forth a principle of non-interference with other fishing vessels and gear and operations in areas frequented by vessels of several nations and provides for a simplified method of settling claims among fishermen of various nations for damage to fishing gear or vessels.

Many European fishing vessels in the North Atlantic have followed a code of conduct laid down in the 1882 Convention for Regulating the Police of the North Seas Fisheries, even though many European governments were not parties to the Convention. The proposed Convention is designed to replace the rules under that treaty with a more modern code.

Until a few years ago, foreign fishermen rarely operated close to our Atlantic coast and such a code was of little direct concern to our fishermen. Increased foreign fishing along our shores has caused complaints of harassment or impaired operating freedom due to congestion on the fishing grounds, although these complaints tend to diminish as fishermen become used to the various signals and fishing practices utilized by the different fleets. Our fishermen would welcome an effective body of rules on standardized signals and practices to assist them.

The proposed Convention derives from a British invitation, requested by other European nations, to all countries participating in the fisheries of the Northeast Atlantic, together with the United States and Canada, to join in the preparation of a draft convention embodying a modern code for the conduct of fishing operations and related activities.

The United States and Canada accepted the invitation and joined in the task of preparing a draft. The needs and problems of American fishermen were known to our negotiators and a number of conferences were held with fisheries representatives during the course of the negotiations. A series of sessions from 1965 to 1967 culminated in the document before you.

We believe that the requirements of the American fishermen in dealing with problems caused by the heavy concentration of vessels on fishing grounds in the Convention area are substantially met by the terms of the Convention. The Convention might be extended to other portions of the Atlantic if future developments in the fishery pattern indicates this is desirable.

Two provisions of the Convention are perhaps worthy of special note:

First, Article 6 provides that all vessels shall conduct their operations so as not to interfere with the operations of fishing vessels or gear, and rules to achieve this end are set forth in Annex V. Rule 4 of the Annex provides that except in cases of force majeure no vessel shall dump in the sea any article or substance which may interfere with fishing or obstruct or cause damage to fish, fishing gear or fishing vessels. This provision should significantly reduce pollution of the sea on the fishing grounds as well as promote conservation and the safety of vessels. Some waste substances may injure or kill fish, to the detriment of all fishermen. There have been numerous cases of old discarded nets continuing to fish, that is capture fish which subsequently die without being harvested. Old nets have also become entangled in the propellers of vessels, rendering them inoperative and in danger of collision or foundering. This provision should substantially reduce or eliminate these dangers.

Second, Article 9 and the rules laid down pursuant to it in Annex VI provide for a mutual enforcement system to supplement national enforcement activities. Because fishing vessels from any one nation are often dispersed over wide areas of the ocean, it is often difficult for national enforcement officers to ensure compliance with fishing rules and regulations. Under these provisions, authorized enforcement officers from any nation party to the Convention would be empowered, in certain circumstances, to undertake enforcement activities with regard to vessels of other parties when national enforcement officers of the flag state of the vessel were not present. This pooling of enforcement efforts should ensure a more universal and comprehensive application of the safety and conduct provisions of the Convention, to the benefit of all nations and all fishermen in the area.

Thus, when our own Coast Guard is not present on the fishing grounds, enforcement officers of other nations would be able to

observe the compliance of American vessels with the rules laid down in the Convention on safety and conduct of fishing. If the circumstances warranted, they would be able to stop or board an American fishing vessel to ensure compliance with the rules. Conversely, our Coast Guard would be able to ensure that the vessels of the extensive foreign fishing fleets operating off our coasts comply with the rules on safety and conduct. When necessary, they would be able to stop and board such foreign vessels.

While no seaman likes the idea of additional policing which might interfere with his operations at sea, especially by foreign powers, our fishermen recognize that such provisions are necessary if we are to insure good order and conduct on the fishing grounds, and if vessels which are operating far from home in areas where it may be difficult for the flag state to send an enforcement officer are to receive the same supervision that they do in their home waters. We have had extensive consultation with our fishing industry on this matter, both with regard to the present Convention and with regard to actions which are being taken in other forums with regard to international enforcement of conservation programs, and we have found widespread recognition that the possible hindrance to our own vessels which might result from such mutual inspection programs are more than compensated for by the assurances they will give that other fishing vessels are living up to the strict standards we impose on our own fishermen.

Recognizing that such provisions could be utilized for harassment of foreign fishing activities, the conference carefully laid out rules to prevent untoward interference with fishing operations by international inspectors.

We believe that these provisions will materially assist American fishermen in carrying out their legitimate operations on the high seas amongst foreign fishing fleets.

The PRESIDENT pro tempore. If there be no objection, Executive D, 91st Congress, first session, will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which will be read for the information of the Senate.

The bill clerk read as follows:

Resolved, (two-thirds of the Senators present and concurring therein), that the Senate advise and consent to the ratification of the Convention on the Conduct of Fishing Operations in the North Atlantic, done at London, June 1, 1967 (Ex. D, 91st Cong., 1st sess).

VIENNA CONVENTION ON CONSULAR RELATIONS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Chair lay before the Senate Executive E, 91st Congress, first session, the Vienna Convention on Consular Relations.

The PRESIDENT pro tempore. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider Executive E, 91st Congress, first session, the Vienna convention on consular relations, which was read for the second time, as follows:

UNITED NATIONS CONFERENCE ON CONSULAR RELATIONS

VIENNA CONVENTION ON CONSULAR RELATIONS

The States Parties to the present Convention,

Recalling that consular relations have been established between peoples since ancient times,

Having in mind the Purposes and Principles of the Charter of the United Nations concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations,

Considering that the United Nations Conference on Diplomatic Intercourse and Immunities adopted the Vienna Convention on Diplomatic Relations which was opened for signature on 18 April 1961,

Believing that an international covention on consular relations, privileges and immunities would also contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,

Realizing that the purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of functions by consular posts on behalf of their respective States,

Affirming that the rules of customary international law continue to govern matters not expressly regulated by the provisions of the present Convention,

Have agreed as follows:

Article 1

Definitions

1. For the purposes of the present Convention, the following expressions shall have the meanings hereunder assigned to them:

(*a*) "consular post" means any consulate-general, consulate, vice-consulate or consular agency;

(*b*) "consular district" means the area assigned to a consular post for the exercise of consular functions;

(*c*) "head of consular post" means the person charged with the duty of acting in that capacity;

(*d*) "consular officer" means any person, including the head of a consular post, entrusted in that capacity with the exercise of consular functions;

(*e*) "consular employee" means any person employed in the administrative or technical service of a consular post;

(*f*) "member of the service staff" means any person employed in the domestic service of a consular post;

(*g*) "members of the consular post" means consular officers, consular employees and members of the service staff;

(*h*) "members of the consular staff" means consular officers, other than the head of a consular post, consular employees and members of the service staff;

(*i*) "member of the private staff" means a person who is employed exclusively in the private service of a member of the consular post;

(*j*) "consular premises" means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership used exclusively for the purposes of the consular post;

(*k*) "consular archives" includes all the papers, documents, correspondence, books, films, tapes and registers of the consular post, together with the ciphers and codes, the card-indexes and any article of furniture intended for their protection or safekeeping.

2. Consular officers are of two categories, namely career consular officers and honorary consular officers. The provisions of Chapter II of the present Convention apply to consular posts headed by career consular officers; the provisions of Chapter III govern consular posts headed by honorary consular officers.

3. The particular status of members of the consular posts who are nationals or permanent residents of the receiving State is governed by Article 71 of the present Convention.

CHAPTER I. CONSULAR RELATIONS IN GENERAL

SECTION I. ESTABLISHMENT AND CONDUCT OF CONSULAR RELATIONS

Article 2

Establishment of consular relations

1. The establishment of consular relations between States takes place by mutual consent.

2. The consent given to the establishment of diplomatic relations between two States implies, unless otherwise stated, consent to the establishment of consular relations.

3. The severance of diplomatic relations shall not *ipso facto* involve the severance of consular relations.

Article 3

Exercise of consular functions

Consular functions are exercised by consular posts. They are also exercised by diplomatic missions in accordance with the provisions of the present Convention.

Article 4

Establishment of a consular post

1. A consular post may be established in the territory of the receiving State only with that State's consent.

2. The seat of the consular post, its classification and the consular district shall be established by the sending State and shall be subject to the approval of the receiving State.

3. Subsequent changes in the seat of the consular post, its classification or the consular district may be made by the sending State only with the consent of the receiving State.

4. The consent of the receiving State shall also be required if a consulate-general or a consulate desires to open a vice-consulate or a consular agency in a locality other than that in which it is itself established.

5. The prior express consent of the receiving State shall also be required for the opening of an office forming part of an existing consular post elsewhere than at the seat thereof.

Article 5

Consular functions

Consular functions consist in:

(*a*) protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law:

(*b*) furthering the development of commercial, economic, cultural and scientific relations between the sending State and the receiving State and otherwise promoting friendly relations between them in accordance with the provisions of the present Convention;

(*c*) ascertaining by all lawful means conditions and developments in the commercial, economic, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State and giving information to persons interested;

(*d*) issuing passports and travel documents to nationals of the sending State, and visas or appropriate documents to persons wishing to travel to the sending State;

(*e*) helping and assisting nationals, both individuals and bodies corporate, of the sending State;

(*f*) acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature, provided that there is nothing contrary thereto in the laws and regulations of the receiving State;

(*g*) safeguarding the interests of nationals, both individuals and bodies corporate, of the sending State in cases of succession *mortis causa* in the territory of the receiving State, in accordance with the laws and regulations of the receiving State;

(*h*) safeguarding, within the limits imposed by the laws and regulations of the re-

ceiving State, the interests of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons;

(*i*) subject to the practices and procedures obtaining in the receiving State, representing or arranging appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, in accordance with the laws and regulations of the receiving State, provisional measures for the preservation of the rights and interests of these nationals, where, because of absence or any other reason, such nationals are unable at the proper time to assume the defense of their rights and interests;

(*j*) transmitting judicial and extra-judicial documents or executing letters rogatory or commissions to take evidence for the courts of the sending State in accordance with international agreements in force or, in the absence of such international agreements, in any other manner compatible with the laws and regulations of the receiving State;

(*k*) exercising rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels having the nationality of the sending State, and of aircraft registered in that State, and in respect of their crews;

(*l*) extending assistance to vessels and aircraft mentioned in sub-paragraph (*k*) of this Article and to their crews, taking statements regarding the voyage of a vessel, examining and stamping the ship's papers, and, without prejudice to the powers of the authorities of the receiving State, conducting investigations into any incidents which occurred during the voyage, and settling disputes of any kind between the master, the officers and the seamen in so far as this may be authorized by the laws and regulations of the sending State;

(*m*) performing any other functions entrusted to a consular post by the sending State which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State or which are referred to in the international agreements in force between the sending State and the receiving State.

Article 6

Exercise of consular functions outside the consular district

A consular officer may, in special circumstances, with the consent of the receiving State, exercise his functions outside his consular district.

Article 7

Exercise of consular functions in a third State

The sending State may, after notifying the States concerned, entrust a consular post established in a particular State with the exercise of consular functions in another State, unless there is express objection by one of the States concerned.

Article 8

Exercise of consular functions on behalf of a third State

Upon appropriate notification to the receiving State, a consular post of the sending State may, unless the receiving State objects, exercise consular functions in the receiving State on behalf of a third State.

Article 9

Classes of heads of consular posts

1. Heads of consular posts are divided into four classes, namely:

(*a*) consuls-general;

(*b*) consuls;

(*c*) vice-consuls;

(*d*) consular agents.

2. Paragraph 1 of this Article in no way restricts the right of any of the Contracting Parties to fix the designation of consular officers other than the heads of consular posts.

Article 10

Appointment and admission of heads of consular posts

1. Heads of consular posts are appointed by the sending State and are admitted to the exercise of their functions by the receiving State.

2. Subject to the provisions of the present Convention, the formalities for the appointment and for the admission of the head of a consular post are determined by the laws, regulations and usages of the sending State and of the receiving State respectively.

Article 11

The consular commission or notification of appointment

1. The head of a consular post shall be provided by the sending State with a document, in the form of a commission or similar instrument, made out for each appointment, certifying his capacity and showing, as a general rule, his full name, his category and class, the consular district and the seat of the consular post.

2. The sending State shall transmit the commission or similar instrument through the diplomatic or other appropriate channel to the Government of the State in whose territory the head of a consular post is to exercise his functions.

3. If the receiving State agrees, the sending State may, instead of a commission or similar instrument, send to the receiving State a notification containing the particulars required by paragraph 1 of this article.

Article 12

The exequatur

1. The head of a consular post is admitted to the exercise of his functions by an authorization from the receiving State termed an *exequatur*, whatever the form of this authorization.

2. A State which refuses to grant an *exequatur* is not obliged to give to the sending State reasons for such refusal.

3. Subject to the provisions of Articles 13 and 15, the head of a consular post shall not enter upon his duties until he has received an *exequatur*.

Article 13

Provisional admission of heads of consular posts

Pending delivery of the *exequatur*, the head of a consular post may be admitted on a provisional basis to the exercise of his functions. In that case, the provisions of the present Convention shall apply.

Article 14

Notification to the authorities of the consular district

As soon as the head of a consular post is admitted even provisionally to the exercise of this functions, the receiving State shall immediately notify the competent authorities of the consular district. It shall also ensure that the necessary measures are taken to enable the head of a consular post to carry out the duties of his office and to have the benefit of the provisions of the present Convention.

Article 15

Temporary exercise of the functions of the head of a consular post

1. If the head of a consular post is unable to carry out his functions or the position of head of consular post is vacant, an acting head of post may act provisionally as head of the consular post.

2. The full name of the acting head of post shall be notified either by the diplomatic mission of the sending State or, if that State has no such mission in the receiving State, by the head of the consular post, or, if he is unable to do so, by any competent authority of the sending State, to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry. As a general rule, this notification shall be given in advance. The receiving State may make the admission as acting head of post of a person who is neither a diplomatic agent nor a consular officer of the sending State in the receiving State conditional on its consent.

3. The competent authorities of the receiving State shall afford assistance and protection to the acting head of post. While he is in charge of the post, the provisions of the present Convention shall apply to him on the same basis as to the head of the consular post concerned. The receiving State shall not, however, be obliged to grant to an acting head of post any facility, privilege or immunity which the head of the consular post enjoys only subject to conditions not fulfilled by the acting head of post.

4. When, in the circumstances referred to in paragraph 1 of this Article, a member of the diplomatic staff of the diplomatic mission of the sending State in the receiving State is designated by the sending State as an acting head of post, he shall, if the receiving State does not object thereto, continue to enjoy diplomatic privileges and immunities.

Article 16

Precedence as between heads of consular posts

1. Heads of consular posts shall rank in each class according to the date of the grant of the *exequatur*.

2. If, however, the head of a consular post before obtaining the *exequatur* is admitted to the exercise of his functions provisionally, his precedence shall be determined according to the date of the provisional admission; this precedence shall be maintained after the granting of the *exequatur*.

3. The order of precedence as between two or more heads of consular posts who obtained the *exequatur* or provisional admission on the same date shall be determined according to the dates on which their commissions or similar instruments or the notifications referred to in paragraph 3 of Article 11 were presented to the receiving State.

4. Acting heads of posts shall rank after all heads of consular posts and, as between themselves, they shall rank according to the dates on which they assumed their functions as acting heads of posts as indicated in the notifications given under paragraph 2 of Article 15.

5. Honorary consular officers who are heads of consular posts shall rank in each class after career heads of consular posts, in the order and according to the rules laid down in the foregoing paragraphs.

6. Heads of consular posts shall have precedence over consular officers not having that status.

Article 17

Performance of diplomatic acts by consular officers

1. In a State where the sending State has no diplomatic mission and is not represented by a diplomatic mission of a third State, a consular officer may, with the consent of the receiving State, and without affecting his consular status, be authorized to perform diplomatic acts. The performance of such acts by a consular officer shall not confer upon him any right to claim diplomatic privileges and immunities.

2. A consular officer may, after notification addressed to the receiving State, act as representative of the sending State to any inter-governmental organization. When so acting, he shall be entitled to enjoy any privileges and immunities accorded to such a representative by customary international law or by international agreement; however, in respect of the performance by him of any consular function, he shall not be entitled to any greater immunity from jurisdiction than that to which a consular officer is entitled under the present Convention.

Article 18

Appointment of the same person by two or more States as a consular officer

Two or more States may, with the consent of the receiving State, appoint the same person as a consular officer in that State.

Article 19

Appointment of members of consular staff

1. Subject to the provisions of Articles 20, 22 and 23, the sending State may freely appoint the members of the consular staff.

2. The full name, category and class of all consular officers, other than the head of a consular post, shall be notified by the sending State to the receiving State in sufficient time for the receiving State, if it so wishes, to exercise its rights under paragraph 3 of Article 23.

3. The sending State may, if required by its laws and regulations, request the receiving State to grant an *exequatur* to a consular officer other than the head of a consular post.

4. The receiving State may, if required by its laws and regulations, grant an *exequatur* to a consular officer other than the head of a consular post.

Article 20

Size of the consular staff

In the absence of an express agreement as to the size of the consular staff, the receiving State may require that the size of the staff be kept within limits considered by it to be reasonable and normal, having regard to circumstances and conditions in the consular district and to the needs of the particular consular post.

Article 21

Precedence as betwen consular officers of a consular post

The order of precedence as between the consular officers of a consular post and any change thereof shall be notified by the diplomatic mission of the sending State or, if that State has no such mission in the receiving State, by the head of the consular post, to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry.

Article 22

Nationality of consular officers

1. Consular officers should, in principle, have the nationality of the sending State.

2. Consular officers may not be appointed from among persons having the nationality of the receiving State except with the express consent of that State which may be withdrawn at any time.

3. The receiving State may reserve the same right with regard to nationals of a third State who are not also nationals of the sending State.

Article 23

Persons declared non grata

1. The receiving State may at any time notify the sending State that a consular officer is *persona non grata* or that any other member of the consular staff is not acceptable. In that event, the sending States shall, as the case may be, either recall the person concerned or terminate his functions with the consular post.

2. If the sending State refuses or fails within a reasonable time to carry out its obligations under paragraph 1 of this Article, the receiving State may, as the case may be, either withdraw the *exequatur* from the person concerned or cease to consider him as a member of the consular staff.

3. A person appointed as a member of a consular post may be declared unacceptable before arriving in the territory of the receiving State, or, if already in the receiving State, before entering on his duties with the consular post. In any such case, the sending State shall withdraw his appointment.

4. In the cases mentioned in paragraphs 1 and 3 of this Article, the receiving State is not obliged to give to the sending State reasons for its decision.

Article 24

Notification to the receiving State of appointments, arrivals and departures

1. The Ministry for Foreign Affairs of the receiving State or the authority designated by that Ministry shall be notified of:

(*a*) the appointment of members of a consular post, their arrival after appointment to the consular post, their final departure or the termination of their functions and any other changes affecting their status that may occur in the course of their service with the consular post;

(*b*) the arrival and final departure of a person belonging to the family of a member of a consular post forming part of his household and, where appropriate, the fact that a person becomes or ceases to be such a member of the family;

(*c*) the arrival and final departure of members of the private staff and, where appropriate, the termination of their service as such;

(*d*) the engagement and discharge of persons resident in the receiving State as members of a consular post or as members of the private staff entitled to privileges and immunities.

2. When possible, prior notification of arrival and final departure shall also be given.

SECTION II END OF CONSULAR FUNCTIONS

Article 25

Termination of the functions of a member of a consular post

The functions of a member of a consular post shall come to an end *inter alia:*

(*a*) on notification by the sending State to the receiving State that his functions have come to an end;

(*b*) on withdrawal of the *exequatur;*

(*c*) on notification by the receiving State to the sending State that the receiving State has ceased to consider him as a member of the consular staff.

Article 26

Departure from the territory of the receiving State

The receiving State shall, even in case of armed conflict, grant to members of the consular post and members of the private staff, other than nationals of the receiving State, and to members of their families forming part of their households irrespective of nationality, the necessary time and facilities to enable them to prepare their departure and to leave at the earliest possible moment after the termination of the functions of the members concerned. In particular, it shall, in case of need, place at their disposal the necessary means of transport for themselves and their property other than property acquired in the receiving State the export of which is prohibited at the time of departure.

Article 27

Protection of consular premises and archives and of the interests of the sending State in exceptional circumstances

1. In the event of the severance of consular relations between two States:

(*a*) the receiving State shall, even in case of armed conflict, respect and protect the consular premises, together with the property of the consular post and the consular archives;

(*b*) the sending State may entrust the custody of the consular president, together with the property contained therein and the consular archives, to a third State acceptable to the receiving State;

(*c*) the sending State may entrust the protection of its interests and those of its nationals to a third State acceptable to the receiving State.

2. In the event of the temporary or permanent closure of a consular post, the provisions of sub-paragraph (*a*) of paragraph 1 of this Article shall apply. In addition,

(*a*) if the sending State, although not represented in the receiving State by a diplomatic mission, has another consular post in the territory of that State, that consular post may be entrusted with the custody of the premises of the consular post which has been closed, together with the property contained therein and the consular archives, and, with the consent of the receiving State, with the exercise of consular functions in the district of that consular post; or

(*b*) if the sending State has no diplomatic mission and no other consular post in the receiving State, the provisions of sub-paragraphs (*b*) and (*c*) of paragraph 1 of this Article shall apply.

CHAPTER II. FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CONSULAR POSTS, CAREER CONSULAR OFFICERS AND OTHER MEMBERS OF A CONSULAR POST

SECTION I. FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO A CONSULAR POST

Article 28

Facilities for the work of the consular post

The receiving State shall accord full facilities for the performance of the functions of the consular post.

Article 29

Use of national flag and coat-of-arms

1. The sending State shall have the right to the use of its national flag and coat-of-arms in the receiving State in accordance with the provisions of this Article.

2. The national flag of the sending State may be flown and its coat-of-arms displayed on the building occupied by the consular post and at the entrance door thereof, on the residence of the head of the consular post and on his means of transport when used on official business.

3. In the exercise of the right accorded by this Article regard shall be had to the laws, regulations and usages of the receiving State.

Article 30

Accommodation

1. The receiving State shall either facilitate the acquisition on its territory, in accordance with its laws and regulations, by the sending State of premises necessary for its consular post or assist the latter in obtaining accommodation in some other way.

2. It shall also, where necessary, assist the consular post in obtaining suitable accommodation for its members.

Article 31

Inviolability of the consular premises

1. Consular premises shall be inviolable to the extent provided in this Article.

2. The authorities of the receiving State shall not enter that part of the consular premises which is used exclusively for the purpose of the work of the consular post except with the consent of the head of the consular post or of his designee or of the head of the diplomatic mission of the sending State. The consent of the head of the consular post may, however, be assumed in case of fire or other disaster requiring prompt protective action.

3. Subject to the provisions of paragraph 2 of this Article, the receiving State is under a special duty to take all appropriate steps to protect the consular premises against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.

4. The consular premises, their furnishings, the property of the consular post and its means of transport shall be immune from any form of requisition for purposes of national defence or public utility. If expropriation is necessary for such purposes, all possible steps shall be taken to avoid impeding the performance of consular functions, and prompt, adequate and effective compensation shall be paid to the sending State.

Article 32

Exemption from taxation of consular premises

1. Consular premises and the residence of the career head of consular post of which the sending State or any person acting on its behalf is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if, under the law of the receiving State, they are payable by the person who contracted with the sending State or with the person acting on its behalf.

Article 33

Inviolability of the Consular archives and documents

The consular archives and documents shall be inviolable at all times and wherever they may be.

Article 34

Freedom of movement

Subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure freedom of movement and travel in its territory to all members of the consular post.

Article 35

Freedom of communication

1. The receiving State shall permit and protect freedom of communication on the part of the consular post for all official purposes. In communicating with the Government, the diplomatic missions and other consular posts, wherever situated, of the sending State, the consular post may employ all appropriate means, including diplomatic or consular couriers, diplomatic or consular bags and messages in code or cipher. However, the consular post may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the consular post shall be inviolable. Official correspondence means all correspondence relating to the consular post and its functions.

3. The consular bag shall be neither opened nor detained. Nevertheless, if the competent authorities of the receiving State have serious reason to believe that the bag contains something other than the correspondence, documents or articles referred to in paragraph 4 of this Article, they may request that the bag be opened in their presence by an authorized representative of the sending State. If this request is refused by the authorities of the sending State, the bag shall be returned to its place of origin.

4. The packages constituting the consular bag shall bear visible external marks of their character and may contain only official correspondence and documents or articles intended exclusively for official use.

5. The consular courier shall be provided with an official document indicating his status and the number of packages constituting the consular bag. Except with the consent of the receiving State he shall be neither a national of the receiving State, nor, unless he is a national of the sending State, a permanent resident of the receiving State. In the performance of his functions he shall be protected by the receiving State. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

6. The sending State, its diplomatic missions and its consular posts may designate consular couriers *ad hoc*. In such cases the provisions of paragraph 5 of this Article shall also apply except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the consular bag in his charge.

7. A consular bag may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a consular courier. By arrangement with the appropriate local authorities, the consular post may send one of its members to take possession the bag directly and freely from the captain of the ship or of the aircraft.

Article 36

Communication and contact with nationals of the sending State

1. With a view to facilitating the exercise of consular functions relating to nationals of the sending State:

(*a*) consular officers shall be free to communicate with nationals of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officers of the sending State;

(*b*) if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this subparagraph;

(*c*) consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of the sending State who is in prison, custody or detention in their district in pursuance of a judgment. Nevertheless, consular officers shall refrain from taking action on behalf of a national who is in prison, custody or detention if he expressly opposes such action.

2. The rights referred to in paragraph 1 of this Article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under this Article are intended.

Article 37

Information in cases of deaths, guardianship or trusteeship wrecks and air accidents

If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty:

(*a*) in the case of the death of a national of the sending State, to inform without delay the consular post in whose district the death occurred;

(*b*) to inform the competent consular post without delay of any case where the appointment of a guardian or trustee appears to be in the interests of a minor or other person lacking full capacity who is a national of the sending State. The giving of this information shall, however, be without prejudice to the operation of the laws and regulations of the receiving State concerning such appointments;

(*c*) if a vessel, having the nationality of the sending State, is wrecked or runs aground in the territorial sea or internal waters of the receiving State, or if an aircraft registered in the sending State suffers an accident on the territory of the receiving State, to inform without delay the consular post nearest to the scene of the occurrence.

Article 38

Communication with the authorities of the receiving State

In the exercise of their functions, consular officers may address:

(*a*) the competent local authorities of their consular district;

(*b*) the competent central authorities of the receiving State if and to the extent that this is allowed by the laws, regulations and usages of the receiving State or by the relevant international agreements.

Article 39

Consular fees and charges

1. The consular post may levy in the territory of the receiving State the fees and charges provided by the laws and regulations of the sending State for consular acts.

2. The sums collected in the form of the fees and charges referred to in paragraph 1 of this Article, and the receipts for such fees and charges, shall be exempt from all dues and taxes in the receiving State.

SECTION II. FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO CAREER CONSULAR OFFICERS AND OTHER MEMBERS OF A CONSULAR POST

Article 40

Protection of consular officers

The receiving State shall treat consular officers with due respect and shall take all appropriate steps to prevent any attack on their person, freedom or dignity.

Article 41

Personal inviolability of consular officers

1. Consular officers shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by the competent judicial authority.

2. Except in the case specified in paragraph 1 of this Article, consular officers shall not be committed to prison or liable to any other form of restriction on their personal freedom save in execution of a judicial decision of final effect.

3. If criminal proceedings are instituted against a consular officer, he must appear before the competent authorities. Nevertheless, the proceedings shall be conducted with the respect due to him by reason of his official position and, except in the case specified in paragraph 1 of this Article, in a manner which will hamper the exercise of consular functions as little as possible. When, in the circumstances mentioned in paragraph 1 of this Article, it has become necessary to detain a consular officer, the proceedings against him shall be instituted with the minimum of delay.

Article 42

Notification of arrest, detention or prosecution

In the event of the arrest or detention, pending trial, of a member of the consular staff, or of criminal proceedings being instituted against him, the receiving State shall promptly notify the head of the consular post. Should the latter be himself the object of any such measure, the receiving State shall notify the sending State through the diplomatic channel.

Article 43

Immunity from jurisdiction

1. Consular officers and consular employees shall not be amenable to the jurisdiction of the judicial or administrative authorities of the receiving State in respect of acts performed in the exercise of consular functions.

2. The provisions of paragraph 1 of this Article shall not, however, apply in respect of a civil action either:

(*a*) arising out of a contract concluded by a consular officer or a consular employee in

which he did not contract expressly or impliedly as an agent of the sending State; or

(b) by a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

Article 44

Liability to give evidence

1. Members of a consular post may be called upon to attend as witnesses in the course of judicial or administrative proceedings. A consular employee or a member of the service staff shall not, except in the cases mentioned in paragraph 3 of this Article, decline to give evidence. If a consular officer should decline to do so, no coercive measure or penalty may be applied to him.

2. The authority requiring the evidence of a consular officer shall avoid interference with the performance of his functions. It may, when possible, take such evidence at his residence or at the consular post or accept a statement from him in writing.

3. Members of a consular post are under no obligation to give evidence concerning matters connected with the exercise of their functions or to produce official correspondence and documents relating thereto. They are also entitled to decline to give evidence as expert witnesses with regard to the law of the sending State.

Article 45

Waiver of privileges and immunities

1. The sending State may waive, with regard to a member of the consular post, any of the privileges and immunities provided for in Articles 41, 43 and 44.

2. The waiver shall in all cases be express, except as provided in paragraph 3 of this Article, and shall be communicated to the receiving State in writing.

3. The initiation of proceedings by a consular officer or a consular employee in a matter where he might enjoy immunity from jurisdiction under Article 43 shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.

4. The waiver of immunity from jurisdiction for the purposes of civil or administrative proceedings shall not be deemed to imply the waiver of immunity from the measures of execution resulting from the judicial decision; in respect of such measures, a separate waiver shall be necessary.

Article 46

Exemption from registration of aliens and residence permits

1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.

2. The provisions of paragraph 1 of this Article shall not, however, apply to any consular employee who is not a permanent employee of the sending State or who carries on any private gainful occupation in the receiving State or to any member of the family of any such employee.

Article 47

Exemption from work permits

1. Members of the consular post shall, with respect to services rendered for the sending State, be exempt from any obligations in regard to work permits imposed by the laws and regulations of the receiving State concerning the employment of foreign labour.

2. Members of the private staff of consular officers and of consular employees shall, if they do not carry on any other gainful occupation in the receiving State, be exempt from the obligations referred to in paragraph 1 of this Article.

Article 48

Social security exemption

1. Subject to the provisions of paragraph 3 of this Article, members of the consular post with respect to services rendered by them for the sending State, and members of their families forming part of their households, shall be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this Article shall apply also to members of the private staff who are in the sole employ of members of the consular post, on condition:

(a) that they are not nationals of or permanently resident in the receiving State; and

(b) that they are covered by the social security provisions which are in force in the sending State or a third State.

3. Members of the consular post who employ persons to whom the exemption provided for in paragraph 2 of this Article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State, provided that such participation is permitted by that State.

Article 49

Exemption from taxation

1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:

(a) indirect taxes of a kind which are normally incorporated in the price of goods or services;

(b) dues or taxes on private immovable property situated in the territory of the receiving State, subject to the provisions of Article 32;

(c) estate, succession or inheritance duties, and duties on transfers, levied by the receiving State, subject to the provisions of paragraph (b) of Article 51;

(d) dues and taxes on private income, including capital gains, having its source in the receiving State and capital taxes relating to investments made in commercial or financial undertakings in the receiving State;

(e) charges levied for specific services rendered;

(f) registration, court or record fees, mortgage dues and stamp duties, subject to the provisions of Article 32.

2. Members of the service staff shall be exempt from dues and taxes on the wages which they receive for their services.

3. Members of the consular post who employ persons whose wages or salaries are not exempt from income tax in the receiving State shall observe the obligations which the laws and regulations of that State impose upon employers concerning the levying of income tax.

Article 50

Exemption from customs duties and inspection

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

(a) articles for the official use of the consular post;

(b) articles for the personal use of a consular officer or members of his family forming part of his household, including articles intended for his establishment. The articles intended for consumption shall not exceed the quantities necessary for direct utilization by the persons concerned.

2. Consular employees shall enjoy the privileges and exemptions specified in paragraph 1 of this Article in respect of articles imported at the time of first installation.

3. Personal baggage accompanying consular officers and members of their families forming part of their households shall be exempt from inspection. It may be inspected only if there is serious reason to believe that it contains articles other than those referred to in subparagraph (b) of paragraph 1 of this Article, or articles the import or export of which is prohibited by the laws and regulations of the receiving State or which are subject to its quarantine laws and regulations. Such inspection shall be carried out in the presence of the consular officer or member of his family concerned.

Article 51

Estate of a member of the consular post or of a member of his family

In the event of the death of a member of the consular post or of a member of his family forming part of his household, the receiving State:

(a) shall permit the export of the movable property of the deceased, with the exception of any such property acquired in the receiving State the export of which was prohibited at the time of his death;

(b) shall not levy national, regional or municipal estate, succession or inheritance duties, and duties on transfers, on movable property the presence of which in the receiving State was due solely to the presence in that State of the deceased as a member of the consular post or as a member of the family of a member of the consular post.

Article 52

Exemption from personal services and contributions

The receiving State shall exempt members of the consular post and members of their families forming part of their households from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

Article 53

Beginning and end of consular privileges and immunities

1. Every member of the consular post shall enjoy the privileges and immunities provided in the present Convention from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when he enters on his duties with the consular post.

2. Members of the family of a member of the consular post forming part of his household and members of his private staff shall receive the privileges and immunities provided in the present Convention from the date from which he enjoys privileges and immunities in accordance with paragraph 1 of this Article or from the date of their entry into the territory of the receiving State or from the date of their becoming a member of such family or private staff, whichever is the latest.

3. When the functions of a member of the consular post have come to an end, his privileges and immunities and those of a member of his family forming part of his household or a member of his private staff shall normally cease at the moment when the person concerned leaves the receiving State or on the expiry of a reasonable period in which to do so, whichever is the sooner, but shall subsist until that time, even in case of armed conflict. In the case of the persons referred to in paragraph 2 of this Article, their privileges and immunities shall come to an end when they cease to belong to the household or to be in the service of a member of the consular post provided, however, that if such persons intend leaving the receiving State within a reasonable period thereafter, their privileges and immunities shall subsist until the time of their departure.

4. However, with respect to acts performed by a consular officer or a consular employee

in the exercise of his functions, immunity from jurisdiction shall continue to subsist without limitation of time.

5. In the event of the death of a member of the consular post, the members of his family forming part of his household shall continue to enjoy the privileges and immunities accorded to them until they leave the receving State or until the expiry of a reasonable period enabling them to do so, whichever is the sooner.

Article 54

Obligations of third States

1. If a consular officer passes through or is in the territory of a third State, which has granted him a visa if a visa was necessary, while proceeding to take up or return to his post or when returning to the sending State the third State shall accord to him all immunities provided for by the other Articles of the present Convention as may be required to ensure his transit or return. The same shall apply in the case of any member of his family forming part of his household enjoying such privileges and immunities who are accompanying the consular officer or traveling separately to join him or to return to the sending State.

2. In circumstances similar to those specified in paragraph 1 of this Article, third States shall not hinder the transit through their territory of other members of the consular post or of members of their families forming part of their households.

3. Third States shall accord to official correspondence and to other official communications in transit, including messages in code or cipher, the same freedom and protection as the receiving State is bound to accord under the present Convention. They shall accord to consular couriers who have been granted a visa, if a visa was necessary, and to consular bags in transit, the same inviolability and protection as the receiving State is bound to accord under the present Convention.

4. The obligations of third States under paragraphs 1, 2 and 3 of this Article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and to consular bags, whose presence in the territory of the third State is due to *force majeure*.

Article 55

Respect for the laws and regulations of the receiving State

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of that State.

2. The consular premises shall not be used in any manner incompatible with the exercise of consular functions.

3. The provisions of paragraph 2 of this Article shall not exclude the possibility of offices of other institutions or agencies being installed in part of the building in which the consular premises are situated, provided that the premises assigned to them are separate from those used by the consular post. In that event, the said offices shall not, for the purposes of the present Convention, be considered to form part of the consular premises.

Article 56

Insurance against third party risks

Members of the consular post shall comply with any requirement imposed by the laws and regulations of the receiving State in respect of insurance against third party risks arising from the use of any vehicle, vessel or aircraft.

Article 57

Special provisions concerning private gainful occupation

1. Career consular officers shall not carry on for personal profit any professional or commercial activity in the receiving State.

2. Privileges and immunities provided in this Chapter shall not be accorded:

(*a*) to consular employees or to members of the service staff who carry on any private gainful occupation in the receiving State;

(*b*) to members of the family of a person referred to in subparagraph (*a*) of this paragraph or to members of his private staff;

(*c*) to members of the family of a member of a consular post who themselves carry on any private gainful occupation in the receiving State.

CHAPTER III. REGIME RELATING TO HONORARY CONSULAR OFFICERS AND CONSULAR POSTS HEADED BY SUCH OFFICERS

Article 58

General provisions relating to facilities, privileges and immunities

1. Articles 28, 29, 30, 34, 35, 36, 37, 38 and 39, paragraph 3 of Article 54 and paragraphs 2 and 3 of Article 55 shall apply to consular posts headed by an honorary consular officer. In addition, the facilities, privileges and immunities of such consular posts shall be governed by Articles 59, 60, 61 and 62.

2. Articles 42 and 43, paragraph 3 of Article 44, Articles 45 and 53 and paragraph 1 of Article 55 shall apply to honorary consular officers. In addition, the facilities, privileges and immunities of such consular officers shall be governed by Articles 63, 64, 65, 66 and 67.

3. Privileges and immunities provided in the present Convention shall not be accorded to members of the family of an honorary consular officer or of a consular employee employed at a consular post headed by an honorary consular officer.

4. The exchange of consular bags between two consular posts headed by honorary consular officers in different States shall not be allowed without the consent of the two receiving States concerned.

Article 59

Protection of the consular premises

The receiving State shall take such steps as may be necessary to protect the consular premises of a consular post headed by an honorary consular officer against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.

Article 60

Exemption from taxation of consular premises

1. Consular premises of a consular post headed by an honorary consular officer of which the sending State is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if, under the laws and regulations of the receiving State, they are payable by the person who contracted with the sending State.

Article 61

Inviolability of consular archives and documents

The consular archives and documents of a consular post headed by an honorary consular officer shall be inviolable at all times and wherever they may be, provided that they are kept separate from other papers and documents and, in particular, from the private correspondence of the head of a consular post and of any person working with him, and from the materials, books or documents relating to their profession or trade.

Article 62

Exemptions from customs duties

The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of, and grant exemption from all customs duties, taxes, and related charges other than charges for storage cartage and similar services on the following articles, provided that they are for the official use of a consular post headed by an honorary consular officer: coats-of-arms, flags, signboards, seals and stamps, books, official printed matter, office furniture, office equipment and similar articles supplied by or at the instance of the sending State to the consular post.

Article 63

Criminal proceedings

If criminal proceedings are instituted against an honorary consular officer, he must appear before the competent authorities. Nevertheless, the proceedings shall be conducted with the respect due to him by reason of his official position and, except when he is under arrest or detention, in a manner which will hamper the exercise of consular functions as little as possible. When it has become necessary to detain an honorary consular officer, the proceedings against him shall be instituted with the minimum of delay.

Article 64

Protection of honorary consular officers

The receiving State is under a duty to accord to an honorary consular officer such protection as may be required by reason of his official position.

Article 65

Exemption from registration of aliens and residence permits

Honorary consular officers with the exception of those who carry on for personal profit any professional or commercial activity in the receiving State, shall be exempt from all obligations under the laws and regulations of the receiving State in regard to the registration of aliens and residence permits.

Article 66

Exemption from taxation

An honorary consular officer shall be exempt from all dues and taxes on the remuneration and emoluments which he receives from the sending States in respect of the exercise of consular functions.

Article 67

Exemption from personal services and contributions

The receiving State shall exempt honorary consular officers from all personal services and from all public services of any kind whatsoever and from military obligations such as those connected with requisitioning, military contributions and billeting.

Article 68

Optional character of the institution of honorary consular officers

Each State is free to decide whether it will appoint or receive honorary consular officers.

CHAPTER IV. GENERAL PROVISIONS

Article 69

Consular agents who are not heads of consular posts

1. Each State is free to decide whether it will establish or admit consular agencies conducted by consular agents not designated as heads of consular post by the sending State.

2. The conditions under which the consular agencies referred to in paragraph 1 of this Article may carry on their activities and the privileges and immunities which may be enjoyed by the consular agents in charge of them shall be determined by agreement between the sending State and the receiving State.

Article 70

Exercise of consular functions by diplomatic missions

1. The provisions of the present Convention apply also, so far as the context permits, to the exercise of consular functions by a diplomatic mission.

2. The names of members of a diplomatic mission assigned to the consular section or otherwise charged with the exercise of the consular functions of the mission shall be notified to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry.

3. In the exercise of consular functions a diplomatic mission may address:

(*a*) the local authorities of the consular district;

(*b*) the central authorities of the receiving State if this is allowed by the laws, regulations and usages of the receiving State or by relevant international agreements.

4. The privileges and immunities of the members of a diplomatic mission referred to in paragraph 2 of this Article shall continue to be governed by the rules of international law concerning diplomatic relations.

Article 71

Nationals or permanent residents of the receiving State

1. Except in so far as additional facilities, privileges and immunities may be granted by the receiving State, consular officers who are nationals of or permanently resident in the receiving State shall enjoy only immunity from jurisdiction and personal inviolability in respect of official acts performed in the exercise of their functions, and the privilege provided in paragraph 3 of Article 44. So far as these consular officers are concerned, the receiving State shall likewise be bound by the obligation laid down in Article 42. If criminal proceedings are instituted against such a consular officer, the proceedings shall, except when he is under arrest or detention, be conducted in a manner which will hamper the exercise of consular functions as little as possible.

2. Other members of the consular post who are nationals of or permanently resident in the receiving State and members of their families, as well as members of the families of consular officers referred to in paragraph 1 of this Article, shall enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State. Those members of the families of members of the consular post and those members of the private staff who are themselves nationals of or permanently resident in the receiving State shall likewise enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State. The receiving State shall, however, exercise its jurisdiction over those persons in such a way as not to hinder unduly the performance of the functions of the consular post.

Article 72

Non-discrimination

1. In the application of the provisions of the present Convention the receiving State shall not discriminate as between States.

2. However, discrimination shall not be regarded as taking place:

(*a*) where the receiving State applies any of the provisions of the present Convention restrictively because of a restrictive application of that provision to its consular posts in the sending State;

(*b*) where by custom or agreement States extend to each other more favourable treatment than is required by the provisions of the present Convention.

Article 73

Relationship between the present Convention and other international agreements

1. The provisions of the present Convention shall not affect other international agreements in force as between States parties to them.

2. Nothing in the present Convention shall preclude States from concluding international agreements confirming or supplementing or extending or amplifying the provisions thereof.

CHAPTER V. FINAL PROVISIONS

Article 74

Signature

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention, as follows until 31 October 1963 at the Federal Ministry for Foreign Affairs of the Republic of Austria and subsequently, until 31 March 1964, at the United Nations Headquarters in New York.

Article 75

Ratification

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 76

Accession

The present Convention shall remain open for accession by any State belonging to any of the four categories mentioned in Article 74. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 77

Entry into force

1. The present Convention shall enter into force on the thirtieth day following the date of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 78

Notfications by the Secretary-General

The Secretary-General of the United Nations shall inform all States belonging to any of the four categories mentioned in Article 74:

(*a*) of signatures to the present Convention and of the deposit on instruments of ratification or accession, in accordance with Articles 74, 75, and 76;

(*b*) of the date on which the present Convention will enter into force, in accordance with Article 77.

Article 79

Authentic texts

The original of the present Convention, of which the Chinese, English, French, Russian, and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States belonging to any of the four categories mentioned in Article 74.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being dutly authorized thereto by their respective Governments, have signed the present Convention.

Done at Vienna, this twenty-fourth day of April, one thousand nine hundred and sixty-three.

For Afghanistan:
For Albania:
For Algeria:
For Argentina: E. Quintana.
For Australia: D. McCarthy, 31st March 1964.
For Austria: Kreisky.
For Belgium: Walter Loridan, Le 31 mars 1964.
For Bolivia: Emilio Pollak, 6 de agosto 1963.
For Brazil: Mário Gibson Alves Barboza; Geraldo Eulálio do Nascimento e Silva; and Carlos Frederico Duarte Gonçalves da Rocha.
For Bulgaria:
For Burma:
For Burundi:
For the Byelorussian Soviet Socialist Republic:
For Cambodia:
For Cameroon: R. N'Thepe, 21 août 1963.
For Canada:
For the Central African Republic: C. Kalenzaga.
For Ceylon:
For Chad:
For Chile: A. Marambio.
For China: Wu Nan-ju and Chang Weitse.
For Colombia: Efraim Casas-Manrique and Daniel Henao-Henao.
For the Congo (Brazzaville): R. Mahouata.
For the Congo (Leopoldville): S.-P. Tshimbalanga.
For Costa Rica: *Ad referendum* Erich M. Zeilinger, Junio 6, 1963.
For Cuba: Luis Orlando Rodriguez and Amado Palenque.
For Cyprus:
For Czechoslovakia: With the attached declaration,[1] Jiří Hájek, March 31, 1964.
For Dahomey: C. Kalenzaga.
For Denmark: H. H. Schrøder.
For the Dominican Republic: Alain Stuchly and Theodor Schmidt.
For Ecuador: Leopoldo Benites, March 25 1964.
For El Salvador:
For Ethiopia:
For the Federal Republic of Germany: G. von Haeften, October 31, 1963.
For the Federation of Malaya:
For Finland: Otso Wartiovaara, le 28 octobre 1963.
For France: B. de Menthon.
For Gabon: C. Kalenzaga.
For Ghana: Emmanuel K. Dadzie.
For Greece:
For Guatemala:
For Guinea:
For Haiti:
For the Holy See: Agostino Casaroli and G. Prigione.
For Honduras:
For Hungary:
For Iceland:
For India:
For Indonesia:
For Iran: H. Davoudi.
For Iraq:
For Ireland: W. Warnock and D. P. Waldron.
For Israel: Michael Comay, 25 February 1964.
For Italy: Vittorio Zoppi, 22 novembre 1963.
For the Ivory Coast: C. Kalenzaga.
For Jamaica:
For Japan:
For Jordan:
For Kuwait: Rashid Al-Rashid, 10 January 1964.
For Laos:
For Lebanon: E. Donato.
For Liberia: Nathan Barnes, Herbert R. W. Brewer, and James E. Morgan.
For Libya:
For Liechtenstein: Heinrich Prinz von Liechtenstein.
For Luxembourg: M. Steinmetz, 24 mars 1964.

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[1] "Contrary to the principle of sovereign equality of States and to the right of all States to participate in general multilateral treaties Articles 74 and 76 of the Vienna Convention on Consular Relations deprive certain States of their undeniable right to become parties to a treaty of a general character, concerning matters of legitimate interest of any State, which according to its preamble should contribute to the development of friendly relations among nations irrespective of their differing constitutional and social systems."

For Madagascar:
For Mali:
For Mauritania:
For Mexico: Manuel Cabrera Macía.

(*Translation by the Secretariat of the United Nations:*) Manuel Cabrera Macia, Ambassador of Mexico accredited to the Government of the Federal Republic of Austria, signs the Vienna Convention on Consular Relations of 24 April 1963 as Plenipotentiary, subject to ratification by his Government and with the reservation that Mexico does not accept that part of article 31, paragraph 4, of the Convention which refers to expropriation of consular premises. The main reason for this reservation is that that paragraph, by contemplating the possibility of expropriation of consular premises by the receiving State, presupposes that the sending State is the owner of the premises. That situation is precluded in the Mexican Republic by article 27 of the Political Constitution of the United Mexican States, according to which foreign States cannot acquire private title to immovable property unless it is situated at the permanent set of Federal Power and necessary for the direct use of their embassies or legations. Viena 7 de octubre de 1963.

For Monaco:
For Mongolia:
For Morocco:
For Nepal:
For the Netherlands:
For New Zealand:
For Nicaragua:
For the Niger: C. Kalenzaga.
For Nigeria:
For Norway: Egil Amile.
For Pakistan:
For Panama: César A. Quintero, December 4, 1963.
For Paraguay:
For Peru: E. Letts S.
For the Philippines: T. G. de Castro.
For Poland: B. Lewandowski, 20 March 1964.
For Portugal:
For the Republic of Korea:
For the Republic of Viet-Nam:
For Romania:
For Rwanda:
For San Marino:
For Saudi Arabia:
For Senegal:
For Sierra Leone:
For Somalia:
For South Africa:
For Spain:
For the Sudan:
For Sweden: Z. S. Przybyszewski Westrup, le 8 Octobre 1963.
For Switzerland: Paul Ruegger and R. Bindschedler, Le 23 Octobre 1963.
For Syria:
For Tanganyika:
For Thailand:
For Togo:
For Trinidad and Tobago:
For Tunisia:
For Turkey:
For Uganda:
For the Ukrainian Soviet Socialist Republic:
For the Union of Soviet Socialist Republics:
For the United Arab Republic:
For the United Kingdom of Great Britain and Northern Ireland: With attached declaration,[1] Patrick Dean, March 27, 1964.

[1] "The United Kingdom will interpret the exemption accorded to members of a consular post by paragraph 3 of Article 44 from liability to give evidence concerning matters connected with the exercise of their functions as relating only to acts in respect of which consular officers and consular employees enjoy immunity from the jurisdiction of the judicial or administrative authorities of the receiving State in accordance with the provisions of Article 43 of the Convention."

For the United States of America: Warde M. Cameron.
For the Upper Volta: C. Kalenzaga.
For Uruguay: Muñoz Moratorio.
For Venezuela: P. Silveira Barrios.

(*Translation by the Secretariat of the United Nations:*) Reservations are made with respect to articles 3, 17 (paragraph 2), 35 (paragraph 5), 41, 43, 49, 50 (paragraph 2) and 70 for the reasons which were given by the Venezuelan delegation during the Conference debates and which will be found in the records of the Conference. A reservation is also made with respect to article 71, which is at variance with the Venezuelan constitutional principle that all Venezuelans are equal before the law.

For Western Samoa:
For Yemen:
For Yugoslavia: Milan Bartos.

I hereby certify that the foregoing text is a true copy of the Vienna Convention on Consular Relations adopted by the United Nations Conference on Consular Relations, held at the Neue Hofburg in Vienna, Austria, from 4 March to 22 April 1963, the original of which is deposited with the Secretary-General of the United Nations.

For the Secretary-General: The Legal Counsel, C. A. Stavropoulos.

United Nations, New York, 15 April 1964.

OPTIONAL PROTOCOL CONCERNING THE COMPULSORY SETTLEMENT OF DISPUTES

The States Parties to the present Protocol and to the Vienna Convention on Consular Relations, hereinafter referred to as "the Convention", adopted by the United Nations Conference held at Vienna from 4 March to 22 April 1963,

Expressing their wish to resort in all matters concerning them in respect of any dispute arising out of the interpretation or application of the Convention to the compulsory jurisdiction of the International Court of Justice, unless some other form of settlement has been agreed upon by the parties within a reasonable period.

Have agreed as follows:

Article I

Disputes arising out of the interpretation or application of the Convention shall lie within the compulsory jurisdiction of the International Court of Justice and may accordingly be brought before the Court by an application made by any party to the dispute being a Party to the present Protocol.

Article II

The parties may agree, within a period of two months after one party has notified its opinion to the other that a dispute exists, to resort not to the International Court of Justice but to an arbitral tribunal. After the expiry of the said period, either party may bring the dispute before the Court by an application.

Article III

1. Within the same period of two months, the parties may agree to adopt a conciliation procedure before resorting to the International Court of Justice.

2. The conciliation commission shall make its recommendations within five months after its appointment. If its recommendations are not accepted by the parties to the dispute within two months after they have been delivered, either party may bring the dispute before the Court by an application.

Article IV

States Parties to the Convention, to the Optional Protocol concerning Acquisition of Nationality, and to the present Protocol may at any time declare that they will extend the provisions of the present Protocol to disputes arising out of the interpretation or application of the Optional Protocol concerning Acquisition of Nationality. Such declarations shall be notified to the Secretary-General of the United Nations.

Article V

The present Protocol shall be open for signature by all States which may become Parties to the Convention as follows: until 31 October 1963 at the Federal Ministry for Foreign Affairs of the Republic of Austria and, subsequently, until 31 March 1964, at the United Nations Headquarters in New York.

Article VI

The present Protocol is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article VII

The present Protocol shall remain open for accession by all States which may become Parties to the Convention. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article VIII

1. The present Protocol shall enter into force on the same day as the Convention or on the thirtieth day following the date of deposit of the second instrument of ratification or accession to the Protocol with the Secretary-General of the United Nations, whichever date is the later.

2. For each State ratifying or acceding to the present Protocol after its entry into force in accordance with paragraph 1 of this Article, the Protocol shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article IX

The Secretary-General of the United Nations shall inform all States which may become Parties to the Convention:

(*a*) of signatures to the present Protocol and of the deposit of instruments of ratification or accession, in accordance with Articles V, VI and VII;

(*b*) of declarations made in accordance with Article IV of the present Protocol;

(*c*) of the date on which the present Protocol will enter into force, in accordance with Article VIII.

Article X

The original of the present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in Article V.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorised thereto by their respective Governments, have signed the present Protocol.

DONE AT VIENNA, this twenty-fourth day of April, one thousand nine hundred and sixty-three.

For Afghanistan:
For Albania:
For Algeria:
For Argentina: E. Quintana.
For Australia:
For Austria: Kreisky.
For Belgium: Walter Loridan, Le 31 mars 1964.
For Bolivia:
For Brazil:
For Bulgaria:
For Burma:
For Burundi:
For the Byelorussian Soviet Socialist Republic:
For Cambodia:
For Cameroon: R. N'Thepe, 21 août 1963.
For Canada:
For the Central African Republic: C. Kalenzaga.
For Ceylon:
For Chad:
For Chile: A. Marambio.
For China: Wu Nan-ju and Chang Weitse.
For Colombia: Efraim Casas-Manrique and Daniel Henao-Henao.
For the Congo (Brazzaville) R. Malouata.

For the Congo (Leopoldville): S.-P. Tshimbalanga.
For Costa Rica:
For Cuba:
For Cyprus:
For Czechoslovakia:
For Dahomey: C. Kalenzaga.
For Denmark: H. H. Schroder.
For the Dominican Republic: Alain Scuchly and Theodor Schmidt.
For Ecuador:
For El Salvador:
For Ethiopia:
For the Federal Republic of Germany: G. von Haeften, 31 October, 1963.
For the Federation of Malaya:
For Finland: Otso Wartiovaara, le 28 octobre 1963.
For France: B. de Menthon.
For Gabon: C. Kalenzaga.
For Ghana: Emmanuel K. Dandzie.
For Greece:
For Guatemala:
For Guinea:
For Haiti:
For the Holy See:
For Honduras:
For Hungary:
For Iceland:
For India:
For Indonesia:
For Iran:
For Iraq:
For Ireland: W. Warnock and D. P. Waldron.
For Israel:
For Italy: Vittorio Zoppi, 22 novembre 1963.
For the Ivory Coast: C. Kalenzaga.
For Jamaica:
For Japan:
For Jordan:
For Kuwait: Rashid Al-Rashid, 10 January 1964.
For Laos:
For Lebanon: E. Donato.
For Liberia: Nathan Barnes, Herbert R. W. Brewer, and James E. Morgan.
For Libya:
For Liechtenstein: Heinrich Prinz von Liechtenstein.
For Luxembourg: M. Steinmetz, 24 mars 1964.
For Madagascar:
For Mali:
For Mauritania:
For Mexico:
For Monaco:
For Mongolia:
For Morocco:
For Nepal:
For the Netherlands:
For New Zealand:
For Nicaragua:
For the Niger: C. Kalenzaga.
For Nigeria:
For Norway: Egil Amlie.
For Pakistan:
For Panama: César A. Quintero, December 4, 1963.
For Paraguay:
For Peru: E. Letts S.
For the Philippines: T. G. de Castro.
For Poland:
For Portugal:
For the Republic of Korea:
For the Republic of Viet-Nam:
For Romania:
For Rwanda:
For San Marino:
For Saudi Arabia:
For Senegal:
For Sierra Leone:
For Somalia:
For South Africa:
For Spain:
For the Sudan:
For Sweden: Z. S. Przybyszewski Westrup, le 8 octobre 1963.
For Switzerland: Paul Ruegger and R. Bindschedler, Le 23 octobre 1963.
For Syria:
For Tanganyika:
For Thailand:
For Togo:
For Trinidad and Tobago:
For Tunisia:
For Turkey:
For Uganda:
For the Ukrainian Soviet Socialist Republic:
For the Union of Soviet Socialist Republics:
For the United Arab Republic:
For the United Kingdom of Great Britain and Northern Ireland: Patrick Dean, March 27, 1964.
For the United States of America: Warde M. Cameron.
For the Upper Volta: C. Kalenzaga.
For Uruguay: Muñoz Moratorio.
For Venezuela:
For Western Samoa:
For Yemen:
For Yugoslavia: Milan Bartoš.

I hereby certify that the foregoing text is a true copy of the Optional Protocol concerning the Complusory Settlement of Disputes adopted by the United Nations Conference on Consular Relations, held at the Neue Hofburg in Vienna, Austria, from 4 March to 22 April 1963, the original of which is deposited with the Secretary-General of the United Nations.

For the Secretary-General: The Legal Counsel, C. A. Stavropoulos.

United Nations, New York, 15 April 1964.

Mr. FULBRIGHT. Mr. President, on behalf of the Committee on Foreign Relations I recommend that the Senate give its advice and consent to the ratification of the Vienna Convention on Consular Relations.

The only remarkable thing about considering the treaty at this time is that it has taken the executive branch 6 years to recommend its ratification.

The committee was told that the delay was largely due to a disagreement within the executive branch between those who advocated continuing the traditional U.S. bilateral approach to consular conventions or following the multilateral one represented by the Vienna Convention. After 6 years of arguing the merits of both approaches, the executive branch has now concluded essentially to pursue both—the multilateral one where it serves U.S. purposes and the bilateral one where it serves these purposes even better.

The multilateral versus bilateral argument points up a basic characteristic of the Vienna Convention. It embodies those standards upon which the 92 nations represented at the conference could agree. In many ways, these are minimum standards—not as high as those embodied in our bilateral treaties.

Having said this, I do not want to denigrate the achievement represented by the Vienna Convention. This is the first international convention of its kind and constitutes a considerable contribution to the development and codification of international law. The setting forth of agreed-upon standards will reduce conflicts and frictions between nations over the rights and responsibilities of consular officers and thereby also help to promote friendly relations between them.

The committee's report and the testimony appended to it, as well as the report of the U.S. delegation to the conference which appears on pages 46–73 of Executive E, describes the convention in detail. In view of the Senate's familiarity with consular conventions. I think it is sufficient to state that it covers the same subjects in largely the same manner. To illustrate the lesser standards often embodied in the Vienna Convention I might refer to the Soviet Consular Convention which was one of the most recent bilateral treaties approved by the United States. The Senate will recall that the provision giving consular officers complete criminal immunity was the occasion for considerable debate in the Senate. In contrast the Vienna Convention provides no such immunity. While it does provide that consular officers may not be detained or arrested for possible criminal violations pending trial, even there an exception is made in the case of "grave crimes."

An important fact to bear in mind in considering the Vienna Convention is that, while it spells out the privileges and immunities of consular posts and their officers in the United States, it also guarantees them to our vast consular establishment overseas. This will be of particular importance in many of the newly independent nations which have not had the opportunity to develop a bilateral network of such treaties.

There is one last point I wish to stress again about the Vienna Convention. By its own terms it will not affect any existing bilateral treaties. Moreover, the United States—and other signatories of course—may continue to negotiate bilateral treaties with nonsignatories of the convention and even with signatories if these treaties clarify, amplify, or supplement the Vienna treaty obligations. So the United States can continue to seek higher standards of protection where it so desires.

Mr. President, the committee is unaware of any opposition to the Vienna Convention on Consular Relations and recommends favorable action by the Senate.

The PRESIDENT pro tempore. If there be no objection, Executive E, 91st Congress, first session, will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will read for the information of the Senate.

The bill clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Vienna Convention on Consular Relations and a Certified Copy of the Optional Protocol Concerning the Compulsory Settlement of Disputes, signed at Vienna under date of April 24, 1963. (Executive E, 91st Congress, 1st session.)

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that, beginning at 1:45 p.m. today, these two conventions be voted upon separately but immediately following one another. This request has been cleared with the minority. These have to be voted on and it was thought much more convenient to do it at that time.

The PRESIDENT pro tempore. Is there objection to the request of the Sen-

ator from Arkansas? The Chair hears none, and it is so ordered; the vote on the ratification of these two conventions will be postponed until 1:45 p.m. today.

LEGISLATIVE SESSION

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

NOMINATION OF JUDGE CLEMENT F. HAYNSWORTH, JR., TO SUPREME COURT

Mr. HRUSKA. Mr. President, one of the biggest political fights of this session of Congress will be fought on the Senate floor over the nomination of Judge Clement F. Haynsworth, Jr., to the Supreme Court. I regret that very much. It is not our job in advising and consenting to a nomination to wage political battles. Our duty is to insure that the nominee is one of those few individuals truly qualified to sit on the Supreme Court.

A Senator's vote should not be cast because the nominee is "for" or "against" any individual or group. His vote should be cast because the nominee is not "for" or "against" any individual or group. But that is not the way this battle is shaping up.

Frankly, I was surprised by the ferocity of the attack on Judge Haynsworth. Perhaps that is because I attended most of the hearings and reviewed all the evidence. I have heard the attacks made against him and I consider them all answered by competent testimony. Still the opposition has been adamant. There have been demands that the President withdraw Judge Haynsworth's name.

The President of the United States called a press conference on Tuesday to make absolutely clear his position on this nomination. He will not withdraw the name. His support of the nominee is firm and his confidence in the nominee is complete. I commend the President for his forthright stand and his rejection of the attacks by innuendo and rumor made on the nominee.

In his press conference, President Nixon said:

> You may recall that when I nominated Judge Haynsworth, I said that he was the man, of all the circuit judges in the country, and a chief judge with 12 years experience, that he was the man I considered to be, by age, experience, background, philosophy the best qualified to serve on the Supreme Court at this time.
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> I reiterated that position, and today, after having had an opportunity to evaluate all the charges that have been made in the past three weeks I reaffirm my support of Judge Haynsworth and in reaffirming it, I reaffirm it with even greater conviction.

The President's discussion of this nomination is valuable and illuminating. Mr. President, I ask unanimous consent that the transcript of the press conference, as it appears in the October 21, 1969, Washington Post be printed in the RECORD.

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

[From the Washington Post, Oct. 21, 1969]

NIXON ON HAYNSWORTH: "I AM GOING TO STAND BY HIM"

Following is the transcript of President Nixon's news conference yesterday:

The President: Ron Ziegler has suggested that it might be useful to members of the press if from time to time on a specific subject I brief the press myself and then take questions so you can follow through on that subject.

You may recall that I did this on the occasion of the Chief Justice Burger subject and it seems to me that this type of procedure is one that we can follow.

I want also to say that as far as those who are here for television and radio, you, of course, can only comment on this because we do not have sound and do not have film. But we will have ready, I understand, on December 15th, the new press room in the West Wing. When that is available we shall have this kind of briefing session of a subject-by-subject basis in that room so that those who want to get sound or film can get it. We won't do it always this way. Sometimes we will do it this way, but I think that will be a very useful way to do it.

It will be a very nice room. I was there this morning and it is coming along very well.

This morning this will be on the record and a transcript will be made available to you when we finish.

This morning I have selected as a subject one you have been asking Ron about over the past several weeks, the Haynsworth matter.

In discussing that matter, I want to give you my own thinking with regard to the nomination of Judge Haynsworth, where it stands at the present time, and what my evaluation of the charges that have been made against him is.

REAFFIRMS SUPPORT

You may recall that when I nominated Judge Haynsworth, I said that he was the man, of all the circuit judges in the country, and a chief judge, with 12 years experience, that he was the man I considered to be, by age, experience, background, philosophy the best qualified to serve on the Supreme Court at this time.

Three weeks ago at a press conference I not only had one question on this matter, as I recall, two. I reiterated that position, and today, after having had an opportunity to evaluate all the charges that have been made in the past three weeks I reaffirm my support of Judge Haynsworth and in reaffirming it I reaffirm it with even greater conviction.

I say it with greater conviction because when a man has been through the fire, when he has had his entire life and its entire record exposed to the glare of investigation, which, of course, any man who is submitted for confirmation to the Senate should expect to have, and in addition to that, when he has had to go through what I believe to be a vicious character assassination, if after all that he stands up and comes through as a man of integrity, a man of honesty, and a man of qualifications, then that even more indicates that he deserves the support of the President of the United States who nominated him in the first place, and also the votes of the senators who will be voting on his nomination.

I would like to touch upon perhaps three or four of the major points that have been raised: They are technical points, as many of you who have been studying the case will know.

I should say I have some experience in investigations myself, and I have studied this case completely in every respect.

I have read the income tax returns, the financial statements, all the charges that have been made by various senators, and the answers that have been made on the Senate floor by Judge Marlow Cook, by Senator Allott, and also the evaluation, of course, of the Department of Justice.

Based on that examination, I personally now have made and concluded now that all the evidence is in, there are four or five points, perhaps, that are worth discussing, but more if you want to bring them up in your questions.

REBUFFS CHARGES

The charge is made that Judge Haynsworth should have disqualified himself in six cases involving litigants who were customers of a company in which he owned stock. I have examined those cases and that charge. I agree completely with the American Bar Association, with Judge Sobeloff who conducted an investigation of this matter in 1963 and 1964, and also with John Frank, the leading authority on conflict of interest, when he said that not only did Judge Haynsworth have no requirement to disqualify himself; he had a responsibility to sit in these cases because in not one of these instances or cases named did Judge Haynsworth use his influence in any way in behalf of the company in which he owned stock, and in no instance was there any indication that he was influenced whatever in decisions by that stock ownership.

If you want to spread this out just a bit, if we were to apply that kind of a standard to all federal court judges across this country, I would say that perhaps half of them would have to be impeached, and some in the Supreme Court, because carrying it to the ridiculous end result, if a judge owned stock in U.S. Steel, U.S. Steel has customers, a great number of them, and most of those customers or a great number of them get to the Supreme Court or the circuit court of appeals.

So the judge should not disqualify himself because customers of a company he happens to own stock in are in the court. This charge has no substance.

The second major charge is that Judge Haynsworth had a substantial interest in litigation which he decided as a member of the Circuit Court of Appeals.

Let me be quite precise. The law refers not to a substantial interest in the company or the litigant, but a substantial interest in the case. Of course, that is the proper standard to apply.

In this case, I find that the senator from Indiana who made the charges cited six cases, and these six cases represent perhaps one of the most glaring examples of sloppy staff work that I have seen in the years of seeing what can happen in such cases. Two of the cases were mistakes, of course, and on the others the question of a substantial interest has been again, reduced to an absurdity.

In the Brunswick case, it is now found, as Judge Marlow Cook pointed out—and he was a judge before he became a senator, as you know—Judge Haynsworth would have profited by $5.00, at the most, probably $4.92, the exact figure, if the litigant had recovered all the amount that was involved in the case.

In the Grace case, which involved, incidentally, a parent-subsidiary relationship, Judge Haynsworth's stock would have been reduced in value by 48 cents as a result of the decision that he made.

As an indication of the staff work in this case, one of the other reasons was the Greenville Hotel case.

It is true that Judge Haynsworth did have an interest in the Greenville Hotel. It appeared that years ago as an attorney he was a director for the hotel. Being a director of the hotel he was issued a share of stock in the hotel corporation.

Then after he became a judge, he received a stock dividend of 15 cents, a check which was mailed to him. The judge, of course, returned the check, thinking it was a joke. The Company returned it to him. So Judge Haynsworth recorded 15 cents on his income tax return.

Then there is another group of cases that have been raised. That is that Judge Haynsworth should have disqualified himself in those cases involving former clients of his law firm. I should say his former law firm. The law is quite clear here. A judge does not have responsibility and should not disqualify himself in cases involving clients of his former law firm unless that relationship has been very close to the client and has continued close, and also, in point of time, unless the relationship has continued. In other words, the passage of time and the closeness of the relationship is a factor to be considered.

"BEYOND SUSPICION"

In all of the cases, the 12 which were raised in hearings involving the former clients, it appeared that Judge Haynsworth was beyond suspicion, and, as a matter of fact not only should not have disqualified himself but had a duty to sit, in my opinion.

Now the Bobby Baker matter. This is guilt by association and character assassination of the very worst type. Judge Haynsworth knew Bobby Baker. He saw him last ten years ago. Many of the gentlemen of the press know I used to see him quite often when he was a clerk to the Majority. He had three contacts with him. He had no influence on Bobby Baker, and Bobby Baker had no influence on him.

The so-called business deals in which they were partners have been completely laid before the Senate committee, and any suggestion of improper influence has been discounted by Senator Williams, who is kind of a bull on these matters.

I should say, incidentally, while we are talking, I knew Bobby Baker very well myself, too, as the presiding officer of the Senate. He was clerk to the Majority.

One of the members of my staff, Rose Mary Woods, pointed up something I had forgotten. As a matter of fact, Bobby Baker's wife served as a stenographer on my staff for several months when I was a senator from California.

The fact that I knew him does not make me guilty by association. The fact that Judge Haynsworth along with others knew him, Senator Hollings and others, does not make him guilty by association.

On this particular point, I stand very firmly against the use of that tactic.

Now I will go to something a little more fundamental because this involves the decision as to what senators should consider as they determine whether they confirm a judge for the Supreme Court, or, for that matter, any court.

The question is raised, and one senator, Senator Magnuson, I thought quite candidly and honestly faced up to this question. He said he did not raise any question with regard to Judge Haynsworth's impropriety charges, but that he simply disagreed with his philosophy on certain matters, civil rights and labor law.

That is a ground which a senator can give for rejecting, perhaps, Judge Haynsworth. I do not believe it is a proper ground. I would agree with those senators, many of whom are now opposing Judge Haynsworth, who, in the Marshall confirmation, categorically said that a judge's philosophy was not a proper basis for rejecting him from the Supreme Court.

Looking back over the history of the cases, as I said when you were here before on the Burger matter, among my heroes of the court is Louis Brandeis. If philosophy were a test for him he would have been ruled out because he was too liberal.

Another was Charles Evans Hughes. If philosophy had been a test for him he would have been ruled out because he was too conservative in representing the business interests.

If you want to go back and read what really can happen in cases of this sort, I would suggest you read the debate over Louis Brandeis and also the confirmation of Charles Evans Hughes, in which they poured on him all the filth they could possibly amass because of his connection with insurance companies. Also like Judge Haynsworth, he had represented various other interests.

"CONSERVATIVE" NEEDED

As far as philosophy is concerned, I would be inclined to agree with the writer for the St. Louis Post Dispatch who said he thought Judge Haynsworth was a man with a razor sharp mind and a middle of the road record on the major issues.

But if Judge Haynsworth's philosophy leans to the conservative side, in my view that recommends him to me. I think the court needs balance, and I think that the court needs a man who is conservative—and I use the term not in terms of economics, but conservative, as I said of Judge Burger, conservative in respect of his attitude towards the Constitution.

It is the judge's responsibility, and the Supreme Court's responsibility, to interpret the Constitution and interpret the law, and not to go beyond that in putting his own socio-economic philosophy into decisions in a way that goes beyond the law, beyond the Constitution.

Now the final point, and this one is one that troubles, I think, many people who are not prejudiced against Judge Haynsworth because he is a Southerner or because of his civil rights record, or because of his labor record.

It is this: At this time in our history, it is very important to have a man that is beyond reproach.

An editorial in The Washington Post, I thought quite a thoughtful editorial, was quite candid in saying that the charges against him on the ethical side were not warranted, or at least were not with the foundation they should be, but because a doubt had been raised, that the name should be withdrawn.

I just want to say categorically here I shall never accept that philosophy with regard to Judge Haynsworth.

The appearance of impropriety, some say, is enough to disqualify a man who served as judge or in some other capacity. That would mean that anybody who wants to make a charge can thereby create the appearance of impropriety, raise a doubt, and that then his name should be withdrawn.

That isn't our system. Under our system, a man is innocent until he is proven guilty.

Judge Haynsworth, when the charges were made, instead of withdrawing his name, as he could—and, incidentally, if he now asks for his name to be withdrawn I would not do so—Judge Haynsworth, when the charges were made, openly came before the committee, answered all the questions, and submitted his case to the committee, and now to the full Senate.

I have examined the charges. I find that Judge Haynsworth is an honest man. I find that he has been, in my opinion as a lawyer, a lawyer's lawyer and a judge's judge. I think he will be a great credit to the Supreme Court, and I am going to stand by him until he is confirmed. I trust he will be.

Question: Mr. President, how much of this attack on Judge Haynsworth do you think is an attack, an end run attempt to get at you?

Answer: I have read some of the spec stories on that but I am not going to be involved in that.

The Brandeis case was not a very good moment in the history of the United States Senate. There was anti-Semitism in it and there was also a very strong partisan attitude towards Woodrow Wilson.

The Hughes debate was not a proud moment. There were a lot of partisan considerations that entered into it. This was a great man and a great chief justice, as was Judge Brandeis.

I don't think the Parker nomination was a very happy moment either.

"IT IS NOT PROPER"

I don't hold any brief for any one of these men in terms of philosophy. I don't agree with them, but no lawyer agrees with every other lawyer on everything. But in Judge Parker's case it was not proper to turn down a man because he was a Southerner.

It is not proper to turn down a man because he is a Southerner, because he is a Jew, because he is a Negro or because of his philosophy.

The question is what kind of a lawyer is he? What is his attitude toward the Constitution?

Is he a man of integrity? Is he a man that will call the great cases that come before him as he sees them, and in this case will provide the balance that this great court needs? I think Judge Haynsworth does that.

Question: Mr. President, it has been suggested, and I wonder what you think of the idea, that every member of the federal judiciary holding a lifetime appointment, to avoid this kind of trouble, place their investments perhaps in some kind of a blind trust or perhaps in some kind of fund?

Answer: Bill, as you noticed, Judge Haynsworth said he would put his stocks into trust. I suppose the American Bar Association or, for that matter, the Senate, or Congress, could lay down some sort of a rule about that to really meet the problem.

I don't happen to think that blind trusts, particularly in the public mind, are going to remove these questions. That is one of the reasons, as a matter of fact, before I came to office, I disposed of every stock I owned. I own nothing but real estate.

Question: What would you say, Mr. President, when people say you selected Haynsworth in large part because of political obligations?

Answer: I selected Judge Haynsworth for the reasons that I mentioned. I was looking for a man, first, who, like Judge Burger, had broad experience as an Appeals judge, a court of appeals judge—who was the right age, and who also had a philosophy for the Constitution similar to my own because that is what a President is expected to do.

As far as a political obligation is concerned, I had no political obligation to select Judge Haynsworth or Judge Burger.

In fact, my acquaintance with Judge Haynsworth can only be casual. If he would walk into this room, I am afraid I wouldn't recognize him.

Question: Can you tell me on what you base your confidence in the confirmation, Mr. President?

Answer: The Senate is a body in which time and discussion work on the side of fairness and justice. That sounds like a cliche, I suppose.

"ABOVE REPROACH"

As a former member of the Senate it is perhaps a self-serving statement. But I am convinced that when senators read the record, as I did, not just the editorials but the record, the evidence, and as they study every one of these cases—and believe me, I have studied every one of them—if I had found one case where there was a serious doubt I would have had him removed because I want that court to be above reproach.

If the senators do that, I believe a majority of the senators will vote for Judge Haynsworth's confirmation.

Let me say this too: It is not a partisan matter.

To answer your earlier question, sure, there is some partisanship, I suppose. That is perhaps part of the game, and perhaps with some Republicans. I am not questioning their motives.

All I ask is that every senator should look very carefully into this record because he has to make the decision that I had to make.

Let me be quite candid. There were those, good friends of mine, who came to me a few weeks ago suggesting I withdraw Judge Haynswworth's nomination due to the fact that a doubt had been raised and that politically it was going to be very difficult to wield.

I had to consider then whether because charges had been made without proof, and whether there was a doubt, whether I would then take upon my hands the destruction of a man's whole life, to destroy his reputation, to drive him from the bench and public service.

"QUALIFIED TO SERVE"

I did not do so, and I think that as senators consider what they will be doing as they will be doing as they vote on this matter, as they consider the evidence, they will realize that they are dealing here with an honest man, a man who has laid all the facts before them, a man who is qualified to serve on the Supreme Court, and I think they will conclude as I did that there is no dishonor in connection with him.

Question: Senator Griffin is one of the men you referred to and he has studied this record, case by case.

How do you account for Senator Griffin's point of view?

Answer: I hope he will study further. I trust that after he studies it more, he will change his mind.

Question: One of the things that has happened in the Haynsworth case is that there has been a piecemeal revelation of details.

Is there a problem in our government, a problem of confidence with Congress and with judges, that we do not have a more comprehensive * * * kind of fund?

Answer: The matter of piecemeal disclosure is because the critics have chosen to make the charges this way.

Some senators were worried about when the other shoe would drop. I saw the other shoe and it wasn't even a slipper. We wondered why Senator Bayh wouldn't debate Senator Hollings. Senator Bayh is a very articulate man, but after reading the record I know why. He was well advised not to debate.

The Press: Thank you, Mr. President.

PRESIDENT NIXON'S POLICIES ON VIETNAM

Mr. DOLE. Mr. President, at a time when the leaders of the Democratic Party are supporting President Nixon's efforts to negotiate a settlement in Vietnam; when the Senator from Arkansas, (Mr. FULBRIGHT) has postponed hearings of the Senate Foreign Relations Committee to await the President's speech on November 3; when the distinguished majority leader, Senator MANSFIELD, has indicated the President is moving in the right direction; when the past presidential nominee of the Democratic Party, Hubert Humphrey, has expressed confidence in President Nixon's policies—Mr. President, in the light of these conditions, I seriously question the logic of the speech delivered earlier by the Senator from South Dakota.

Mr. President, I find myself wondering if the Senator from South Dakota is not guilty of the same "dangerous oversimplification" of which he complains. He speaks of "old schemes of forced killing in foreign crusades." He said we are fighting "so blindly to preserve General Thieu in Saigon." Are these not oversimplifications in the most elemental sense?

Mr. President, participation in the October 15 moratorium was a matter of conscience for many in this country. Although it is unclear whether those who participated in the moratorium opposed continuation of the war on any basis or merely desired the end of American involvement in the war, it was apparent there are many in this country who are deeply concerned with the war. This sentiment did not originate with the October 15 moratorium. President Nixon realized this months ago and established peace as his administration's first priority.

Mr. President, while the President wants peace, he also realizes that we cannot abandon our commitments without a full realization of the effect of our actions. In Guam, President Nixon outlined a new policy for Asia—this policy, however, cannot be implemented overnight. Review of our commitments in other parts of the world will continue by both the Congress and the President. This is healthy and necessary to a vibrant foreign policy.

Mr. President, the Senator from South Dakota has failed to mention the real reason the United States has not been able to negotiate a settlement in Vietnam. That reason is the intransigence of the North Vietnamese and the National Liberation Front. I introduced a resolution, which now has 35 cosponsors, calling on the North Vietnamese to seriously negotiate. I hope the Senator from South Dakota would agree that the North Vietnamese and the National Liberation Front have shown no interest in ending this war other than on their own terms.

Rather than placing all the blame on South Vietnam and our Government, we Dakota will agree that the North Vietnamese and the National Liberation Front by holding hearings on Senate Resolution 271.

I urge the Senator from South Dakota to join in cosponsoring Senate Resolution 271.

EXECUTIVE COMMUNICATIONS, ETC.

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

REPORT OF INDIAN CLAIMS COMMISSION

A letter from the Chairman, Indian Claims Commission, transmitting, pursuant to law, the annual report of the Commission for the fiscal year 1969 (with an accompanying report); to the Committee on Interior and Insular Affairs.

REPORT OF THE EAST GREENACRES UNIT, RATHDRUM PRAIRIE PROJECT, IDAHO

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a report of the Secretary of the East Greenacres Unit, Rathdrum Prairie Project, Idaho (with an accompanying paper and report); to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

H.R. 9857. An act to amend the provisions of the Perishable Agricultural Commodities Act, 1930, to authorize an increase in license fee, and for other purposes (Rept. No. 91–490).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, without amendment:

S. 1968. A bill to authorize the Secretary of the Interior to permit the removal of the Francis Asbury statue, and for other purposes (Rept. No. 91–493);

H.R. 5968. An act to amend the Act entitled "An Act to provide for the establishment of the Frederick Douglass home as a part of the park system in the National Capital, and for other purposes", approved September 5, 1962 (Rept. No. 91–496); and

H.R. 11609. An act to amend the Act of September 9, 1963, authorizing the construction of an entrance road at Great Smoky Mountains National Park in the State of North Carolina, and for other purposes (Rept. No. 91–494).

By Mr. HOLLAND, from the Committee on Agriculture and Forestry, with amendments:

S. 1455. A bill to amend section 8(c) (2) (A) of the Agricultural Marketing Agreement Act of 1937, as amended, so as to include Colorado, Utah, New Mexico, Illinois, and Ohio among the specified States which are eligible to participate in marketing agreement and order programs with respect to apples (Rept. No. 91–491).

By Mr. BURDICK, from the Committee on Interior and Insular Affairs, with amendments:

S. 232. A bill to promote the economic development of the Trust Territory of the Pacific Islands (Rept. No. 91–495).

EXECUTIVE REPORTS OF A COMMITTEE

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

By Mr. MAGNUSON, from the Committee on Commerce:

James V. Day, of Maine, to be a Federal Maritime Commissioner.

Albert Bushong Brooke, Jr., of Maryland, to be a member of the Federal Power Commission;

Harold C. Passer, of New York, to be an Assistant Secretary of Commerce; and

Jack E. Guth, Robert E. Williams, Robert C. Munson, Gerard E. Haraden, and Robert D. Hickson, Jr., for permanent appointment in the Environmental Science Services Administration.

BILLS INTRODUCED

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

By Mr. FULBRIGHT:

S. 3055. A bill to authorize the use of excess Government-owned foreign currencies to finance the establishment abroad of binational foundations for educational and scientific purposes; to the Committee on Foreign Relations.

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

By Mr. RIBICOFF:

S. 3056. A bill for the relief of Mr. Giuseppe Giarratana, Mrs. Vincenza Giarratana, Mr.

Giovanni Giarratana, and Miss Maria Giarratana; to the Committee on the Judiciary.

By Mr. DODD:

S. 3057. A bill for the relief of Tommaso Marcellino; to the Committee on the Judiciary.

By Mr. DOMINICK (by request):

S. 3058. A bill to amend the Public Health Service Act so as to extend for an additional period the authority to make formula grants to schools of public health; to the Committee on Labor and Public Welfare.

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

By Mr. BAYH:

S. 3059. A bill for the relief of Theresa Scissura; to the Committee on the Judiciary.

By Mr. BAYH (for himself, Mr. COOK, Mr. COOPER, and Mr. HARTKE):

S. 3060. A bill granting the consent of Congress to the Falls of the Ohio Interstate Park Compact; to the Committee on the Judiciary.

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

By Mr. MAGNUSON (for himself, Mr. COTTON, and Mr. PROUTY) (by request):

S. 3061. A bill to authorize the Secretary of Transportation to prescribe rules, regulations and performance and other standards as he finds necessary for all areas of railroad safety and to conduct railroad safety research; to the Committee on Commerce.

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

By Mr. BURDICK:

S. 3062. A bill for the relief of Jane Jast Delorme; to the Committee on the Judiciary.

By Mr. YARBOROUGH:

S. 3063. A bill to amend the Public Health Service Act to support research and training in diseases of the digestive tract, including the liver and pancreas, and diseases of nutrition, and aid the States in the development of community programs for the control of these diseases, and for other purposes; to the Committee on Labor and Public Welfare.

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

S. 3055—INTRODUCTION OF A BILL TO BE KNOWN AS THE BINATIONAL EDUCATION FOUNDATIONS ACT OF 1970

Mr. FULBRIGHT. Mr. President, over 4 years ago I introduced a bill aimed at dealing with one of the most difficult and controversial problems we confront in the whole field of our relations with countries abroad: namely, the still mounting supplies of foreign currencies owned by the United States which under prevailing conditions are not being put to good use. Today, I intend to reintroduce the same bill, S. 1057 of the 89th Congress, which was designed to authorize the use of excess Government-owned foreign currencies to finance the establishment abroad of binational foundations for educational and scientific purposes.

The record of inaction and frustration which followed upon my introduction of the bill at the beginning of 1965 has been an all too common pattern these days. In the present instance, it has been in large measure a case of executive branch agencies and congressional committees all maintaining their separate interests with respect to foreign currencies without any strong hand being noticeable at the top of the governmental pyramid. It is certainly not a criticism of the present administration to say that this is one of the many problems that can only be resolved if action is taken at the White House level. Unfortunately, it takes time for any incoming administration to realize that there is a whole range of problems which can only be resolved or even attacked at the highest level. By the time many of these issues are seen in their proper light, the administration has changed and the lesson has to be learned all over again.

The question of how to use excess foreign currencies has been a burdensome one for at least a decade—and certainly since the issuance of the so-called Mason report in 1960. The years have gone by and nothing really very concrete or useful has been done to confront the problem. My effort in 1965 was frustrated by bickering and rigidity downtown, and by my own willingness to be patient while a less promising alternative was promoted to no avail. I have learned through sour experience that one has to campaign unrelentingly to make even a dent on the normal inertia of the bureaucratic apparatus in this city. This time, however, I have no intention of waiting many months for the departmental reports to be submitted and for all the diplomatic bases to be touched.

Frankly, I think there are only two ways of breaking the impasse on the use of excess foreign currencies. The best way would be for the President himself to take an interest and to adopt a clear policy on the subject. The other alternative is for us in the Congress to drive ahead with our own ideas and hope to evoke some answering enthusiasm within and outside Government circles. I hope very much that by reintroducing my bilateral education foundations bill I will make a start on a process of creating agreement in this sphere.

Mr. President, I will not rehearse all the arguments that have been advanced over the years, nor will I point out all the intricacies and complications which abound whenever the subject of foreign currencies is discussed. In order to refresh our memories about the nature of the problem and about the tentative solution which I advanced in 1965, I ask unanimous consent that the text of the statement which I made on February 9 of that year be printed at this point in the RECORD.

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

STATEMENT BY SENATOR J. W. FULBRIGHT, FEBRUARY 9, 1965

Mr. President, I introduce, for appropriate reference, a bill which, if enacted by the Congress and approved by the President, could go a considerable distance toward helping resolve two of this country's most difficult and urgent problems in the field of foreign relations. These are: First, the complicated question of putting to use the large amounts of nonconvertible foreign currencies owned by the United States; and, second, the virtually unlimited requirement for education as a precursor of economic and social advances among the underdeveloped countries.

The bill which I introduce today provides that a portion of American-owned foreign currencies, which now exceed $3 billion in value, may be used to establish private binational educational foundations in those countries where such currencies are excess to the current and foreseeable needs of the United States.

If this bill is enacted, it would be possible, at small cost to the American taxpayer, to create in many countries private foundations devoted to the public interest. Americans well know the magnificent contributions to our Nation's life, education, and culture that have resulted from the work of such private institutions as the Carnegie Foundation, the Rockefeller Foundation, the Ford Foundation, and others. The bill will permit the United States, in cooperation with countries which now or in the future may have excess U.S.-owned foreign currencies, to establish foundations which can make comparable contributions to the internal intellectual and cultural growth of these countries. It will enable the United States to convert foreign currencies to purposes which would enhance the dignity and capacities of individuals in those countries.

There is nothing in this bill which forces anyone to do anything. It states quite simply that out of the roughly $3 billion of such nonconvertible foreign currencies as we now own, not to exceed $1 billion worth may be used to create binational education foundations. For example, if country X in which the United States owns $200 million worth of such currencies wishes, in cooperation with the United States, to use these funds to create a foundation in its country, it may do so. There is to be no pressure pushing any nation into such an agreement, however. If it wishes, these currencies may continue to lie fallow in the nation's vaults.

But should a nation where these excess currencies exist desire to create a binational foundation and thus put these funds to a constructive use this bill sets the simple guidelines for creation of such an institution.

Operating in the general pattern established by American private foundations, these binational foundations would be able to use the income from the capital provided them for scholarships and travel within their respective countries, for internal educational and cultural projects, for the construction of educational and scientific facilities, for the translation and publication of books and magazines, and for similar type activities not involving expenditures abroad.

This bill makes it clear that these foundations are to be privately controlled with governmental participation. There is to be a binational board of directors, half to be American citizens and half to be citizens of the country where the foundation operates. There may be not to exceed two government employees from each country, but representatives of governments, as such, will be in the minority.

For the initial 5-year period of operations, this bill requires that such staff as may be chosen by the binational board is to be headed by a chief executive officer who is knowledgeable concerning the operations of American private foundations. The sole purpose of this requirement is to help nations desiring to create binational foundations to develop patterns of operations similar to those which have been so effective in the United States.

Now a few words are necessary for the purpose of trying to clarify the complicated foreign currency situation which forms the setting for this proposal. Long after that situation changed profoundly, we in the Congress still tended to talk of "counterpart" and "funny money" without much, if any, differentiation between currencies. From time to time we continue to receive pro-

posals from colleagues for spending such currencies—but unfortunately in countries where they do not exist in surplus, so that dollars are needed to fulfill such intentions.

The fact is that we have gone from one extreme to another during the space of about a decade. At the beginning of the 1950's, when most foreign currencies were nonconvertible, the proposals for employing them were so numerous that the appropriations process was invoked to establish a greater—if not excessive—control over their use. Once created, this method of control was constantly enlarged until, at the start of the 1960's, we had reached a position where there were very few means of utilizing local currencies without first securing appropriated dollars with which to purchase them.

But this process largely took place without much attention being paid to the changing foreign currency picture. Now we are in a situation where the restraints operate not only in the great majority of countries where we do not possess local currencies excess to normal U.S. needs, but also in those seven or eight countries where we currently hold surpluses ranging from relatively modest to enormous in size. For the most part, we just cannot employ those surpluses under present circumstances.

Most of these nonconvertible currencies which we have in such excess have been deposited to the account of the United States as a result of the sales of our food surpluses for local currencies, and of such currency repayment of past dollar loans for development. When these foreign currencies come into U.S. accounts they usually cannot be spent except in the country of origin. While the United States has been able to use some of these funds for the operating expenses of embassies and other local charges, in a few countries there are local currencies in amounts far beyond our foreseeable requirements. These sums are a potential asset if they can be used in the countries where they were generated without their having an inflationary impact in those areas. However, except on a hit or miss basis, we have not used these currencies which are accumulating at a rate of over $100 million per year. These American assets are not only wasting as they suffer from the erosion of inflation, but they are becoming a source of political embarrassment in a few nations. Already charges have been heard in some countries that the United States "owns" a substantial proportion of their national currency.

What this bill would do would be to put these funds to mutually beneficial use in the countries where they originated. In the process it would enable such countries as desire the establishment of these foundations to learn how privately controlled institutions can operate for the total good of the country. While there naturally are obstacles to this course of action, to a substantial degree they are of a bookkeeping character which a little ingenuity and leadership should easily overcome.

I have suggested that creation of binational education foundations would not cost the American taxpayer any money. This must be qualified by noting that the appropriation of not to exceed $1 million is authorized for administrative expenses that might arise in connection with negotiation of agreements for the creation of such foundations.

In conclusion, Mr. President, let me say that I can think of no more useful foreign policy action which we might take at the present time than to make possible the establishment of such foundations abroad. Promoting education, and development in the free world certainly is, or ought to be, one of our primary tasks in the highly volatile international scene which we now confront—and are likely to be facing for some years into the future.

Mr. FULBRIGHT. There is one point which might cause confusion in the statement which I have just had placed in the RECORD. Reference is made in several places to the sum of roughly $3 billion of nonconvertible foreign currencies owned by the United States. That figure was correct in 1965, and I know that it has not decreased in the intervening 4 years. What is important, however, is to differentiate between that total—roughly half of which is designated for relending in the countries of origin—and the total amount which represents that portion of U.S.-owned foreign currencies declared excess to normal U.S. uses. That latter sum has changed very little over the years and currently stands at well over $1.5 billion in equivalent U.S. currency. To be precise, according to preliminary figures as at the end of fiscal year 1969 there were 11 countries where we held excess U.S.-owned foreign currencies amounting to a dollar equivalent of $1,573,900,000. I ask unanimous consent that a table be printed in the RECORD at this point giving the names of the countries and the dollar equivalent holdings of their currencies by the United States in excess of our needs.

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

COUNTRIES WHERE UNITED STATES HOLDS FOREIGN CURRENCIES IN EXCESS OF U.S. USES

[Preliminary estimates as of June 30, 1969, in millions of dollars]

India	678.8
Burma	11.1
Ceylon	3.6
Guinea	6.3
Israel	8.9
Morocco	11.8
Pakistan	140.4
Poland	438.7
Tunisia	15.8
United Arab Republic	200.3
Yugoslavia	58.3
Total	1,573.9

Mr. FULBRIGHT. Mr. President, I have said that I would not try at this time to clarify the almost Byzantine intricacies of the foreign currencies question. Neither will I try to place in the RECORD voluminous material bearing on the issue. I will, however, recommend to my colleagues that they read House Document No. 91–67 of this Congress, which is a special report on the use of U.S.-owned excess foreign currencies made by Prof. Byron W. Brown of Michigan State University in accordance with section 107 of the Mutual Educational and Cultural Exchange Act of 1961, and transmitted to the Congress by the U.S. Advisory Commission on International and Educational and Cultural Affairs.

Professor Brown has tried to simplify a great mass of materials and I think he has done well. I would, nevertheless, add that I cannot but feel that his conclusions and recommendations are somewhat on the conservative side. Moreover, I would state more clearly than he that Congress at no point has thought of these currencies as anything but an asset which belongs to the American taxpayers and which should be employed in accordance with the national interest. This latter point does not, of course, mean that the interests of other countries in the international community as a whole should not be taken into account; that is precisely why the binational commission idea is perpetuated and strengthened in my bill. But the central fact remains that we are accountable to the people we represent for the wise use—and not the sterilization—of these foreign assets.

One particular point made by Professor Brown is of special relevance and assistance in the context of my proposal to use many of these currencies for Binational Educational Foundations—a use which is entirely supported by Professor Brown's studies. He stresses the fact that the usual arguments presented by economists in opposition to the use of such currencies have no relevance to the course which I am recommending. Let me quote on this point the following excerpt from his report:

> Expenditures for educational and cultural exchange activities would have little effect on the price of necessities or the price of industrial products in the excess currency countries. Moreover, because exchange activities are services, not goods, their use involves no removal of physical resources from foreign soil. Neither the "inflation" argument nor the "buying-up-of-economy" argument—even where they might otherwise be applicable—are valid objections to the increased expenditure of excess foreign currencies for educational and cultural affairs abroad. No foreign government can interpose any economically valid arguments against such expenditures.

Mr. President, I hereby introduce the bill, identical to S. 1047, 89th Congress, first session, which will authorize the use of excess Government-owned foreign currencies to finance the establishment abroad of binational foundations for educational and scientific purposes. I hope that the Committee on Foreign Relations will be able to elicit administration views at an early date and hold hearings soon thereafter, and I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

The bill (S. 3055) to authorize the use of excess Government-owned foreign currencies to finance the establishment abroad of binational foundations for educational and scientific purposes, introduced by Mr. FULBRIGHT, was received, read twice by its title, referred to the Committee on Foreign Relations, and ordered to be printed in the RECORD, as follows:

S. 3055

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Binational Education Foundations Act of 1970".

STATEMENT OF PURPOSE

SEC. 2. The purpose of this Act is to provide for the beneficial utilization of excess foreign currencies owned by the United States by authorizing the use of such currencies to finance the establishment in friendly countries in which such currencies are available of private nonprofit binational foundations for educational and scientific purposes.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "Secretary" means the Secretary of State.

(2) The term "excess foreign currencies" means foreign currencies or credits owned by the United States which are or may become, under applicable agreements with the foreign country concerned, available for the use of the United States Government and are determined by the Secretary of the Treasury to be excess to the normal requirements of departments and agencies of the United States for such currencies or credits.

(3) The term "eligible foreign country" means any country (except a country ineligible under section 620(f) of the Foreign Assistance Act of 1961 for assistance under that Act) in which excess foreign currencies are, or may become, available in amounts sufficient for the purposes of this Act.

(4) The term "foundation" means a binational foundation established pursuant to an agreement entered into under section 4.

AGREEMENTS WITH ELIGIBLE FOREIGN COUNTRIES

SEC. 4. The President is authorized to negotiate and enter into an agreement with each eligible foreign country for the establishment of a private nonprofit foundation dedicated to the development of education and science in such country. Each such agreement shall contain such provisions as the President deems necessary to insure that the foundation established pursuant thereto will be organized and operated in accordance with such agreement and with the requirements of this Act.

ORGANIZATION OF FOUNDATIONS

SEC. 5. A foundation established pursuant to an agreement entered into under section 4 shall be organized under, and shall in all respects be subject to, the laws of the country in which it is established, and its principal office shall be within such country.

PERSONNEL OF FOUNDATION

SEC. 6. (a) Each foundation shall be under the control of a board of directors or similar governing body. The number, terms of office, and method of selection of the members of such board, or other body, shall be specified in the agreement entered into under section 4, except that (1) one-half of such members shall be United States citizens and one-half shall be citizens of the country in which the foundation is established, and (2) not more than two of the members from each country shall be officers or employees of the government of such country or of any agency or instrumentality thereof.

(b) A foundation shall have a president, or other chief executive officer, and such other officers as the board of directors or other governing body deems necessary, who shall be elected by such board or body. In order that foundations will be assisted in developing patterns of operations similar to those of foundations which have been effective in the United States, the president or other chief executive officer of each foundation established hereunder shall, during the initial period of five years following its organization, be a person having knowledge of such operations. The board of directors, or similar governing body, of a foundation may appoint, or may delegate to the president or other chief executive officer the authority to appoint, such employees as it may deem necessary.

(c) No person who is a United States citizen shall serve as a member of the board of directors, or similar governing body, or as an officer or employee, of a foundation if the Secretary notifies such board or body that he considers such service of such person to be contrary to the national interest of the United States.

FINANCING OF FOUNDATIONS

SEC. 7. (a) Notwithstanding, the provisions of section 1415 of the Act of July 15, 1952 (66 Stat. 662), or any other provision of law, the Secretary of the Treasury, upon direction of the President, shall transfer to each foundation established pursuant to an agreement entered into under section 4 such amount or amounts of excess foreign currencies as may be specified in such agreement. Any foreign currencies so transferred to a foundation may be invested by the foundation in interest-bearing bonds or other income-producing securities, public or private, in the country in which the foundation is organized. The amount of foreign currencies transferred to all foundations under this subsection shall not exceed the equivalent of $1,000,000,000.

(b) Income received from investments of foreign currencies transferred under subsection (a) shall be available to the foundation for the purpose of carrying out its program. In addition to such income, a foundation may be authorized to expend such foreign currencies for the purpose of any project determined by a two-thirds vote of the board or similar governing body to be of special importance, but not more than 10 per centum of the amount of foreign currencies transferred to any foundation shall be authorized to be so expended in any year.

(c) A foundation shall be authorized to accept gifts from private or other sources and to use the proceeds of such gifts for the purpose of carrying out its programs.

(d) There shall be included in each agreement entered into under section 4 provisions satisfactory to the President for the recovery by the United States, in the event of the liquidation of the foundation established pursuant to the agreement, of any unused foreign currencies (including assets acquired with such foreign currencies) transferred by the United States to such foundation under subsection (a).

PROGRAMS OF FOUNDATIONS

SEC. 8. (a) The board of directors or other governing body of a foundation established hereunder shall make or cause to be made continuing studies of the educational and scientific needs of the country in which the foundation is established, and shall formulate and carry out programs designed to meet such needs.

(b) Programs of a foundation shall be carried out primarily through the making of grants to individuals or institutions, public or private, to finance the organization of new, or to support existing, operating projects, programs, and activities consistent with the purposes of this Act. Such programs may include, but shall not be limited to—

(1) development of centers of academic excellence;

(2) scholarships for higher education and advanced study;

(3) establishment and support of teacher training schools;

(4) support for individual and institutional research;

(5) pilot and other projects in literacy and adult education, particularly technical education;

(6) English language and other linguistic training;

(7) translation of books and periodicals;

(8) library programs; and

(9) improvement of mass communications, including journalism and educational radio and television.

REPORTS

SEC. 9. The United States Advisory Commission on International Educational and Cultural Affairs, established by section 106(b) of the Mutual Educational and Cultural Exchange Act of 1961, shall include in its annual reports to the Congress a list of the foundations established under this Act, together with a description of the activities of such foundations. Each such foundation shall provide the Commission with such information as may be necessary to enable it to carry out the provisions of this section.

APPROPRIATIONS

SEC. 10. There is hereby authorized to be appropriated annually to the Secretary such sum, not to exceed $1,000,000, as may be necessary to pay administrative expenses incurred in connection with the negotiation and implementation of agreements under this Act.

S. 3058—INTRODUCTION OF A BILL RELATING TO SCHOOLS OF PUBLIC HEALTH

Mr. DOMINICK. Mr. President, I introduce, by request, the administration bill extending the authority under the Public Health Service Act to make formula grants to schools of public health.

These schools prepare the majority of the graduate public health specialists. They also serve in a research and consultation capacity the various state and local health agencies.

In the last 10 years, the number of these schools has increased from 11 to 16. In the last 5 years alone, their enrollments have jumped 50 percent.

Perhaps the most unique characteristic of such schools is their focus on interdisciplinary training. The immense complexity of community health problems requires multifaceted approaches. Schools of public health bring together students from a variety of professions to mold a graduate education program in a host of disciplines.

The administration bill would extend the authority to make formula grants to these schools through June 30, 1971. The rationale of a 1-year extension, as explained by Secretary Finch, is to make the expiration date of this program coincide with that for the balance of section 309, project grants for training in public health, and section 306, traineeships for professional public health personnel.

For the RECORD, I must take note of one portion of the administration bill. The authorization pursued by the Bureau of the Budget for fiscal year 1971 would be for "such sums as may be necessary." In short, this is an open-ended authorization. My position against authorizations which do not include a money ceiling is and has been well known in both the House and the Senate.

Without in any manner reflecting on the merits of the balance of the administration bill, I merely want to put Senators and the Bureau of the Budget on notice that I intend to continue to insist that any bill reported by the Senate Health Subcommittee, or any other committee for that matter, specify a ceiling on authorized costs.

I discussed this with Dr. Egeberg when he testified on another bill yesterday, and am confident we will receive some costs estimates which can be included in the legislation before any action is taken in executive sessions.

I ask unanimous consent that a letter from Secretary Finch—directed to Speaker MCCORMACK—describing the bill be printed in the RECORD.

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

The bill (S. 3058) to amend the Public Health Service Act so as to extend for an additional period the authority to make formula grants to schools of public

health, introduced by Mr. DOMINICK, by request, was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

The letter, presented by Mr. DOMINICK, is as follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,

Hon. JOHN W. MCCORMACK,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I am enclosing for your consideration a draft of a bill to extend for an additional period the authority to make formula grants to schools of public health. This authority is due to expire June 30, 1970.

The proposed bill would extend for one year, through June 30, 1971, the authority of section 309(c) of the Public Health Service Act. Under this authority the Secretary of Health, Education, and Welfare makes grants to schools of public health to assist them in providing comprehensive professional training, specialized consultative service, and technical assistance in the fields of public health and in the administration of State or local public health programs.

The one-year extension will make this authority coterminous with the authority of section 306 of the Public Health Service Act for traineeships for professional public health personnel, and the authority of section 309(a) and (b) of that Act for special project grants for graduate or specialized training programs in public health, authorities which were extended through June 30, 1971, by Title III of the Health Manpower Act of 1968 (Public Law 90-490).

To have these three public health authorities of the Public Health Service Act expire on June 30, 1971, together with other health manpower authorities which terminate at the same time, will provide the Department with an opportunity for an across-the-board assessment and evaluation of the relationships among these manpower programs and their impact on the health needs of the nation. We shall be making our review in line with the President's directive for grant consolidation, in order to facilitate the provision of Federal aid in these health manpower areas. A single termination date for all these provisions will contribute to the accomplishment of this objective.

We would appreciate your referral of the enclosed draft bill to the appropriate committee for consideration.

The Bureau of the Budget advises that there is no objection, from the standpoint of the Administration's program, to the submission of the draft legislation to the Congress.

Sincerely,

ROBERT H. FINCH,
Secretary.

S. 3060—INTRODUCTION OF A BILL GRANTING THE CONSENT OF CONGRESS TO THE FALLS OF THE OHIO INTERSTATE PARK COMPACT

Mr. BAYH. Mr. President, I introduce, for appropriate reference, a bill granting the consent of Congress to the proposed Falls of the Ohio Interstate Park compact. I am pleased that the distinguished senior Senator from Indiana (Mr. HARTKE), and the distinguished Senators from Kentucky (Mr. COOPER and Mr. COOK) join me in introducing this measure, which has also been introduced in the House of Representatives by the appropriate Members from the two States.

The proposed interstate compact has been approved by the Legislatures of both Indiana and Kentucky in a form identical with the terms of this bill. The two States have agreed to create, develop, and operate the Falls of the Ohio Interstate Park along the Ohio River near Louisville and Jeffersonville. This is an area rich in natural resources which should be preserved for scientific, educational, and recreational purposes.

Before the water level was affected by the construction of dams in the river, the falls of the Ohio constituted a series of rapids about 3 miles in length. A large number and variety of fossils have been discovered in the limestone formations which are exposed from time to time in the shallow river and shore areas. One of the outstanding features is a great fossil coral reef, sometimes referred to as Goose Island, which has been determined to be eligible for the Natural Registry of Natural Landmarks. It is likely that additional sections of the adjacent shoreline in the two States would be included within the park, for which a total of nearly 1,400 acres has been suggested.

The compact would establish a Falls of the Ohio Interstate Park Commission comprised of six members, half of whom would be appointed for 4-year terms by the Governor of each State. As the governing authority of the proposed park, the commission would possess all powers needed to carry out the purposes of the compact. Specifically, it could expend funds, receive gifts, acquire and dispose of property, establish and maintain offices for transaction of business, select its own officers, appoint and discharge needed employees, issue revenue bonds, and charge fees for admission to the park. Each State would agree to use its power of eminent domain to acquire property which the commission found necessary for the park, and the commission would be entitled to use the services of other offices and agencies of the respective States. Accurate financial records, which would be accessible to representatives of the two States at all times, would have to be kept and annual reports would have to be made by the commission, but the commission could not pledge the credit of either State without specific authorization by its legislature.

In August 1968, the National Park Service of the Department of the Interior completed a study of the falls of the Ohio to evaluate the feasibility of preserving this invaluable area and to investigate the methods by which this might be accomplished. The report concluded that the natural resources in the falls of the Ohio should be protected and recommended that an interstate park be created by the States of Indiana and Kentucky for this purpose.

In order that all Senators will have the opportunity to become better informed about this proposal, I ask unanimous consent that certain excerpts from the National Park Service report which explain the purposes, background, resources, and potential values of the proposed interstate park be printed at the conclusion of my remarks. I also ask unanimous consent that the text of the interstate compact be printed in full in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill and excerpts will be printed in the RECORD.

The bill (S. 3060) granting the consent of Congress to the Falls of the Ohio Interstate Park compact, introduced by Mr. BAYH (for himself and other Senators), was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 3060

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the Falls of the Ohio Interstate Park Compact in substantially the following form:

"SECTION 1. The State of Indiana and the Commonwealth of Kentucky agree to create, develop and operate an interstate park to be known as Falls of the Ohio Interstate Park, which shall be located along the Ohio River at the Falls of the Ohio and on adjacent areas in Clark and Floyd Counties, Indiana, and Jefferson County, Kentucky. Said park shall be of such area and of such character as may be determined by the commission created by this compact.

"SEC. 2. There is hereby created the Falls of the Ohio Interstate Park Commission, which shall be a body corporate with the powers and duties set forth herein and such additional powers as may be conferred upon it by subsequent action of the appropriate authorities of Indiana and Kentucky. The commission shall consist of three (3) commissioners from each of the two (2) states, each of whom shall be a citizen of the state he shall represent. Members of the commission shall be appointed by the governor. Vacancies shall be filled by the governor for the unexpired term. The term of one of the first commissioners appointed shall be for two (2) years, the term of another for three (3) years, and the term of the third for four (4) years. Their successors shall be appointed for terms of four (4) years each. Each commissioner shall hold office until his successor is appointed and qualified. An officer or employee of the state, a political subdivision or the United States government may be appointed a commissioner under this act.

"SEC. 3. The commission created herein shall be a joint corporate instrumentality of both the State of Indiana and the Commonwealth of Kentucky for the purpose of effecting the objects of this compact, and shall be deemed to be performing governmental functions of the two states in the performance of its duties hereunder. The commission shall have power a common seal and to make and adopt suitable bylaws, rules to sue and be sued, to contract and be contracted with, to use and regulations. The commission shall have the authority to acquire by gift, purchase or otherwise real estate and other property, and to dispose of such real estate and other property. Each state agrees that it will exercise the right of eminent domain to acquire property located within each state required by the commission to effectuate the purposes of this compact.

"SEC. 4. The commission shall select from among its members a chairman and a vice-chairman, and may elect from among its members a secretary and treasurer or may designate other persons to fill these positions. It may appoint, and at its pleasure remove or discharge, such officers and legal, clerical, expert and other assistants and employees as may be required to carry the provisions of this compact into effect, and shall fix and determine their duties, qualifications and compensation. It may establish and

maintain one or more offices for the transaction of its business, and may meet at any time or place. A majority of the commissioners present shall constitute a quorum for the transaction of business. The commissioners shall serve without compensation, but shall be paid their expenses incurred in and incident to the performance of their duties. They shall take the oath of office required of officers of their respective states.

"SEC. 5. Each state agrees that the officers and departments of each will be authorized to do all things falling within their respective jurisdictions necessary or incidental to the carrying out of the compact in every particular. The commission shall be entitled to the services of any state officer or agency in the same manner as any other department or agency of this state. The commission shall keep accurate records, showing in full its receipts and disbursements, and said records shall be open at any reasonable time to the inspection of such representative of the two (2) States as may be duly constituted for that purpose. The commission shall submit annually and at other times as required such reports as may be required by the laws of each state or by the governor thereof.

"SEC. 6. The cost of acquiring land and other property required in the development and operation of the Falls of the Ohio Interstate Park and constructing, maintaining, and operating improvements and facilities therein and equipping same may be defrayed by funds received from appropriations, gifts, the use of money received as fees or charges for the use of said park and facilities, or by the issuance of revenue bonds, or by a combination of such sources of funds. The commission may charge for admission to said park, or make other charges deemed appropriate by it and shall have the use of funds so received for park purposes. The commission is authorized to issue revenue bonds, which shall not be obligations of either state, pursuant to procedures which shall be in substantial compliance with the provisions of laws of either or both states governing the issuance of revenue bonds by governmental agencies.

"SEC. 7. All money, securities and other property, real and personal, received by way of gift or otherwise or revenue received from its operations may be retained by the commission and used for the development, maintenance, and operation of the park or for other park purposes.

"The commission shall not pledge the credit of either State except by and with the authority of the general assembly thereof.

"SEC. 8. This compact may be amended from time to time by the concurrent action of the two (2) States parties hereto.

"The compact approved herein shall become effective upon ratification and approval of the compact by the General Assembly of the State of Indiana and upon approval of this compact by the Congress of the United States."

SEC. 2. The right to alter, amend, or repeal this Act is expressly reserved.

The excerpts, presented by Mr. BAYH, are as follows:

EXCERPTS FROM A STUDY OF THE FALLS OF THE OHIO: KENTUCKY AND INDIANA

(By the National Park Service, U.S. Department of the Interior, August 1969)

PURPOSE

The purpose of this study is to examine the significant resources of the Falls of the Ohio along with their surrounding environment to determine the feasibility of their preservation and use and the means by which this can best be accomplished.

BACKGROUND

The Indiana chapter of the Nature Conservancy in October 1965 requested that the Falls of the Ohio be studied for possible qualification for the National Registry of Natural Landmarks.

A National Park Service study completed in August 1966 recommended the area be declared eligible for Natural Landmark registry, and such action was subsequently approved by the Secretary's Advisory Board on National Parks, Historic Sites, Buildings and Monuments. Since land ownership of the area has not been determined, a registry plaque has not been applied for or presented.

Attitudes are generally favorable for action to protect the Falls of the Ohio. A local citizens group known as the Falls of the Ohio Preservation Committee is promoting the preservation and protection of the varied scenic, scientific and historical resources of the Falls of the Ohio.

Another organization actively concerned in action to preserve the resources of the site is the Falls of the Ohio Metropolitan Council of Governments. Its membership includes representatives from Jeffersonville, New Albany, Clarksville and Charleston, Indiana; Louisville, Kentucky; Clark and Floyd Counties Indiana; Jefferson County, Kentucky; and the Jefferson County Municipal League.

In 1967, the Indiana Legislature passed Senate Enrolled Concurrent Resolution No. 11. This resolution required the Governor of Indiana to appoint a three member Falls of the Ohio Interstate Park Commission to meet with a like body representing Kentucky to negotiate the execution of a Falls of the Ohio Interstate Park compact. The resolution embodied a suggested compact conferring broad powers on the proposed Park Commission to acquire and operate a proposed interstate park. It further provided that if the compact was ratified by Kentucky, the commissioners would present it to Congress requesting approval for the two states to enter into the compact, and, following Congressional approval, to present the compact to the 96th General Assembly of the State of Indiana to be enacted into law. The proposed compact has been ratified by the legislature of Kentucky.

LOCATION

The Falls of the Ohio study area lies in and along the Ohio River between Louisville, Kentucky and Jeffersonville, Clarksville and New Albany, Indiana. The study area includes parts of the riverbed, the islands therein, and a portion of the Indiana shore between the George Rogers Clark Memorial Bridge and the Kentucky-Indiana Terminal Bridge a distance of about 3½ miles. The latter portion is located between the river and the levee and flood wall system.

SUMMARY AND RECOMMENDATIONS

The Falls of the Ohio, located on the Ohio River at Louisville, Kentucky, is composed of a horizontal exposure of Devonian Period limestone. Prior to construction of the dams in the area, the rock formation was exposed as a series of rapids dropping about 26 feet in three miles. These rapids were the only barrier to early boatmen on the Ohio River, and they were called "The Falls of the Ohio."

These limestone formations are of particular scientific significance because of the great numbers and varieties of fossils that are concentrated here. Approximately 600 fossil species have been collected from the Falls area. These include corals, crinoids, snails, clams, trilobites, etc., forming the great fossil coral reef which is among the best known representative of its kind in the world. This reef, shown on early maps as Goose Island, has been declared eligible for the National Registry of Natural Landmarks.

The varied resources of the Falls of the Ohio, including the historical and archaeological aspects, should be preserved for their scientific and educational values. The preserve should include the remaining intermittently exposed coral reef, Sand Island and the Indiana shore within the levee from the Penn Central RR Bridge to the K&I RR Bridge.

Such a preserve would provide: an opportunity for good access to the area with specialized access to the coral reef, space and siting for interpretation of the paleontology, history, and prehistory; and areas for environmental study, passive relaxation and necessary buffer to insure possible enhancement of the resource setting.

As a park or preserve the Falls of the Ohio will become an integral part of the total community complex which includes four local political subdivisions and two states. Satisfactory preservation, protection, development, and use of the area will be attainable only with enthusiastic participation and cooperation by these communities. The planning processes must consider the adjacent environment as well as the area per se.

It is recommended that the area be administered by an Interstate Park Commission as authorized by the two states involved. As an Interstate Park, the unit would continue to enjoy the interest and enthusiasm of local organizations, citizens and education institutions with full recognition as a national landmark.

With preservation as the primary objective, adequate protection for all the scientific, archaeological and historical resources could result.

SUGGESTED PLAN OF DEVELOPMENT

The suggested plan includes approximately 1,000 acres of land area at normal pool elevation of 383 feet. The total land and water area is broken down by political subdivision as follows:

Jefferson County, Ky.:	*Acres*
Coral reef	205
Sand Island	82
Floyd County, Ind	130
Clark County, Ind	583
Total, land area	1,000
Ohio River	376
Total	1,376

Although the fossil coral reef constitutes the primary feature of the area it is believed that inclusion of a section of the adjacent shoreline and Sand Island would be necessary and desirable for full protection, development and use of the resources. It is suggested that automobile access to the shoreline section would come off the expressway interchange on Indiana Route 62 and U.S. 460 one-half mile north of Silver Creek.

This would be a ten minute drive from downtown Louisville and slightly less time from the three adjacent Indiana cities.

The development nucleus could be located on the high ground inside the bend of Mill Creek and the levee, the highest point of land within the study area. A visitor center with interpretive and educational facilities, parking space and the initial terminal point for a cable car access system would be located here. A restaurant operation near the visitor center would be advantageous.

A cable car system is suggested which would be a continuous circulating monocable with an ultimate capacity of 200 persons per hour in one direction. The reef terminal would be centrally located on the south side of the island near the lateral dam. Access to this terminal point may also be possible via a small ferry launch from the new Louisville riverfront development, contingent on approval by the Corps of Engineers.

SUGGESTED INTERPRETIVE METHODS

Many people who come to visit the Falls of the Ohio do not have a basic knowledge of its significance. To bring to these visitors a richer appreciation of its features, the in-

terpretive program would begin in a visitor center where relationships of the time and life of the earth's history represented at the site could emerge through exhibits, audio-visual programs and classrooms. Thus the center would provide a broad introduction to the significance of the specific elements that can be intimately observed in place during favorable water levels as well as a conceptual understanding of the features during high water levels.

In the proposed visitor center a series of exhibits may include the following themes:

1. The plant and animal life of the Silurian and Devonian Periods.
2. Fossil specimens found in the area.
3. The geological sequence of events responsible for the local rock formations.
4. Glacial period influences and river-cutting sequences in exposing the formations.
5. Modern environmental influences.
6. Archaeology and History.

Methods for on-site interpretation will require ingenuity in presentation as well as means of coping with the forces involved during periods of high water. This is especially true if self-guided trails are used.

Conducted interpretive trips may be scheduled in lieu of self-guiding trails and thus avoid the problems involved with markers, or, conducted trips and markers could supplement each other. Trailside exhibits could be used to good advantage, but, again, the high water periods must be considered.

Provisions should be allowed for educational visits and institutional classes and for research. An active research program would continue to provide information vital to the interpretive story.

Quarries in the vicinity should be utilized for exhibit, educational purposes, research and collecting areas in cooperation with the owners. The vertical cuts show outstanding displays of several limestone and shale formations from the Silurian and Devonian Periods. Cooperative uses may be worked out with quarry operators allowing visitors to examine rock formations in an unused section of the quarry and to observe working operations in the active sections. If available, an abandoned quarry could serve like purposes.

S. 3061—INTRODUCTION OF THE RAILROAD SAFETY AND RESEARCH ACT OF 1969

Mr. MAGNUSON. Mr. President, I introduce, by request of the Department of Transportation, on behalf of myself, the Senator from New Hampshire (Mr. COTTON), and the Senator from Vermont (Mr. PROUTY), for appropriate reference a bill to authorize the Secretary of Transportation to prescribe rules, regulations, and performance and other standards as he finds necessary for all areas of railroad safety and to conduct railroad safety research.

I ask unanimous consent that the bill, together with the Secretary of Transportation's letter of transmittal, the section-by-section analysis, and the Secretary's railroad safety task force report be printed in the RECORD at this point.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill, letter, analysis, and report will be printed in the RECORD.

The bill (S. 3061) to authorize the Secretary of Transportation to prescribe rules, regulations and performance and other standards as he finds necessary for all areas of railroad safety and to conduct railroad safety research introduced by Mr. MAGNUSON (for himself, Mr. COTTON, and Mr. PROUTY), by request, was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 3061

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

AUTHORITY TO PRESCRIBE RAIL SAFETY REGULATIONS

SEC. 2. (a) For the purpose of promoting safety of persons and property the Secretary of Transportation is authorized (1) to prescribe such reasonable and practicable rules, regulations, and performance and other standards as he shall find to be necessary for all areas of safety in railroad operations: *Provided,* That nothing herein shall apply to the occupational health and safety of employees not engaged in railroad operations as defined by the Secretary of Transportation, and (2) to conduct railroad safety research. In prescribing rules, regulations, and standards the Secretary of Transportation shall give consideration to relevant safety standards in existence at the time.

(b) No rule, regulation, or standard, or amendment, or repeal thereof shall be prescribed until notice and opportunity for hearing thereon shall have been afforded all interested parties. Hearings shall be conducted in accordance with the provisions of section 553 of title 5 of the United States Code. Rules, regulations, and standards may be amended or repealed under the Secretary's own motion or on the petition of an interested party and shall be so amended or repealed when in the public interest and consistent with railroad safety.

(c) The Secretary may grant such exemptions from the requirements of any of the rules, regulations, or standards prescribed under this Act or incorporated herein by subsection (a) of section 7 as he finds to be in the public interest and consistent with railroad safety.

(d) Any final agency action taken under this section is subject to judicial review as provided in chapter 7 of title 5 of the United States Code.

HAZARDOUS MATERIALS

SEC. 3. (a) The Secretary shall:

(1) Establish such facilities and technical staff as are necessary to maintain within the Federal Government the capability to evaluate the hazards connected with and surrounding the various hazardous materials being shipped.

(2) Maintain a central reporting system for hazardous materials accidents to provide technical and other information and advice to the law enforcement and fire fighting personnel of communities and to carriers and shippers for meeting emergencies connected with the transportation of hazardous materials.

(3) Conduct an accelerated review of all aspects of hazardous materials transportation to determine and recommend appropriate steps which can be taken immediately to provide greater control over the safe movement of such materials.

(b) The authority granted the Secretary by this Act shall be in addition to the authority granted by sections 831 to 835, inclusive, of title 18 of the United States Code.

RAILROAD SAFETY ADVISORY COMMITTEE

SEC. 4. (a) The Secretary shall establish a Railroad Safety Advisory Committee to advise, consult with, and make recommendations to the Department concerning railroad safety. The Committee shall consist of the Federal Railroad Administrator, who shall be chairman, and eight members appointed by the Secretary as follows: two public members and two members each from railroad management, railroad labor organizations, and the national organization of the State commissions referred to in sections 202(b) and 205(f) of the Interstate Commerce Act, as amended. Members shall be appointed by the Secretary for a term not to exceed three years. Members of the Committee, other than those regularly employed by the Federal Government, may be compensated in accordance with the provisions of section 9 of the Department of Transportation Act (80 Stat. 931, 944). Service under this section shall not render such appointed members of the Committee employees or officials of the United States for any purpose.

(b) The Secretary shall prior to publication submit to the Committee all proposed rules, regulations, and standards, and amendments or repeals thereof and afford such Committee a reasonable opportunity, not to exceed sixty days unless extended by the Secretary, to submit a report on the necessity, technical feasibility, reasonableness, and practicability of such proposal. Each report by the Committee shall be included in the record of any proceeding that may be held on such proposal.

STATE REGULATION

SEC. 5. State or local laws, rules, regulations, or standards relating to railroad safety in effect on the date of enactment of this Act, shall remain in effect unless the Secretary shall have prescribed rules, regulations, or standards covering the subject matter of the State or local laws, rules, regulations, or standards.

STATE PARTICIPATION

SEC. 6. (a) It is the policy of the Congress that in order to promote the safety of common carriers by railroad in the most practicable and economic manner, the Secretary shall encourage maximum cooperation between the Federal Government and the various State governments in carrying out this Act.

(b) State participation shall be by agreement entered into with the State by the Secretary. The Secretary may, upon the request of the State, authorize it to provide all or any part of the inspection services and related programs necessary or desirable to obtain compliance with rules, regulations, and standards prescribed by the Secretary under the Act where he finds that such State participation will assist in achieving the purpose of the Act and that the State has the capacity to carry out the agreement under the guidance of the Secretary. The Secretary shall require annual reports from participating States containing such information as he may require to determine if such agreements will be continued.

(c) In the event of State participation, the Secretary may provide for reimbursement of all or a part of the funds to be expended by the State on a fair and equitable basis under rules and regulations promulgated by the Secretary under this Act.

EXISTING STATUTES

SEC. 7. (a) The Act of March 2, 1893, as amended (27 Stat. 531, 532; 45 U.S.C. 1–7 inclusive), the Act of March 2, 1903, as amended (32 Stat. 943; 45 U.S.C. 8–10 inclusive), the Act of April 14, 1910, as amended (36 Stat. 298, 299; 45 U.S.C. 11–16 inclusive), the Act of May 30, 1908, as amended (35 Stat. 476; 45 U.S.C. 17–21 inclusive), the Act of February 17, 1911, as amended (36 Stat. 913–916 inclusive; 45 U.S.C. 22–29 inclusive and 31–34 inclusive), the Act of March 4, 1915, as amended (38 Stat. 1192; 45 U.S.C. 30), the Reorganization Plan Numbered 3 of 1965 (79 Stat. 1320), the joint resolution of June 30, 1906, as amended (34 Stat. 838; 45 U.S.C. 35), the Act of May 27, 1908, as amended (35 Stat. 325; 45 U.S.C. 36), the Act of March 4, 1909, as amended (35 Stat. 965; 45 U.S.C. 37), the Act of May 6, 1910, as amended (36 Stat. 350; 45 U.S.C. 38–

43 inclusive), the Act of March 4, 1907, as amended (34 Stat. 1415–1417 inclusive; 45 U.S.C. 61–64 inclusive), and section 441 of the Act of February 28, 1920 (41 Stat. 498; 49 U.S.C. 26, as amended), are repealed. The substantive requirements of the Acts repealed herein, and all orders, rules, regulations, standards, requirements, and permits prescribed or issued pursuant thereto and in effect on the date of enactment of this Act, are continued in effect as regulations of the Secretary under this Act until amended, repealed, or modified by the Secretary in accordance with the provisions of section 2(b) of this Act.

(b) No suit, action, or other proceeding and no cause of action under the statutes repealed in subject (a) of this section shall abate by reason of enactment of this Act.

GENERAL POWERS, RESEARCH AND EMPLOYEE TRAINING

SEC. 8 (a) In carrying out his functions under this Act, the Secretary is authorized to perform such acts including conducting investigations, making reports, issuing subpenas, requiring production of documents, taking depositions, prescribing recordkeeping and reporting requirements, carrying out and contracting for research, development, testing, evaluation, and training (particularly those aspects of railroad safety which he finds to be in need of prompt attention), and delegating to any public bodies or qualified persons, functions respecting examination, inspecting, and testing of facilities or equipment, or persons, as he deems necessary to carry out the provisions of this Act.

(b) The National Transportation Safety Board shall have the authority to determine the cause or probable cause and report the facts, conditions, and circumstances relating to accidents investigated under subsection (a) above, but may delegate such authority to any office or official of the Board or to any office or official of the Department, with the approval of the Secretary, as it may determine appropriate.

(c) No part of any report required of a rail carrier under this Act, or any report made to the Secretary by an employee of the Department, or any report of the Secretary or the Board, relating to any accident or the investigation thereof, shall be admitted as evidence or be used in any suit or action for damages growing out of any matter mentioned in such report or reports.

(d) To carry out the Secretary's and the Board's responsibilities under this Act, officers, employees, or agents of the Secretary or the Board, as the case may be, upon display of proper credentials, are authorized to enter upon, inspect, and examine rail facilities and equipment and pertinent records at reasonable times and in a reasonable manner.

GRADE CROSSING STUDY

SEC. 9. The Secretary shall submit to the President for submission to the Congress, within one year from the date of enactment of this Act, a comprehensive study of the problem of eliminating and protecting railroad grade crossings with his recommendations for appropriate action including, if relevant, a recommendation for equitable allocation of the economic costs of any program.

PENALTIES

SEC. 10. (a) It shall be unlawful for any common carrier by railroad subject to part I of the Interstate Commerce Act in carrying out its functions as a common carrier by railroad to disobey, disregard, or fail to adhere to any rule, regulation, or standard prescribed by the Secretary under this Act or established or continued in effect pursuant to section 7(a) of the Act.

(b) The Secretary shall include in, or make applicable to, any railroad safety rule, regulation, or standard a civil penalty for violation thereof in such amount not less than $250 nor more than $750 as he deems reasonable.

(c) Any common carrier violating any rule, regulation, or standard prescribed by the Secretary under this Act shall upon conviction thereof be fined the civil penalty applicable to the standard violated. Each day of such violation shall constitute a separate offense. Such civil penalty is to be recovered in a suit or suits to be brought by the Attorney General on behalf of the United States in the District Court of the United States having jurisdicion in the locality where such violation occurred. Civil penalties may, however, be compromised for any amount by the Secretary prior to referral to the Attorney General. The amount of any such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

(d) In any action brought under this Act, subpenas for witnesses who are required to attend a United States District Court may run into any other district.

INJUNCTIVE RELIEF

SEC. 11. (a) The United States District Courts shall, at the request of the Secretary of Transportation and upon petition by the Attorney General on behalf of the United States, have jurisdiction, subject to the provisions of rule 65 (a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this Act or to enforce standards, rules, or regulations established hereunder.

(b) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, which violation also constitutes a violation of this Act, trial shall be by the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

APPROPRIATION AUTHORIZATION

SEC. 12. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEPARABILITY

SEC. 13. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances shall not be affected thereby.

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

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., October 15, 1969.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a proposed bill "To authorize the Secretary of Transportation to prescribe rules, regulations and performance and other standards as he finds necessary for all areas of railroad safety and to conduct railroad safety research" together with a section-by-section analysis.

This proposed legislation would replace the existing Federal statutes regulating particular aspects of rail safety with a comprehensive statute authorizing the Secretary to prescribe safety requirements for all areas of railroad safety. It would also authorize a program of railroad safety research.

Because of the rising public concern with railroad safety, shortly after being appointed I established a Railroad Safety Task Force to look into all aspects of railroad safety and to recommend solutions. The Task Force had as its Chairman the Federal Railroad Administrator and included representatives of railroad management, railroad labor and the state regulatory commissions. It made its report to me on June 30, 1969. The Report recommended that the Secretary of Transportation be given authority to prescribe safety requirements for all areas of railroad safety. It also recommended a program of railroad safety research. A copy of the Report is enclosed with the bill and analysis.

During the Task Force deliberations the Subcommittee on Surface Transportation of the Senate Commerce Committee held hearings on S. 1933, introduced by Senator Hartke, Chairman of the Subcommittee. S. 1933 would authorize the Secretary of Transportation to prescribe safety requirements for certain specific areas of railroad safety. In testifying on the bill, the Federal Railroad Administrator, Reginald N. Whitman, stated to the Subcommittee that any safety legislation which this Administration may submit should come after completion of the Task Force effort and consideration of its report. The enclosed bill has been developed on the basis of the Task Force Report and recommendations and after consultation with Task Force representatives.

Railroad safety has become a matter of public urgency at this time because of a combination of factors. Over the past seven years there has been a steady rising trend in railroad accidents, particularly derailments. Many of these derailments have involved shipments of hazardous materials. An ever increasing volume of hazardous materials is needed in our growing complex economy and requires transportation. There has been considerable destruction of property when these materials explode and burn. In several instances there has been loss of life. The problem of railroad accidents becomes much more serious as a result of hazardous materials involvement.

Existing rail safety statutes are inadequate to enable the Government to respond to the problem. Most of these statutes, responsibility for which was transferred from the Interstate Commerce Commission to this Department, were enacted from 50 to 75 years ago. They were addressed to particular hazards, primarily those involving employees. They do not, however, reach the prime causes of rail accidents, i.e., defects in track and roadbed, most defects in equipment particularly wheels, and employee failures. Seventy-five per cent of all rail accidents are caused by one or more of these cited factors.

The bill which the Department proposes would give the Secretary of Transportation the authority to prescribe safety requirements for all major areas of railroad safety. These would include safety standards with respect to the construction and performance of track, roadbed, rolling stock and signal systems, as well as qualifications of employees. They would not, however, include standards for occupational health and safety of employees not engaged in railroad operations. Performance standards would be used to the maximum extent practicable. These safety requirements would be capable of being modified and revised to respond to changing and evolving situations.

Existing rail safety statutes would be repealed. Their substantive safety requirements, however, as well as outstanding orders, rules, regulations, standards, requirements and permits issued pursuant to them would be continued in effect as regulations of the Secretary under the proposed bill until changed by the Secretary. The provisions of sections 831 to 835 of the United States Code would remain unchanged. These sections authorize the regulation of explosives and other dangerous articles in surface transportation, including railroads. They are intermodal in scope, flexible in approach, and are aimed at the packaging, handling in transit, and routing of these commodities in surface transportation generally.

The draft bill, however, would specifically authorize the Secretary to develop adequate facilities and technical staff capability to evaluate the problems connected with haz-

ardous materials transportation, to maintain a central reporting system for hazardous materials accidents for the purpose of providing information and assistance in emergencies, and to make an accelerated review of all aspects of hazardous materials transportation.

Implementation and enforcement of a bill of this scope will require the full cooperation not only of management and labor, but of the State regulatory commissions and the public. The development of the Task Force Report and the framework of the proposed bill has included consideration of the valuable recommendations of management, labor, and the states.

The bill envisages the continuation of this approach. It proposes a Railroad Safety Advisory Committee to be composed of representatives of management, labor, the state regulatory commissions and the public to advise and make recommendations to the Department in the development of safety standards and concerning railroad safety generally.

In addition, the bill encourages maximum cooperation between the Federal Government and the various state governments to promote railroad safety in a practicable and economic manner. The Secretary of Transportation would have the authority to secure the assistance of the states to carry out the Act. Such assistance would include all or part of necessary inspection services and related programs. The bill would also authorize Federal funds to assist the states in performing such functions. Existing state and local safety requirements would remain in effect until preempted by action of the Secretary.

Civil penalties are provided for violations of any rules, regulations, or standards prescribed by the Secretary. Enforcement would be in the United States District Court where the violation occurred. The Secretary could, however, compromise such penalties. The bill also provides for injunctive relief.

One of the most difficult safety problems confronting the Department is grade crossing safety. The numbers of such crossings, public and private, the enormous costs of protecting or separating them, and the very high fatality rate associated with grade crossing accidents, must be given attention. Accordingly, the bill proposes a one-year study of the problem.

Safety research in the railroad field can no longer be left exclusively with the carriers. The railroad industry, faced with continuing financial difficulties, rising costs and increasing competition has been unable to allocate adequate resources to research. In addition, interchange of equipment militates against innovations which cannot be responded to by all. The proposed bill authorizes a program of research, development, testing and training, particularly those aspects of railroad safety as are determined to be in need of prompt attention.

The Bureau of the Budget has advised that enactment of this proposed legislation is in accord with the President's program.

Sincerely,

JOHN A. VOLPE.

SECTION-BY-SECTION ANALYSIS OF RAILROADS SAFETY AND RESEARCH ACT OF 1969

(A bill to authorize the Secretary of Transportation to prescribe rules, regulations and performance and other standards as he finds necessary for all areas of railroad safety and to conduct railroad safety research)

Section 1: This section provides that the Act may be cited as the "Railroad Safety and Research Act of 1969."

Section 2: Subsection (a) of section 2 provides the basic authority in the Secretary of Transportation to prescribe rules, regulations and performance and other standards with respect to all areas of safety in railroad operations except the occupational health and safety of employees not engaged in railroad operations as defined by the Secretary. In developing rules, regulations and standards, the Secretary would be required to give consideration to relevant safety standards in existence at the time. The subsection also authorizes the Secretary to conduct railroad safety research.

Subsection (b) provides for notice and opportunity for hearing on all proposed rules, regulations and standards prior to their adoption. Hearings would be conducted in accordance with the provisions of section 553 of Title 5 of the United States Code.

Subsection (c) authorizes the Secretary to grant such exemptions from the requirements of any of the rules, regulations or standards as he finds to be in the public interest and consistent with railroad safety.

Subsection (d) provides for judicial review of any final agency action taken under the section.

Section 3: Subsection (a) of section 3 directs the Secretary to establish in the Department adequate facilities and technical staff necessary to maintain the capability to evaluate the hazards connected with and surrounding the transportation of various hazardous materials. The subsection also provides for the maintenance of a central reporting system for hazardous materials accidents to provide technical and other information to law enforcement and fire fighting personnel and to carriers and shippers to meet emergencies connected with the transportation of hazardous materials. In addition, it provides for accelerated review of all aspects of transportation of hazardous materials to determine and recommend appropriate steps which can be taken immediately to provide greater control over the safe movement of such materials.

Subsection (b) of section 3 provides that the authority contained in this Act would be in addition to any authority contained in sections 831–835 of Title 18 of the United States Code.

Section 4: Subsection (a) of the section provides for the establishment of a Railroad Safety Advisory Committee to advise, consult with and make recommendations to the Department concerning railroad safety. The Committee would consist of the Federal Railroad Administrator who would be Chairman and eight members appointed by the Secretary as follows: two public members and two members each from railroad management, railroad labor organizations and the national organization of the state commissions referred to in sections 202(b) and 205(f) of the Interstate Commerce Act, as amended. Members would be appointed by the Secretary for a term not to exceed three years.

Subsection (b) of section 4 requires the Secretary to submit to the Committee, prior to publication, all proposed rules, regulations and standards, and amendments or repeals thereto and afford the Committee a reasonable opportunity, not to exceed 60 days unless extended by the Secretary, to submit a report on the necessity, technical feasibility, reasonableness and practicability of such proposal. Each report by the Committee would be included in the record of any proceeding that would be held on the proposal.

Section 5: This section provides that state and local safety requirements in effect on the date of enactment of this Act would remain in effect unless the Secretary prescribed Federal safety standards covering the subject matter of the particular state or local safety requirements. After enactment of this Act, however, no further state or local rule, regulation or standard would be permitted in the rail safety field.

Section 6: Subsection (a) of this section declares that it is the policy of Congress that there shall be maximum cooperation between the Federal Government and the various state governments.

Subsection (b) of section 6 provides that the Secretary shall encourage state participation by agreement entered into with the state. The Secretary would be empowered, upon the request of a state, to authorize it to conduct all or any part of the inspection services and related programs necessary or desirable to obtain compliance with rules, regulations and standards prescribed by the Secretary under the Act. The Secretary would be required to find that the state had the capacity to carry out the program under the guidance of the Secretary. The Secretary would also be required to obtain annual reports from participating states which would contain such information as he deemed necessary to enable him to determine if such agreements would be continued.

Subsection (c) of section 6 authorizes the Secretary to provide assistance to those states participating in the railroad safety program to help them to carry out their responsibilities under the Act.

Section 7: Subsection (a) of this section repeals the existing rail safety statutes transferred to the Secretary by section 6(e) of the Department of Transportation Act. However, the substantive requirements of the Acts repealed and all rules, regulations, standards, requirements and permits prescribed or issued pursuant thereto would become regulations of the Secretary under this Act until amended, repealed or modified by the Secretary. Subsection (b) of section 7 preserves current court cases, investigations, claims and rule-making proceedings arising under the existing statutes.

Section 8: Subsection (a) of this section grants general powers to the Secretary to perform such acts including conducting investigations, making reports, issuing subpoenas, requiring production of documents, taking depositions, prescribing recordkeeping, and reporting requirements, carrying out and contracting for research, development, testing, evaluation and training (particularly those aspects of railroad safety which are found to be in need of prompt attention), and delegating to qualified persons and public bodies functions respecting examination, inspection and testing of facilities or equipment, or persons, as he deems necessary to carry out the Act.

Subsection (b) of section 8 preserves the role of the National Transportation Safety Board with respect to determining causes and probable causes of accidents and reporting the facts, conditions, and circumstances relating thereto.

Subsection (c) provides that no report required of a carrier, and no report by the Secretary or the Board, or by employees of the Department or the Board, may be admitted as evidence or used in any suit for damages growing out of any matter mentioned in such reports.

Subsection (d) assures access on the part of qualified investigatory personnel to rail facilities, equipment and records.

Section 9: This section provides for a study of the grade crossing problem including recommendations with respect to funding.

Section 10: Subsection (a) of section 10 makes it unlawful for any common carrier by railroad subject to Part I of the Interstate Commerce Act to violate any rule, regulation or standard prescribed by the Secretary under the Act or incorporated therein by section 7(a).

Subsection (b) of section 10 provides for civil penalties ranging from $250 to $750.

Subsection (c) of section 10 provides for enforcement of the section by the Attorney General of the United States in the jurisdiction where the violation occurred. It also permits compromise of penalties by the Secretary prior to their submission to the Attorney General.

Subsection (d) provides that subpoenas for witnesses required to attend a United States District Court may run into any other district.

Section 11: Subsection (a) of section 11 provides for injunctive relief to be sought in the United States District Courts by the Attorney General at the request of the Secretary of Transportation.

Subsection (b) of section 11 grants trial by jury in any proceeding for criminal contempt for violation of any injunction issued pursuant to the section.

Section 12: This section provides authorization for appropriations to carry out the Act.

Section 13: This section is the standard separability provision.

REPORT OF THE TASK FORCE ON RAILROAD SAFETY

(Submitted to the Secretary of Transportation, June 30, 1969)

At the request of the Secretary of Transportation, we, the representatives of the railroad industry, railroad labor organizations and State regulatory commissions, met as a task force to examine railroad safety and to advise the Secretary. The Task Force began meeting May 1, 1969, and concludes with this report. There has been a free exchange of information and open discussion. Data supplied by the Federal Railroad Administration and its Bureau of Railroad Safety were used for purposes of analysis of problem areas. The agreed upon time limit did not permit additional outside research.

REVIEW OF THE PROBLEM

Railroad operations involve inherent dangers. Movement of large, heavy equipment at high speeds characterizes the industry. Daily, some two billion ton-miles of freight of all types move on the Nation's railroads. Hundreds of railroad yards receive, classify and dispatch the 1.8 million freight car fleet on an around-the-clock, seven-day-a-week schedule. About 600,000 passengers daily commute to work and 200,000 travel intercity by rail; 630,000 railroad workers average 3.5 million man-hours of work per day.

It is logical to assume that operations of such magnitude will generate accidents. Thus, standards, procedures and rules are necessary to provide for safety. The bulk of existing railroad safety practices were developed over the years by the industry itself. For many years they met the safety requirements and produced the present safety record.

Grade crossing accidents rank as the major cause of fatalities in railroad operations. They account for 65% of the fatalities resulting from all types of railroad accidents, and rank second only to aviation mishaps in severity. Annually, about 4,000 accidents produce approximately 1,600 deaths which is also a matter of major public concern.

The yearly totals of crossing accidents, and accident casualties, in the 1920–1967 period, can be related very closely to the combined amount of rail and highway miles travelled and to the effects of major crossing safety improvement programs. The trend in both accidents and casualties up to 1958 was generally downward. The situation has been reversed since 1958, however, with a disturbing general trend upward in both categories. Only 20% of the total 225,000 grade crossings are protected with automatic devices.

Grade crossing safety receives attention from highway authorities as well as railroad organizations. Under existing law, Federal-aid highway funds may be used on grade crossings on the Federal-aid highway system. This includes interstate, primary and secondary roads which together account for slightly more than 20% of the total number of crossings. However, Federal funds may not be used to reduce hazards at railroad crossings of city streets and on many state supplementary highways and local roads which are not on the Federal-aid system and which represent the remaining 80% of the total. A certain number of safety improvements are being made currently by the carriers and state and local agencies on crossings not on the Federal-aid system. There is an imperative need for an expanded public program to cover these crossings in order to reduce immediately this extremely high fatality rate.

The most obvious trend in any recent examination of railroad safety is the large and steady increase in the number of train accidents. The 8,028 train accidents recorded in 1968, represents a significant increase, by any yardstick, over the 4,148 recorded in 1961. Derailments account for two-thirds of the total.

General causes of train accidents are almost evenly divided among human error, defects in or failure of equipment and defects in or improper maintenance of track and roadbed. Derailments are largely attributable to track and equipment problems while collisions are mostly caused by human error.

Employee safety in railroad operations is of continuing concern. In 1968, there were 146 employees killed and 17,993 injured. Employees involved in rail operations and track and roadbed maintenance are more exposed to the inherent hazards of the industry and, therefore, represent a major portion of the employee casualty figure. Contributing factors to the employee casualty rate include inadequate training programs, human errors, equipment defects, poor housekeeping, and non-compliance with safety and operating rules.

The need for transporting ever increasing quantities and varieties of hazardous materials—chemicals, gases, explosives and fuel—creates the possibility of serious accidents that have become a matter of major public concern. Thus, casual factors affecting train accidents—track, equipment, human factors and train-motor vehicle collisions—take on added significance when dangerous commodities are transported.

RAILROAD SAFETY REGULATIONS

Government involvement in railroad safety regulation came early. In 1893, Congress passed the first Safety Appliance Act. Then and in later years various Federal statutes granted varying degrees of Federal authority over locomotives, signalling systems, hours of service limitations on certain employees, air brakes, couplers, hand brakes, grab irons, running boards, sill steps, and draft gears on rolling stock, and accident reporting. The Federal authority to regulate shipment of hazardous materials is applied largely to the packaging of these commodities, although some rules governing handling in transit have been adopted.

Federal statutes do not cover the trucks, wheels and axles of railroad cars nor their design, construction or maintenance. Bridges and tunnels are not subject to Federal regulations and no Federal authority governs track and roadbed. There is no general authority to promulgate standards for employee qualifications, physical requirements and training, nor to prescribe uniform railroad operating rules.

Almost all States have entered the field of rail safety regulation. However, there is no uniform pattern of involvement. Some are quite active in general rail safety matters, but most consideration is on grade crossing safety regulation. Certain States feel they are adequately equipped by statute or existing regulations to deal with any rail safety problem that may arise.

Rules and regulations issued under present Federal and State authority cover only the specific areas reached by the legislative acts. The limitation imposed on the regulatory process by specific, rather than general scope legislative authority, results in only minimal public agency involvement in some problem areas of safety.

PRIORITIES

Railroad safety is wide in scope and requires a more comprehensive national approach. Of first priority is treatment of total rail safety by relating all its various facets to definite goals. This demands a coordinated approach by industry, labor, State and Federal government.

To continue as the major transportation mode, railroads will require more innovation, advanced equipment and higher speed capabilities. Achievement of these advanced capabilities calls for parallel advancement in safe, dependable, operation. Therefore, major safety research is essential to guarantee that tomorrow's railroads will not only be more efficient but more safe.

Railroad operating personnel will continue to be the group most involved with rail safety, or the lack of it. New equipment and higher speeds will place great demands on employee skills and railroad operating practices. It is recognized that employee training is inadequate today, and could become more critical as new technology reshapes the industry. It seems imperative that formal, intensive training programs be given high priority along with human factors research. At the same time, railroad rules and practices must be kept responsive to change so that a high level of safety may be maintained.

The modern industrial economy is dependent upon hazardous materials that are shipped throughout the country. Consequently, the entire transportation network, particularly the railroads upon which a large share of chemicals, explosives, fuels, and the like travel, must have the capacity to transport them safely. A top priority should be the complete evaluation of all factors related to the transportation of these commodities. Particularly, container standards for hazardous materials must take into account impact and stress requirements commensurate with today's longer, heavier and faster trains.

The motoring public is part of the safety problem at the grade crossing. Drivers must be educated to accept the meaning of warning devices and be required to heed them. Compliance must be enforced. Because this is a matter of public safety, public programs must be immediately initiated and properly funded to provide the motorist with positive, uniform and adequate information about the hazard at the crossing. More emphatically, firm and prompt consideration must be given to better use of existing funds and the making available of additional public funds to meet the increasing costs of crossing protection and grade separation, and to increase the number of grade crossings with automatic protection. There should be a long range, public commitment to eliminate this unnecessary and tragic loss of life.

Other improvements in railroad safety must necessarily involve substantial commitment of public and private resources. For Government, a major commitment should be toward research; for industry, upgrading and maintenance of plant should be foremost. Management and labor should cooperate to reduce human error. The economic restraints on the railroad industry make it essential that public policy be directed toward the development of financial incentives to support rail safety.

SUMMARY CONCLUSIONS

Recognizing that there have been longstanding differences among the three groups represented on the Task Force, the parties sought to emphasize areas of agreement rather than disagreement plus their mutuality of interest in railroad safety. The consensus view of the Task Force is as follows:

Railroad safety is a problem, national in scope, of concern to Federal and State Governments, as well as labor and management and which has been accented in recent years by the increase in the number of train accidents, particularly derailments.

Fatalities resulting from railroad accidents occur mostly at grade crossings. Trespassers

rank second in the number of fatalities, and employees third.

Transportation of hazardous materials—chemicals, gases, explosives and fuels—is an economic necessity. Involvement of these materials in train accidents creates a new dimension of public concern over railroad safety.

Reported causes of train accidents are almost evenly divided among defects in or failure of track and roadbed, defects in or failure of equipment, and human error.

Existing Federal and State rail safety regulations do not, in most instances, provide standards for track, roadbed, equipment, employee training and qualifications or rules governing safe railroad operations.

Accident reporting and investigation practices are inadequate. Available statistics do not relate sufficiently to determination of primary and contributory causes.

Research into factors affecting railroad safety is inadequate because it has been sporadic and not coordinated.

Present Federal, State and industry programs to reduce hazards at railway-highway grade crossings are extremely narrow and inadequately funded.

RECOMMENDATIONS

Regardless of the difference in the views of the parties, it is recognized that the safety experience of the American railroads during the past few years is at a point where some effective steps must be taken to bring the problem under control. It is also recognized that the public and Congress will demand definite assurance that safety will be improved. Solutions short of broad Federal regulation may not adequately meet the situation. Therefore, even though further regulation creates some problems for each of the parties, the Task Force agrees that legislation authorizing broad Federal regulatory powers should be enacted with certain safeguards. It is further recommended that a permanent advisory committee be established, by law, representing management, labor, and State regulatory commissions, to guide and assist in the development of safety standards and other related matters. The specific recommendations of this Task Force are:

1. That the Secretary of Transportation, through the Federal Railroad Administration, have authority to promulgate reasonable and necessary rules and regulations establishing safety standards in all areas of railroad safety, through such notice, hearing and review procedures as will protect the rights of all interested parties.

2. In order to strengthen the administration of Federal rail safety regulations, there should be established a National Railroad Safety Advisory Committee to advise, consult with, and make recommendations to the Secretary on matters relating to the activities and functions of the Department in the field of railroad safety. The Committee would be chaired by the Federal Railroad Administrator with the remaining members appointed by the Secretary to represent equally the State regulatory commissions, railroad management and labor. The Secretary would submit to the Committee proposed safety standards and amendments and afford it a reasonable opportunity to prepare a report on the technical feasibility, reasonableness, and practicability of each such proposal prior to adoption. The Committee may propose safety standards to the Secretary for his consideration.

3. Existing State rail safety statutes and regulations remain in force until and unless preempted by Federal regulation. Administration of the program should be through a Federal-State partnership, including state certification similar to the certification principles set forth in the Federal Natural Gas Pipeline Safety Act of 1968.

4. The Advisory Committee be directed to study the present delegation of authority to the Association of American Railroads' Bureau of Explosives in certain areas of the Transportation of Explosives and Other Dangerous Articles Act.

5. A research program be initiated by Government and industry into railroad safety technology, which should be funded immediately for an initial three year period, over and above existing research programs.

6. Formal employee training programs be expanded by railroad management, with the cooperation of labor and government, for the purpose of insuring compliance with safe operating practices and reducing the impact of human error in the accident experience.

7. An expanded, concerted program of grade crossing safety be undertaken utilizing established Federal and State agencies and advisory groups to set uniform procedures and standards. Early attention must be given to the development of improved crossing protection at lower cost plus greater emphasis placed on driver education and traffic enforcement. In addition to more extensive use of existing Federal funds now allocable to present highway safety programs, there must be new sources of funding to finance an expanded grade crossing program.

8. The Federal Railroad Administration should revise, in consultation with railroad management, labor, and state regulatory commissions, its rules for reporting of accidents. The aim should be to make the data more current, more uniform and to identify causes more accurately.

9. The Secretary of Transportation in consultation with and assistance of the Task Force and appropriate Congressional committees should draft proposed legislation to implement these recommendations.

R. N. Whitman, Chairman, Federal Railroad Administrator; Charles J. Fain, Subchairman, Commissioner, Missouri Public Service Commission; Willis F. Ward, Chairman, Michigan Public Service Commission; John P. Vukasin, Jr., Commissioner, California Public Utilities Commission.

George E. Leighty, Subchairman, Chairman, Railway Labor Executives' Association; Thomas M. Goodfellow, Subchairman, President, Association of American Railroads; Al H. Chesser, Vice President, National Legislative Representative, United Transportation Union; Donald S. Beattie, Executive Secretary, Railway Labor Executives' Association; William E. Skutt, Assistant Grand Chief Engineer, Brotherhood of Locomotive Engineers; William D. Lamprecht, Vice President, Systems Operations, Southern Pacific Company; James R. Thorne, Vice President, Operating Dept., Seaboard Coast Line Railroad; C. V. Cowan, Vice President, Operating Group, Baltimore & Ohio/Chesapeake & Ohio Railroad Company.

Mr. PROUTY. Mr. President, I am pleased to be a sponsor of the administration's Railroad Safety and Research Act of 1969.

I think all of us are deeply concerned about the plight of railroad safety. An article published in the Wall Street Journal of June 26 succinctly points out the scope of the problem now facing this Nation:

There now are around 30,000 railroad accidents a year—approaching 100 a day. The number of accidents where damage to railroad property totaled $750 or more was 8,028 in 1968, up 83% from 4,378 in 1962, despite a decline in miles traveled.

There now are about 15 derailment a day, compared with nine in 1964.

Last year 2,359 persons were killed in railroad accidents and 24,608 were injured. In contrast, 351 persons died in airline accidents.

And in 1967, the latest year for which figures are available, accidents cost the nation's railroads $266.3 million in out-of-pocket expenses—a figure equal to more than a half of the net income of all U.S. railroads that year.

Mr. President, the entire problem is compounded by the fact that in our society, which is so technologically sophisticated, we depend more and more on the transportation of hazardous substances. Public outcry earlier this year concerning the shipment of poisonous gas from the Rocky Mountain Arsenal to the east coast really only scratched the surface concerning the nature of chemicals shipped by our Nation's common carriers. Railroads, because of the fact that management can control the use of rails and rights-of-way, are inherently the safest method for transportation of potentially dangerous chemicals and explosives. Nevertheless, all of us realize that increased accidents, greater speeds, and more hazardous shipments provide a very lethal combination.

Mr. President, I think all of us agree that the antiquated laws the Federal Government now has on its books cannot adequately insure that transportation of hazardous materials will be as safe as humanly possible. Therefore, I am particularly pleased that the administration has submitted a bill which is realistic, comprehensive, and farsighted. I, personally, believe the excellence of the bill is to a large measure attributed to the unique cooperation that went into its formation.

As you may know, Secretary Volpe on May 1 announced the formation of a task force to study the problems connected with railroad safety. This task force was made up of representatives of railroad management, representatives of railroad labor, and State representatives. Reginald N. Whitman, the Federal Railroad Administrator, was chairman of the task force. I recall, Mr. President, when the Commerce Committee first held hearings on railroad safety in the latter part of May, Mr. Whitman testified before our committee. Concerning the work of the task force, Mr. Whitman stated at that time:

We have set a target date of June 30, for our report to the Secretary. I may sound too optimistic but until I know otherwise, I expect labor, management and the States to take full advantage of the unique opportunity and challenge of participating in the development of Federal policy.

Primarily because of Mr. Whitman's dedication, persistence, and skill, the task force made its report exactly on time. Mr. Whitman spelled out the recommendations of the task force to the Surface Transportation Subcommittee at hearings held in Indianapolis, Ind., in the middle of July. Unfortunately, I was unable to attend those hearings, but the distinguished Senator from Indiana (Mr. HARTKE), who presided at the hearings, summed up my feelings concerning the task force when he told Mr. Whitman:

I want to offer my congratulations for the fine work that you have done and I hope you will convey to the task force my sincere appreciation for the fact that they have moved as rapidly as they have in this field.

In addition, the task force, under the direction of Reginald Whitman, issued a report which not only was put together and finalized within 60 days, submitted when promised, and was comprehensive, but it was also unanimously supported by the broad spectrum of interests repre-

sented on the task force. The specific recommendations of the task force were:

First. That the Secretary of Transportation, through the Federal Railroad Administration, have authority to promulgate reasonable and necessary rules and regulations establishing safety standards in all areas of railroad safety, through such notice, hearing and review procedures as will protect the rights of all interested parties.

Second. In order to strengthen the administration of Federal rail safety regulations, there should be established a National Railroad Safety Advisory Committee to advise, consult with, and make recommendations to the Secretary on matters relating to the activities and functions of the Department in the field of railroad safety. The Committee would be chaired by the Federal Railroad Administrator with the remaining members appointed by the Secretary to represent equally the State regulatory commissions, railroad management, and labor. The Secretary would submit to the Committee proposed safety standards and amendments and afford it a reasonable opportunity to prepare a report on the technical feasibility, reasonableness, and practicability of each such proposal prior to adoption. The Committee may propose safety standards to the Secretary for his consideration.

Third. Existing State rail safety statutes and regulations remain in force until and unless preempted by Federal regulation. Administration of the program should be through a Federal-State partnership, including State certification similar to the certification principles set forth in the Federal Natural Gas Pipeline Safety Act of 1968.

Fourth. The Advisory Committee be directed to study the present delegation of authority to the Association of American Railroads' Bureau of Explosives in certain areas of the Transportation of Explosives and Other Dangerous Articles Act.

Fifth. A research program be initiated by Government and industry into railroad safety technology, which should be funded immediately for an initial 3-year period, over and above existing research programs.

Sixth. Formal employee training programs be expanded by railroad management, with the cooperation of labor and government, for the purpose of insuring compliance with safe operating practices and reducing the impact of human error in the accident experience.

Seventh. An expanded, concerted program of grade crossing safety be undertaken utilizing established Federal and State agencies and advisory groups to set uniform procedures and standards. Early attention must be given to the development of improved crossing protection at lower cost plus greater emphasis placed on driver education and traffic enforcement. In addition to more extensive use of existing Federal funds now allocable to present highway safety programs, there must be new sources of funding to finance an expanded grade crossing program.

Eighth. The Federal Railroad Administration should revise, in consultation with railroad management, labor, and State regulatory commissions, its rules for reporting of accidents. The aim should be to make the data more current, more uniform, and to identify causes more accurately.

I think Mr. Whitman best summed up the significance of this excellent task force report when he made the following comment during the Indiana hearings:

> Of great significance is the fact that the recommendations represent the unanimous views of management, labor and the States. We have here a landmark development of labor-management cooperation. The report sets the stage for a new era of cooperation in building a safer railroad system. We hope to build from this base of mutual interest and commitment to rail safety, a meaningful program that will get the job done.

Last week, Secretary of Transportation Volpe submitted to the Senate the comprehensive bill that we are introducing today. I am proud to be a sponsor of the bill, which I hope will be promptly enacted. Over the years we have heard numerous comments concerning the need for a balanced transportation system. Unfortuantely, seldom have such comments been associated with concrete action designed to strengthen and improve all modes of transportation. This year as we move toward the establishment of an airports-airways trust fund, as urban mass transportation program, and some future relief for the Nation's railroads, I, for one, strongly sense the feeling that we have moved from a period of speculation and comment to a period of construction action. Certainly, the bill is indicative of such action and can serve as a vehicle to form the basis for an up-to-date and an effective Government involvement in railroad safety.

In this connection, I am mindful that some parties having an interest in the provisions of this proposed legislation have some reservations with regard to portions of it. For example, it is my understanding that some of the States are concerned about the Federal preemption provision with respect to safety standards in those instances where such preemption may prove to impinge upon the efforts of a State to establish standards higher than those required by the Federal Government.

I, personally, feel confident that such concerns will be accorded every consideration by the Committee on Commerce in order to result in a meaningful measure which will be acceptable to most interested parties. In other words, while I fully recognize the reported concerns of some interested parties, I personally do not feel that such concerns are insurmountable or detract in any way from the merits of the principal thrust of this administration's proposed legislation concerning railroad safety.

Mr. President, in order to afford all of the Senators an opportunity to consider the bill fully, I ask unanimous consent that a comparative analysis that I have prepared between this bill and a bill introduced earlier this year by the distinguished Senator from Indiana (Mr. HARTKE) be printed in the RECORD immediately following my remarks.

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

COMPARATIVE ANALYSIS OF RAILROAD SAFETY LEGISLATION PENDING BEFORE THE SENATE

(S. 1933 introduced by Senator Hartke and S. 3061, the administration bill)

ADMINISTRATION BILL	HARTKE BILL
Title: "Railroad Safety and Research Act of 1969"	Title S. 1933 "Federal Railroad Safety Act of 1969"
Section Two—Gives the Secretary of Transporation rule making authority in all areas affecting railroad safety, including qualifications of employees except with respect to those employees not engaged in railroad operations as defined by the Secretary.	*Section Two*—Gives the Secretary rule making authority of facilities and equipment, but specifically excludes authority relating to the qualifications of employees.
Consideration would be given to existing rules and regulations prior to an enactment of this bill, but existing rail safety statutes are, in fact, repealed (see Section 7 under this analysis).	This bill would *supplement* provisions of law and regulations in effect on the date of enactment. Unlike the Administration Bill, it does not repeal existing law.
Authorizes the Secretary to conduct railroad safety research.	No comparable provision.
Provides for notice and hearings in connection with any rule making.	No comparable provision.
Authorizes the Secretary to grant such exemptions from regulations which he finds to be in the public interest and consistent with railroad safety.	Section 7(b). The Secretary may grant exemptions after a reasonable notice and opportunity for a hearing.
Provides for judicial review of any final agency action taken by the Department of Transportation under this act.	No comparable provision.
Section Three—Supplements 18 USC 831–835 by directing the Secretary to establish adequate facilities and technical staff necessary to maintain the capability to evaluate the hazards connected with the transportation of hazardous materials. Sets up the central reporting system for hazardous materials accidents and provides a mandate for the Secretary to study this entire area and recommend appropriate steps which can be taken immediately to provide greater control with the safe movement of hazardous materials.	No comparable provision.

See footnote at end of table.

COMPARATIVE ANALYSIS OF RAILROAD SAFETY LEGISLATION PENDING BEFORE THE SENATE—Continued

(S. 1933 introduced by Senator Hartke and S. 3061, the administration bill)

ADMINISTRATION BILL	HARTKE BILL
Section 4—Establishes a Railroad Safety Advisory Committee, RSAC, chaired by the Federal Railroad Administrator and having eight members appointed by the Secretary (two public members, two members from railroad labor, two members from railroad management, and two members from the National Association of State Public Utility Commission).	No comparable provision.
Requires the Secretary to submit all proposed rule making to the Railroad Safety Advisory Committee, which will have sixty days to comment on the necessity, feasibility, reasonability and practicability of each proposal.	No comparable provision.
Section 5—Prospectively excludes state or local regulation in the rail safety field.	Section three continues state laws for regulations and limits application of Federal law to those instances where the Federal law imposes a standard of safety *equal to or higher than* the standard imposed by the particular provision of state law or regulation.
Continues the effect of state and local safety requirements in effect on the date of enactment unless the Secretary prescribes Federal safety standards covering the subject matter of the particular state or local safety requirement.	
Section 6—a Declaration of Congress urging maximum co-operation between the Federal Government and the states.	There is no comparable provision directly on point. However, Section three which specifically preserves the authority of the states with respect to railroad safety regulation tends to run counter to Section six in the Administration Bill.
Authorizes the Secretary to delegate to the individual states (upon the request of a state) inspection services and related programs necessary for compliance with the Act. The state would have to certify that it was able and willing to receive the delegated authority and would be required to report annually to the Secretary of Transportation.	
The Secretary is also authorized to provide assistance to those states who participate in the carrying out of the railroad safety program.	
Section 7—Repeals the existing rail safety statutes (the more recent substantive one being enacted in 1920). However, this section also specifies that substantive requirements under the acts repealed will continue in effect until amended, repealed or modified by the Secretary.	No comparable provision. However, Section two of the Hartke Bill which gives the Secretary the general rule making authority over the safety of facilities and equipment specifically notes that such regulations issued by the Secretary would *supplement* provisions of law and regulations in effect on the date of enactment of this Act.
The section also specifically preserves any pending act or proceeding under any of the acts repealed.	
(See footnote #1 for a list of the specific acts repealed by this section)	
Section 8—Gives the Secretary authority to conduct investigations, issue subpoenas, depositions, etc.	Section seven (a) contains a similar provision.
Preserves the role of the National Transportation Safety Board, NTSB, with respect to determining the cause and probable cause of accidents and reporting the facts, conditions, and circumstances relating thereto.	No comparable provision.
Excludes carrier records or reports by the Secretary for the National Transportation Safety Board from use as evidence in tort cases growing out of any matter mentioned in such reports.	No comparable provision.
Section 9—This section provides for a study of the grade crossing problem and includes authority for the Secretary to consider ways and means of funding any remedies the study might recommend.	No comparable provision.
Section 10—Makes it unlawful for any common carrier by railroad to violate any rule, regulation, or standard prescribed by the Secretary under this Act.	The comparable provision is contained in Section Two.
Provides for civil penalties ranging from $250 to $750.	Section four contains civil penalties from $500 to $1,000 for each violation.
Each day of the violation constitutes a separate offense.	Each day of the violation constitutes a separate offense.
Gives Attorney General enforcement authority in the jurisdiction where the violation occurred and permits a compromise of penalties by the Secretary prior to their submission to the Attorney General.	Section five (a) gives the Attorney General enforcement authority in any District Court. Section 4(b) permits compromise of penalty by the Secretary.
Subpoenas for witnesses who are required to attend the United States District Court may run into any other district.	No comparable provision.
Section 11—Gives the Attorney General the power to seek injunctive releases at the request of the Secretary.	Section five (a) gives the Attorney General power to seek an injunction. In addition, Sections six (a) and (b) and (c) give the Secretary cease and desist powers.
(Note that the Administration Bill does not give the Secretary cease and desist powers)	
Grants trial by jury in any proceeding for criminal contempt.	Section five (b) includes trial by jury also.
Section 12—An open-ended authorization for funds to carry out the Act.	An open-ended authorization for funds to carry out the Act.
Section 13—Standard Separability Provision.	Section ten contains the same standard provision.
No comparable provision.	Section six giving the Secretary cease and desist powers (referred to in the comparison under Section 10 of the Administration Bill)
No comparable provision.	Section eight provides that "Nothing in this Act shall in any way be construed or applied so as to abridge, modify, limit, supersede, or repeal any provision of the Railway Labor Act (45 U.S.C. 151–188) or any agreements made pursuant thereto."

[1] The following acts are among those repealed by Section Seven in the Administration Bill:

The Safety Appliance Acts (45 U.S.C. 1 through 16)—1 through 7 of title 45 was enacted March 2, 1893; Section 8 through 10 of title 45 were enacted March 2, 1903; Section 11 through 16 of title 45 were enacted April 14, 1910.

The so-called Ash Pan Act (45 U.S.C. 17 through 21) was enacted May 30, 1908.

The so-called Locomotive Inspection Act (45 U.S.C. 22 through 29) was originally enacted February 17, 1911, amended March 4, 1915 and amended June 7, 1924. There were other minor amendments relating to the pay for Inspectors and methods of inspection.

A joint resolution directing the ICC to conduct a study with respect to block-signal systems and devices for automatic control of trains (45 U.S.C. 35) was enacted in 1906 and presumably the ICC made its report.

The ICC was given authority to investigate and test safety devices used in railroad operations (45 U.S.C. 36) in May 1908.

Mail Car Inspection (45 U.S.C. 37) was given to the ICC May 27, 1908.

Accident Investigation and Reporting was given jointly to railroads and the ICC (45 U.S.C. 38–43) May 6, 1910.

The Hours of Service Act (45 U.S.C. 61–64) was passed in 1907.

S. 3063—INTRODUCTION OF A BILL TO CREATE A NATIONAL INSTITUTE OF DIGESTIVE DISEASES AND NUTRITION

Mr. YARBOROUGH. Mr. President, I introduce, for appropriate reference, a bill to create a National Institute of Digestive Diseases and Nutrition in the National Institutes of Health.

The investigations and findings of the Special Committee on Nutrition and Human Needs have brought to public attention in a dramatic way the dependency of the human body upon food and proper nutrition. The committee has brought to light the connection between nutrients and mental and physical growth.

But nutrition is more than the intake of food. It involves an understanding of the way the human body utilizes food throughout the digestive system. This in turn requires a thorough knowledge of digestive diseases.

Digestive diseases include disorders of the stomach, intestines, biliary passages, liver, and pancreas. Within this general description, digestive disorders show the following incidence:

First. Half the population of the United States has digestive complaints. One-sixth of all illnesses are in this category.

Second. One-third of all cancer deaths are due to cancer of the digestive tract.

Third. Digestive illnesses are the leading cause of hospitalization and for inability to work due to illness. An average of 190,000 persons are absent from work each day because of digestive disorders.

Fourth. Digestive diseases are the third leading cause of death.

Fifth. Digestive diseases are the leading cause of industrial absenteeism among male employees.

Sixth. Approximately 1 percent of our gross national product is lost each year due to digestive disease, costing $8 billion.

Seventh. Estimated annual costs of digestive diseases to the Veterans' Administration is nearly $175 million—$83.7 million of it for medical care and $91 million more for disability payments.

Eighth. The economic loss in this country due to peptic ulcer alone is nearly $1 million a year.

Ninth. For digestive disease, 23 percent, of all nonobstetrical surgery is performed.

Tenth. Cirrhosis of the liver ranks as the fourth most common cause of death in adults at the present time.

The education and training of medical doctors to cope with this facet of medical practice has seriously lagged. The National Institutes of Health show that 141 trainees in digestive disease have been helped in their training, compared to 1,146 cardiovascular trainees. NIH support for research and training totals less than $30 million a year. The average medical school has only three teachers in digestive diseases as compared to four in hematology, or disorders of the blood, and six in cardiovascular diseases.

Fewer than 1,500 physicians in the country treat digestive diseases as such, and these disorders receive less than 5 percent of the extramural research support funds of the National Institutes of Health.

These figures amply support, I believe, the formation of a National Institute of Digestive Diseases and Nutrition. The bill I am introducing now will establish such an Institute in the National Institutes of Health. It will be authorized to conduct, coordinate, and foster research relating to the cause, prevention, and methods of diagnosis and treatment of digestive diseases and nutrition. It will be able to make grants in aid to universities, hospitals, laboratories and other public and private agencies and to individuals for research projects in these fields. It will create an information center and promote the circulation of information about findings. It will be authorized to maintain research fellows, and to provide training and instruction in the diagnosis, prevention, and treatment of digestive disorders.

The funds needed to carry out these activities are not itemized in the bill, but will be determined after hearings have developed the extent of need and the appropriate level of expenditure. Administration of these duties will be aided by a National Advisory Digestive Diseases and Nutrition Council.

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

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

The bill (S. 3063) to amend the Public Health Service Act to support research and training in diseases of the digestive tract, including the liver and pancreas, and diseases of nutrition, and aid the States in the development of community programs for the control of these diseases, and for other purposes, introduced by Mr. YARBOROUGH, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 3063

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Digestive Diseases and Nutrition Act".

PURPOSE

SEC. 2. The purpose of this Act is to improve the health of the people of the United States through the conduct of researches, investigations, experiments, and demonstrations relating to the cause, prevention and methods of diagnosis and treatment of diseases of the digestive tract, including the liver and pancreas, and diseases of nutrition; assist and foster such researches and other activities by public and private agencies, and promote the coordination of all such researches and activities and the useful application of their results; provide training in matters relating to digestive diseases and nutrition including refresher courses for physicians; and develop and assist States and other agencies in the use of the most effective methods in the promotion and maintenance of health and of prevention, diagnosis, and treatment of digestive diseases and nutrition.

RESEARCH AND TRAINING

SEC. 3. Title IV of the Public Health Service Act is amended by adding at the end thereof the following:

"PART F—NATIONAL INSTITUTE OF DIGESTIVE DISEASES AND NUTRITION

"ESTABLISHMENT OF INSTITUTE

"SEC. 451. There is hereby established in the Public Health Service the National Institute of Digestive Diseases and Nutrition (hereafter in this part referred to as the 'Institute').

"DIGESTIVE AND NUTRITIONAL DISEASE RESEARCH AND TRAINING

"SEC. 452. In carrying out the purposes of section 301 with respect to digestive diseases and nutrition, the Secretary, through the Institute and in cooperation with the National Advisory Digestive Diseases and Nutrition Council (hereafter in this part referred to as the 'Council') shall—

"(a) conduct, assist, and foster researchers, investigations, experiments, and demonstrations relating to the cause, prevention, and methods of diagnosis and treatment of digestive diseases and nutrition;

"(b) promote the coordination of research and control programs conducted by the Institute, and similar programs conducted by other agencies, organizations and individuals;

"(c) make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special studies related to the purposes of this part;

"(d) make grants-in-aid to universities, hospitals, laboratories, and other public and private agencies and institutions, and to individuals for such research projects relating to digestive diseases and nutrition as are recommended by the Council, including grants to such agencies and institutions for the construction, acquisition, leasing, equipment, and maintenance of such hospital, clinic, laboratory, and related facilities, and for the care of such patients therein, as are necessary for such research;

"(e) establish an information center on research, prevention, diagnosis, and treatment of digestive diseases and nutrition, and collect and make available, through publications and other appropriate means, information as to, and the particular application of, research and other activities carried on pursuant to this part;

"(f) secure from time to time, and for such periods as he deems advisable, the assistance and advice of persons from the United States or abroad who are experts in the field of digestive diseases and nutrition; and

"(g) in accordance with regulations and from funds appropriated or donated for the purpose (1) establish and maintain research fellowships in the Institute and elsewhere with such stipends and allowances (including travel and subsistence expenses) as he may deem necessary to train research workers and procure the assistance of the most brilliant and promising research fellows from the United States and abroad, and, in addition, provide for such fellowships through grants, upon recommendation of the Council to public and other nonprofit institutions; and (2) provide training and instruction and establish and maintain trusteeships, in the Institute and elsewhere in matters relating to the diagnosis, prevention, and treatment of digestive diseases with such stipends and allowances (including travel and subsistence expenses) for trainees as he may deem necessary, the number of persons receiving such training and instruction, and the number of persons holding such traineeships, to be fixed by the Council, and, in addition, provide for such training, instruction, and traineeships through grants, upon recommendation of the Council, to public and other nonprofit institutions.

"ADMINISTRATION

"SEC. 453. (a) In carrying out the provisions of section 452 all appropriate provisions of section 301 shall be applicable to

the authority of the Secretary, and grants-in-aid for digestive diseases and nutritional research and training projects shall be made only after review and recommendation of the Council made pursuant to section 454.

"(b) The Secretary is authorized to accept conditional gifts, pursuant to section 501, for study, investigation, or research into the cause, prevention, or methods of diagnosis or treatment of digestive diseases and nutrition, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute. Donations of $50,000 or over for carrying out the purposes of this part may be acknowledged by the establishment within the Institution of suitable memorials to the donors.

"FUNCTIONS OF THE COUNCIL

"SEC. 454. The Council is authorized to—

"(a) review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis or treatment of digestive diseases, and certify approval to the Secretary, for prosecution under section 452, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of digestive diseases and nutrition;

"(b) review applications from any university, hospital, laboratory, or other institution or agency, whether public or private, or from individuals, for grants-in-aid for research projects relating to digestive diseases and nutrition, and certify to the Secretary its approval of grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of digestive diseases and nutrition;

"(c) review applications from any public or other nonprofit institution for grants-in-aid for training, instruction, and traineeship in matters relating to the diagnosis, prevention, and treatment of digestive diseases and nutrition, and certify to the Secretary its approval of such applications for grants-in-aid as it determines will best carry out the purposes of this Act;

"(d) collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, or methods of diagnosis or treatment of digestive diseases and nutrition, by correspondence or by personal investigation of such studies, and with the approval of the Secretary make available such information through appropriate publications for the benefit of health and welfare agencies and organizations (public or private), physicians, or any other scientists, and for the information of the general public;

"(e) recommend to the Secretary for acceptance conditional gifts pursuant to section 501 for carrying out the purposes of this part; and

"(f) advise, consult with, and make recommendations to the Secretary with respect to carrying out the provisions of this part.

"OTHER AUTHORITY WITH RESPECT TO DIGESTIVE DISEASES AND NUTRITION

"SEC. 455. This part shall not be construed as superseding or limiting—

"(a) the functions or authority of the Secretary or the Service, or of any other officer or agency of the United States, relating to the study of the causes, prevention, or methods of diagnosis or treatment of digestive diseases and nutrition; or

"(b) the expenditure of money therefor."

NATIONAL ADVISORY DIGESTIVE DISEASES AND NUTRITION COUNCIL

SEC. 4. (a) Section 217 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

"(d) The National Advisory Digestive Diseases and Nutrition Council shall consist of the Secretary or his representative, the chief medical officer of the Veterans' Administration or his representative, the Surgeon General of the Army or his representative, the Surgeon General of the Navy or his representative, who shall be ex officio members, and twelve members appointed without regard to the civil service laws by the Secretary. The twelve appointed members shall be leaders in the fields of fundamental sciences, medical sciences, education, or public affairs, and six of such twelve shall be selected from leading medical or scientific authorities who are outstanding in the study, diagnosis, or treatment of digestive diseases and nutrition. Each appointed member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that, of the members first appointed, three shall hold office for a term of three years, three shall hold office for a term of two years, and three shall hold office for a term of one year, as designated by the Secretary at the time of appointment. None of such twelve members shall be eligible for reappointment until a year has elapsed since the end of his preceding term. Every two years the Council shall elect one member to act as Chairman for the succeeding two-year period."

(b) The second sentence of section 217(b) of such Act is amended by inserting "digestive diseases and nutrition," immediately after "blindness,".

(c) Paragraph (d) of section 301 of such Act is amended by inserting "or, with respect to digestive diseases and nutrition, as recommended by the National Advisory Digestive Diseases and Nutrition Council," immediately after "National Advisory Heart Council,".

(d) Section 301(1) of such Act is amended by inserting "or, with respect to digestive diseases and nutrition, upon recommendation of the National Advisory Digestive Diseases and Nutrition Council," immediately after "National Advisory Dental Research Council,".

CONTROL GRANTS

SEC. 5. Title III of such Act is amended by inserting after section 315 the following new section:

"GRANTS FOR COMMUNITY PROGRAMS OF DIGESTIVE DISEASES AND NUTRITION CONTROL

"SEC. 316. (a) To enable the Secretary to carry out the purposes of part F of title IV and to assist, through grants, States, counties, health districts, and other political subdivisions of the State, and public and nonprofit agencies, institutions, and other organizations, in establishing and maintaining organized community programs of digestive diseases and nutrition control, including grants for demonstrations and the training of personnel, there are hereby authorized to be appropriated for each fiscal year such sums as may be necessary for such purposes. For each fiscal year, the Secretary shall determine the total sum from the appropriation under this subsection which shall be available for allotment among the several States, and shall, in accordance with regulations, from time to time make allotments from such sum to the several States on the basis of (1) the population, and (2) the financial need of the respective States. Upon making such allotments, the Secretary shall notify the Secretary of the Treasury of the amounts thereof.

"(b) The Secretary shall from time to time determine the amounts to be paid to each State under this section from the allotments to such State, and shall certify to the Secretary of the Treasury, the amounts so determined, reduced or increased, as the case may be, by the amounts by which he finds that estimates of required expenditures with respect to any prior period were greater or less than the actual expenditures for such period: *Provided*, That the Secretary may determine and certify to the Secretary of the Treasury amounts to be paid to a county, health district, other political subdivision of the State or to any public or nonprofit agency, institution, or other organization in the State, if he finds that payment to such subdivision or other organization has been recommended by the State health authority of the State and (1) that the State health authority has not, prior to August 1 of the fiscal year for which the allotment is made, presented and had approved a plan in accordance with subsection (c), or (2) that the State health authority is not authorized by law to make payments to such other organization.

"(c) The moneys so paid to any State or to any political subdivision or other organization, shall be expended solely in carrying out the purposes specified in subsection (a) and in accordance with plans, approved by the Secretary, which have been presented by the health authority of such State, or, under the circumstances specified in subsection (b)(1), by the political subdivision, or the agency, institution or other organization to whom the payment is made, and, to the extent that any such plan contains provisions relating to mental health, by the mental health authority of such State.

"(d) Money so paid from allotments under subsection (a) shall be paid upon the condition that there shall be spent in such State for the same general purpose from funds of such State and its political subdivisions (or in the case of payments to a political subdivision or to an agency, institution or other organization under circumstances specified in subsection (b)(1), from funds of such political subdivision or organization), an amount determined in accordance with regulations.

"(e) Whenever the Secretary, after reasonable notice and opportunity for hearing to the health authority of the States (or, in the case of payments to any political subdivision or any agency, institution, or other organization under the circumstances specified in subsection (b)(1), such subdivision or organization) finds that, with respect to money paid to the State, subdivision, or organization out of appropriations under subsection (a), there is a failure to comply substantially with either—

"(1) the provisions of this section;

"(2) the plan submitted under subsection (c); or

"(3) the regulations;

the Secretary shall notify such State health authority, political subdivision, or organization that further payments will not be made to the State, subdivision, or organization from appropriations under subsection (a) (or in his discretion that further payments will not be made to the State, subdivision, or organizations from such appropriations for activities in which there is such a failure), until he is satisfied that there will no longer be any such failure. Until he is so satisfied the Secretary shall make no further certification for payment to such State, subdivision, or organization from appropriations under subsection (a), or shall limit payment to activities in which there is no such failure.

"(f) All regulations and amendments thereto with respect to grants to States under this section shall be made after consultation with a conference of the State health authorities. Insofar as practicable, the Secretary shall obtain the agreement, prior to the issuance of any such regulations or amendments, of the State health authority."

GENERAL PROVISIONS

SEC. 6. Section 2 of the Public Health Service Act, as amended, is amended by striking out the word "and" at the end of paragraph (o), by striking out the period at the end of

paragraph (p) and inserting in lieu thereof "; and", and by inserting after paragraph (p) the following new paragraph:

"(q) The term 'digestive diseases' means diseases of the digestive tract, including liver and pancreas."

ADDITIONAL COSPONSORS OF BILLS

S. 338

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from New Mexico (Mr. MONTOYA) be added as a cosponsor of S. 338, to amend section 1677 of title 38, United States Code, relating to flight training and to amend section 1682 of such title to increase the rates of educational assistance allowance paid to veterans under such sections.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 2306

Mr. HRUSKA. Mr. President, I ask unanimous consent that at its next printing the name of the Senator from Idaho (Mr. JORDAN) be added as a cosponsor of S. 2306, to provide for the establishment of an international quarantine station and to permit the entry therein of animals from any country and the subsequent movement of such animals into other parts of the United States for purposes of improving livestock breeds, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 277—RESOLUTION REPORTED RELATING TO REFERRAL OF SENATE BILL 202 TO THE CHIEF COMMISSIONER OF THE COURT OF CLAIMS (S. REPT. NO. 91-492)

Mr. ANDERSON, from the Committee on Interior and Insular Affairs, reported an original resolution (S. Res. 277), and submitted a report thereon, which report was ordered to be printed, and the resolution was placed on the calendar, as follows:

S. RES. 277

A resolution to refer the bill (S.202) entitled "A bill to provide that the United States disclaims any interest in a certain tract of land," to the Chief Commissioner of the Court of Claims for a report thereon

Whereas there is pending in the Senate of the United States a bill designated as S. 202, to provide that the United States disclaims any interest in a certain tract of land, as to which the Senate desires the investigation, findings and conclusion hereinafter referred to: It is hereby

Resolved, That the said bill, as amended by the Senate Committee on Interior and Insular Affairs, which amendments are shown in the Committee Print on S. 202, dated October 22, 1969, be referred to the Chief Commissioner of the United States Court of Claims as authorized by section 1492 of title 28 of the United States Code for a report in conformity with section 2509 of title 28 of the United States Code with findings of fact and conclusions sufficient to inform Congress whether the waiver and relinquishment of any claim of title by the United States is appropriate in light of any legal or equitable claim to the real property described therein, or any part thereof, by the private claimants thereto, including findings as to whether the United States by prior legislative and administrative actions has not in fact and in law vested title to the said real property in the claimants or their predecessors in title, and whether, if the private claimants were asserting their claim against any party or entity other than a sovereign, their title would not be deemed good and indefeasible with respect to said party or entity; such report shall not take account of, or be in any way affected by, an conclusions of law or fact hitherto asserted by any administrative agency of the United States with respect to the instant controversy between the claimants and the United States.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 39

Mr. McGOVERN. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Wisconsin (Mr. NELSON) and the Senator from Utah (Mr. Moss) be added as cosponsors of Senate Concurrent Resolution 39, relating to withdrawal of United States forces from Vietnam.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 22, 1969, he presented to the President of the United States the following enrolled bills:

S. 74. An act to place in trust status certain lands on the Standing Rock Sioux Indian Reservation in North and South Dakota;

S. 775. An act to declare that the United States shall hold certain land in trust for the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and

S. 921. An act to declare that certain federally owned land is held by the United States in trust for the Cheyenne River Sioux Tribe of the Cheyenne River Indian Reservation.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX REFORM NOS. 5 AND 6—DEMOCRATIC STUDY GROUP TAX REFORM FACT BOOK

Mr. METCALF. Mr. President, today I shall make available two additional sections of the Tax Reform Fact Book prepared by the Democratic Study Group in the House of Representatives. The sections that I shall discuss today deal with the area of estate and gift taxation and the tax treatment of private foundations and other exempt organizations.

On September 25 former Assistant Secretary of the Treasury Stanley S. Surrey testified before the Committee on Finance and made this comment about the need for reform in the area of estate and gift taxation:

We should recognize that the most serious aspect of our present capital gains policy is the permanent escape from tax of appreciation in assets transferred at death. Correction of this defect remains a matter of top priority. The House Committee report states that reform measures relating to revision of the estate and gift tax laws and the related problem of the tax treatment of property passing at death will be studied as soon as possible, with a bill to be reported in this Congress. The accomplishment of this objective will move us considerably further along the road of meaningful tax reform.

The administration has continued to refrain from making any recommendations in this area. I would hope that the public will have the benefit of the administration's proposals for meaningful reform in advance of the hearings that the House Ways and Means Committee has pledged to hold in order to revise the estate and gift tax laws during this Congress. I make this request now because, unfortunately, the administration did not make public the specifics of its latest pronouncements in other areas of tax reform until September 30, just 3 days before the Committee on Finance closed its hearing record. For this reason, I now have the uneasy feeling that the administration has chosen to assume the role of defense counsel rather than prosecute the case against the inequities in our present tax laws.

Mr. President, I ask unanimous consent that the section of the Tax Reform Fact Book which discusses the area of estate and gift taxation be printed at this point in the RECORD. This book was first published by the Democratic Study Group in the House of Representatives last July and has since been updated at my request to reflect final House action in many important areas of consideration.

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

DEMOCRATIC STUDY GROUP TAX REFORM FACT BOOK SECTION FOUR—GIFT AND ESTATE TAXES

INCREASE GIFT TAX RATE TO LEVEL OF ESTATE TAXES

The problem

Estate and gift taxes, imposed as separate taxes and at different rates, have not been thoroughly examined or revised by Congress since 1942. They raise about $3.1 billion a year.

This dual rate structure permits sizeable differences in tax liability of estates of equal size. Those who can afford lifetime gifts enjoy a double benefit: the transfer qualifies for the lower gift tax rates (including liberal exemptions) and the estate remaining at death is subject to a different and lower beginning set of progressive rates.

Treasury studies show the advantages of lifetime giving over bequests at death are more valuable the greater the amount involved. By splitting $1 million in property between lifetime gifts and bequests at death, the heirs will receive about 15% more than if the property were passed entirely in the estate at death. But splitting property worth $5 million between lifetime gifts and bequests at death will increase the amount available to the heirs as much as 37%.

Present law

Present law provides separate progressive rate schedules (gifts taxed at graduated rates roughly 75% of estate tax rates) with $30,000 in exemptions for each.

Pending proposals

Several bills dealing with gift and estate tax rate changes were introduced in the House. H.R. 5250 (Reuss and others) would increase the gift tax rates to those of estate

taxes. Identical or similar measures are H.R. 229, 1039, 1119, 3655, 5196, 6206, 6233, 6761, 6769, 6770, 6791, 7040, 7045, 7346, 7585, 7880, 8144, 9195, 9759, 9852, 10041, and 10253.

Revenue impact

Treasury estimates raising the gift tax rate to the level of estate taxes with a $60,000 exemption and a single graduated rate schedule applying to transfers both during life and on death would yield $150 million a year.

Proponents and opponents

Most of the testimony on gift and estate taxes dealt with generation skipping, multiple trusts and similar areas. The American Bankers Association is on record in opposition to any changes in the relationship between gift and estate taxes. The National Association of Manufacturers urged repeal of both taxes.

Administration action

The Treasury on December 11, 1968, recommended to the Committee that it unify estate and gift taxes into a single-transfer tax with these provisions: (1) that lifetime gifts and transfers at death be added together to determine the total wealth subject to transfer taxation; (2) that a single exemption and a single and somewhat lower rate schedule be made applicable to the total; (3) that the base of the gift tax be grossed up to include the amount of tax, parallel to the treatment of estate taxes, and (4) that appropriate rules be provided to accomplish an orderly and equitable transition to the new system.

The Treasury proposal also called for an unlimited marital deduction which would have the effect of raising to 100% the current 50% limit on the amount of tax-free property that could pass between spouses at death or by gift.

The Nixon Administration, in making its recommendations in April, did not include this plan in its reform proposals. Its only suggestion in this general area was a plan to tighten taxation of income accumulated trusts.

House action

None.

Resources references

See Ways and Means Hearings, Volume 2; Treasury Studies, Parts 1 and 3.

ELIMINATE PAYMENT OF ESTATE TAXES BY REDEMPTION OF GOVERNMENT BONDS AT PAR

The problem

Certain designated Treasury bonds, called "flower bonds" by securities dealers and estate planners, are giving wealthy taxpayers a substantial break in payment of estate taxes. These long-term government issues normally sell at a sharp discount ($700 or so on a $1,000 face value bond), carry interest rates as low as 3%, and can be bought on short notice. They come in denominations of $500 to $1 million. Buying them at the right time has the effect of substantially increasing the value of an estate.

If a $1,000 bond carrying the redemption privilege has a coupon rate of 3% and sells at around $720 to yield about 4.2%, for example, the Treasury must redeem it at face value if it is offered in payment of estate taxes. The effect is the same as selling the security for $1,000 and realizing a 28-point tax-free profit.

Present law

If an estate owns securities which carry tax payment privileges, and if such securities were held by an individual at the time of his death (or, in the case of certain securities, for at least six months prior to his death), the securities may be redeemed in payment of federal estate taxes, even though they have not yet matured. Treasury must redeem them at par.

Pending proposals

Bills to eliminate the redemption privilege have been introduced in the House by several Members. H.R. 5250 (Reuss and others) would amend the Liberty Bond Act to make that change. Identical or similar measures are H.R. 229, 1039, 1119, 1379, 2142, 3655, 5196, 6206, 6233, 6721, 6769, 6770, 6791, 7040, 7045, 7346, 7585, 7980, 8144, 9195, 9759, 9852, 10042, and 10253.

Revenue impact

It is estimated that repealing this provision would increase federal revenue about $50 million a year.

Proponents and opponents

Most of the testimony on estate taxes dealt with other areas of possible change.

Administration action

The Treasury, in its December recommendations, called for repeal of the bond redemption privilege. The Nixon Administration, in recommending tax changes to Congress in April, did not include this provision.

House action

None.

Resource references

See Ways and Means hearings, Volume 11; Treasury Studies, Part 3.

Mr. METCALF. Mr. President, the next section of the book which I shall discuss covers the tax treatment of private foundations and other tax-exempt organizations. The Committee on Finance has set aside October 27 and 28 for executive sessions in this area. In the meantime, the committee has reopened its hearings for 1 day, and today happens to be that day, to hear the testimony of Peter G. Peterson, chairman of the board of Bell & Howell Corp., on the subject of private foundations. Mr. Peterson will serve as the representative of a group of private citizens who have conducted their own study into the subject of private foundations.

On October 13 the Committee on Finance agreed that in the case of gifts of capital gain property to private foundations, the House rule for taking the appreciation into account would be modified. As modified by the Finance Committee, the donor would be allowed a charitable deduction equal to his cost or other basis for the property, plus one-half of the appreciation. The House provision required either deducting only the cost of the property or retroactively deducting the value of the property by including the appreciation in income. According to the committee, its modification would achieve substantially the same net effect as if the donor had included the appreciation in income and claimed a charitable deduction for the fair market value of the property.

In 1968 there were 22,000 private foundations, according to the Foundation Center Annual Report. Collectively, their total assets were in excess of $20 billion—part 1, Hearings before the Senate Finance Committee on the Tax Reform Act of 1969, page 709.

The permissible activities of private foundations desiring to preserve the benefits of tax exemption, as well as the tax benefits to their contributors, are substantially tightened under the House version of the bill to prevent self-dealing between the foundations and their substantial contributors, to require the distribution of income for charitable purposes, to limit their holdings of private businesses, to give assurance that their activities are restricted as provided by the exemption provisions of the tax laws, and to be sure that investments of these organizations are not jeopardized by financial speculation. In addition, the House bill would impose a 7½-percent tax on the investment income of private foundations.

Generally, the House bill would limit the activities of exempt organizations so that they cannot participate in debt-financed leaseback operations, wherein they, in effect, share their exemption with private businesses. The bill also would provide for the extension of the unrelated business income tax to virtually all tax-exempt organizations not previously covered by this tax, including churches. The bill would also extend the regular corporate tax to the investment income of tax exempt organizations set up primarily for the benefit of their members, such as social clubs, fraternal beneficiary societies, and employees' beneficiary associations.

Mr. President, I ask unanimous consent that the section of the Tax Reform Fact Book which discusses in detail many of the provisions I have just listed be printed in the RECORD.

There being no objection, section 5 was ordered to be printed in the RECORD, as follows:

DEMOCRATIC STUDY GROUP TAX REFORM FACT BOOK SECTION FIVE—TAX EXEMPT ORGANIZATIONS

EXTEND UNRELATED BUSINESS INCOME TAX TO ALL EXEMPT ORGANIZATIONS

The problem

Prior to 1950, a growing number of non-profit organizations operated businesses unrelated to their tax-exempt purposes. Profits were tax free, giving these organizations a substantial competitive advantage over tax-paying businesses. Congress responded by imposing an income tax on profits of all unrelated business activities of most non-profit organizations.

All unrelated business activity was not curbed, however, because a sizable list of non-profit organizations were exempted. Business spokesmen have continued to protest this tax-free competition. Treasury recently responded with a rule dealing with one complaint area. This controversial change extended the tax to advertising in magazines and other publications of all non-profit organizations.

Present law

The unrelated business income tax is imposed at corporate tax rates on all non-profit organizations (charitable, labor, educational, scientific, etc.) with these exceptions: churches; social welfare organizations; social clubs; fraternal beneficiary societies; voluntary employee beneficiary associations; teachers' retirement funds; certain benevolent life insurance companies; mutual or non-profit cemetery companies; credit unions; certain small mutual insurance companies; and certain crop financing corporations.

Pending proposals

Only two bills dealing directly with unrelated income of non-profit organizations have been introduced in the House this session, H.R. 2057 (Battin) would ease Treasury's ruling on taxation of advertising profits. H.R. 8802 (Morton and others) deals with taxation of public entertainment proceeds at state fairs.

Revenue impact

Treasury reports that the revenue impact of proposed changes in the unrelated business income tax can not be accurately estimated.

Proponents and opponents

The Conference of Non-Profit Organizations heads a long list of opponents. The National Tax Equity Association and the U.S. Chamber of Commerce are among business-oriented groups supporting extension of the unrelated business income tax to all tax-exempt organizations.

AMA, National Geographic Society, American Chemical Society, and several other substantial organizations took strong positions at the Committee hearings against Treasury's ruling on taxation of advertising profits. Backing the ruling were McGraw-Hill Publications, American Business Press, and a number of other publishers.

Administration action

The Nixon Administration asked that the unrelated business income tax be extended to churches and other tax-exempt organizations not currently covered. The investment income of social clubs and certain similar organizations, now untaxed, also would be taxed.

Also recommended was a law requiring that all tax-exempt organizations be taxed on the income of any investment assets which were acquired with borrowed funds and unrelated to their tax-exempt functions.

House action

The House bill would (1) extend the unrelated business income tax to churches, social welfare clubs, civic leagues, social clubs, and fraternal beneficial association; (2) continue to exempt from the tax the income from business related to an organization's exempt function such as an insurance business run by a fraternal beneficial association for its members; (3) impose a tax on investment income of social clubs and fraternal beneficial associations, and (4) delay extension of the tax to unrelated income of churches to give them time to dispose of unrelated businesses or spin them off in separate taxable corporations.

Resource references

Ways and Means Hearings, Volumes 2, 3 and 4; Treasury Studies, Part 3.

REQUIRE FOUNDATIONS TO SPEND THEIR INCOMES WITHIN ONE YEAR OF RECEIPT

The problem

A recent Treasury study shows that some private non-operating foundations (those set up to contribute to charity) accumulate assets rather than dispensing funds. Contributions and earnings are invested and little or none goes to charity. These organizations are required to meet only limited and poorly-defined requirements for asset and income distribution.

An analysis of records of 596 of the nation's largest foundations showed they had 1966 gross income of about $1.1 billion. Yet they ended that same year with $1.9 billion in unspent income. Total assets of this same group grew from $10.2 billion in 1960 to $15.1 billion in 1966. These reports led critics to question the charitable deduction for foundation donors and the tax-exempt status of foundations.

Present law

Non-operating foundations are prohibited from (1) accumulating income "unreasonably", (2) accumulating income to a substantial degree for purposes other than those on which their tax-exempt status is based, and (3) investing accumulated income in ways that would undermine their tax-exempt purpose. The restrictions are considered vague and difficult to administer.

Pending proposals

The main bill to correct abuses in private foundations is H.R. 7053 (Patman), which would require net income of every privately-controlled, tax-exempt foundation to be disbursed annually for purposes for which the foundation was organized. Similar or identical measures are H.R. 19030, 11087, 11221, 17710, 10237, 11017, 7053, 8367, 9162, and 10302.

Revenue impact

Neither loss nor gain of revenue is expected in placing a limitation on distribution of income.

Proponents and opponents

The AFL–CIO headed a list of organizations calling for this change. Foundation spokesmen urged care in drafting more restrictive rules. It was pointed out, for example, that foundations should not be forced to distribute large amounts of unexpected income on short notice.

Administration action

The Nixon Administration has proposed requiring non-operating foundations to distribute to charity an amount equal to 5% of the value of their investment assets or all of their net income (exclusive of long-term capital gains), whichever is greater, within a year after the year in which the income is earned.

Less restrictive rules would apply to foundations accumulating income for a specific charitable purpose and those that in past years had spent more than 5% of their investment assets or more than their annual income. A penalty of up to 25% of the legally-required distribution would be imposed for failure to comply.

House action

The House-passed bill is substantially the same as the Administration proposal.

Resource references

Ways and Means Hearings, Volumes 2, 3 and 4; Treasury Studies, Part 3.

PROHIBIT FOUNDATION "SELF DEALING"

The problem

Private individuals who are donors, founders, officers, directors, or trustees of foundations are in a position to receive special financial benefits through transactions with the foundation.

Present law

Present law permits such transactions provided they do not jeopardize the foundation's tax-exempt function. Revocation of tax-exempt status is the only penalty provided for violations.

Pending proposals

The major tax reform bills introduced this session do not deal with this problem.

Revenue impact

No apparent impact.

Proponents and opponents

The AFL–CIO is one of several groups that have recommemded a prohibition on "self dealing."

Administration action

The Nixon Administration proposal would prohibit a private foundation from entering into a business transaction with donors and certain other related persons, regardless of the arms-length nature of the transaction. Certain exceptions would be permitted for "essential" transactions such as reasonable compensation for personal services.

House action

The House bill would prohibit loans, sales and similar self dealing transactions between donors or principals and foundations. Penalties would be strengthened to authorize fines for violations.

Resource references

See Ways and Means hearings, Volumes 1, 2 and 3; Treasury Studies, Part 3.

PROHIBIT FOUNDATIONS FROM OWNING 20% OR MORE OF ANY UNRELATED BUSINESS

The problem

At present foundations may own controlling interests in corporations. This gives donors an opportunity to gain a tax advantage by contributing a substantial block of stock to a foundation and receiving a tax deduction while retaining control of the corporation. This puts foundations in the business of managing corporations, gives them an opportunity to assist businesses they control in ways not available to taxpaying competitors, and permits them to influence legislation by acting through these businesses.

Present law

Present law contains certain restrictions on direct operation by a foundation of a trade or business unrelated to its charitable function. For example, a foundation may generally not be organized for the specific purpose of conducting an unrelated trade or business, and income related to the regular conduct of a foundation-run business is not taxable under the unrelated business income tax. However, there are no restrictions on conducting an unrelated trade or business through ownership of a controlling interest in a separate corporate entity.

Revenue impact

No apparent impact.

Proponents and opponents

There was no direct testimony opposing limitation of a foundation's interest in unrelated businesses. The National Tax Equality Association and the U.S. Chamber of Commerce and many other business-oriented groups have consistently supported limitations on unrelated business activities of tax-exempt organizations.

Administration action

The Treasury studies recommended prohibiting foundations from owning 20% or more of the total combined voting power or 20% or more of the total equity in an unrelated business.

The Administration proposal would permit foundations to receive and hold controlling interest in an unrelated business for five years, then reduce its holdings to under 35% of the total combined voting power of the corporation. A stock interest between 20% and 35% of the combined voting power would have to be divested only if the foundation actually exercised control. Foundations would also be required to relinquish within five years any interest in a business controlled by the donor or certain related persons.

House action

The House bill would limit to 20% (with certain exceptions) the combined ownership of voting stock of a corporation held by a foundation and any substantial donor and persons related to him.

Resource references

Ways and Means Hearings, Volumes 1, 2 and 3; Treasury Studies, Part 3.

ARMOUR OPENING NOTED

Mr. SCOTT. Mr. President, tomorrow, Armour & Co. officially opens in my Commonwealth of Pennsylvania one of the world's largest food processing complexes. This new food processing and distribution facility, located at Chartiers Valley Industrial Park in the Greater Pittsburgh area, is modern to the minute in processing and quality control methods and equipment. Encompassing 4 acres under roof, the complex houses 9 miles of piping, 125 miles of electrical wiring, generates enough heat to warm 670 homes and enough refrigeration to cool all the homes in a town of 5,000 people. From it, over 400 food items will move to supermarkets, hotels, and restaurants in Pennsylvania, New York, Ohio, and West Virginia.

I am pleased to make note of this opening and the special contribution made by Armour & Co. to the Commonwealth's economy. Today, Armour employs 4,000 Pennsylvanians in 19 Pennsylvania communities. The company's position of leadership is indeed enhanced by the opening of this new facility.

On the occasion of this dedication, I extend my sincerest congratulations to Armour's president, Mr. Charles R. Orem, and to all of those in Pennsylvania who have helped make this vision a reality.

SENATOR RANDOLPH SUPPORTS DIRECT ELECTION OF PRESIDENT

Mr. RANDOLPH. Mr. President, the United States is populated by an active, resourceful people on the move. Our country had a humble beginning, but it possessed two important resources to insure progression—our people and our land. From these was fashioned a unique system of government—"of the people, by the people, and for the people." Today we are a world power. Decisions made in Washington do not touch alone the lives of U.S. citizens but also have a direct bearing on other nations of the world. Our President is the head of the Government of the United States of America and, too, he is a world leader.

The proposal to amend our Constitution to achieve electoral reform is one of the most critical issues before the 91st Congress. Our Nation has been depending on an antiquated, imperfect system which would cause extreme controversy if no candidate for President received a majority in the electoral college, or if a candidate received a majority in the electoral college, but not a plurality of the popular vote. These possibilities came close to reality in last year's general election. Our procedure for selecting the President must be refined to insure that the will of the citizens of the whole of the United States is no way abridged. The Presidency of the United States must not be left to the uncertainties inherent in the electoral college system.

Mr. President, it is gratifying to see the progress being made toward reform of our system of electing the highest official in our land. The House of Representatives has endorsed and sent to the Senate a proposed constitutional amendment to abolish the electoral college and provide for the direct election of the President and Vice President. I am privileged to cosponsor a similar amendment in the Senate.

It is my belief that the best method of selecting the President is by direct popular election. It is all the people of the United States whom our Chief Executive represents—not geographical areas of the country.

In the election of the President of the United States, one individual vote should not have any more weight than another. Our political system should not favor any class or classes of voters—rural or urban, rich or poor, black or white, liberal or conservative, or those from North or South, East or West. The direct popular election of the President would insure equality of every vote with every other vote.

Electoral reform is not a new proposal developed in response to the questions raised in last year's election. Nor is it the first congressional activity to change our present system of electing the President and Vice President. Hearings were held by the Senate Committee on the Judiciary in the 1950's and were begun anew in 1961, and the proposal currently before our Committee on the Judiciary is the culmination of efforts begun in 1965. The proposed amendment approved by the House would require approval by two-thirds, 67, of the Senate and subsequently by three-fourths, 38, of the States to be effective.

Mr. President, I am hopeful that the Senate will approve the proposal for direct election of the President at an early date. This endeavor has my earnest and active support.

MEDICAL LIBRARY AND HEALTH COMMUNICATIONS ASSISTANCE AMENDMENTS OF 1969

Mr. MURPHY. Mr. President, as a supporter of the Medical Library and Health Communications Assistance Amendments of 1969, I want to say a few words about the measure.

As a member of the Committee on Labor and Public Welfare's Subcommittee on Health, I had the pleasure of working on and supporting the Medical Library Assistance Act of 1965, which this measure would extend and expand.

In the words of the committee's report:

> H.R. 11702 would extend for 3 years the current program to provide financial assistance for the construction of health library facilities; to support training to health librarians and other information specialists; to expand and improve health library services through the provision of grants for library resources; to support projects of research and development in the field of health communications, and related special scientific projects; to support the development of a national system of regional medical libraries; and to support selected biomedical scientific publications projects. This bill would increase the total authorization for funding for these programs from the current $21 million per year to $25 million in fiscal year 1971, $30 million in fiscal year 1972, and $35 million in fiscal year 1973. In addition, certain technical and clarifying amendments are proposed.

Since its enactment, the Medical Library Assistance Act has enabled the National Library of Medicine to initiate coordinated programs for health libraries and health information service and activities. One of the concerns that motivated the Congress to enact the 1965 act was the shortage of health information facilities and manpower. The Congress felt this was a weak link in the nationwide effort to provide improved health care. Thus, the 1965 act's ultimate purpose was to bring about improved health care by strengthening the information facilities that serve the men and women of the health profession.

The Medical Library Assistance Act, has contributed greatly to the health resources of California. As administered by the National Library of Medicine, the act has provided grants totaling more than $3,551,592 to California institutions—including grants for research, training, special scientific projects, publications, establishment of a regional medical library, and resource grants to 33 health libraries. Examples include a research project contract to UC at San Diego for the development of a neurosciences study program; a large resource grant to UC, San Francisco Medical Center, for acquiring medical library materials; and a regional medical library grant to UCLA.

This last example has important implications for all of the biomedical libraries within California, as well as California's 110,000 doctors, dentists, pharmacists, and nurses. This award made UCLA the Pacific Southwest Regional Medical Library for California, Arizona, Nevada, and Hawaii. It thus provides a central library resource within this four-State area, allowing all of the region's resources and services to be shared efficiently. And although UCLA is able to handle the vast majority of requests for interlibrary loans and reference services, its closer linkage with the center of the network, the National Library of Medicine, will certainly increase its effectiveness.

I have been particularly impressed with the way in which UCLA's computer facilities are being used to provide specific lists of references to health professionals who request them. Over 1,400 such bibliographies were sent out to physicians, researchers, and medical students last year—giving them specific guidance to published literature in their area of research.

It is clear that active biomedical information programs such as the ones cited above must receive continued legislative and financial support if we are to continue to exert leadership in the field of health care. During this session of the 91st Congress, I have helped to draft and enthusiastically support the Medical Library Extension Act of 1969, which will enable the National Library of Medicine to continue its medical library programs, which benefit not only the people of California but the people of the country, as well.

DECLINE OF THE NATION'S TEXTILE INDUSTRY

Mr. TALMADGE. Mr. President, evidence continues to mount to attest to serious damage being inflicted upon the Nation's textile industry because of the influx of imported goods.

This represents more than just the decline of this important segment of the U.S. economy. We have taking place the deterioration of an industry that is the largest employer in many States, my own State of Georgia included. The fact is that one in nine industrial workers is employed in the textile and apparel industry.

What excessive imports mean to American textiles is a decline in profits, and this in turn results in loss of jobs and incomes to many people.

This is a situation that our Government cannot long tolerate. We need meaningful import controls. We would

hope that they can be voluntary. But it is my strong feeling that unless effective controls are agreed to soon, then there will be no other alternative in my judgment but for the Congress to act.

Mr. President, I ask unanimous consent to have printed in the RECORD two newspaper articles, one from the Georgia Business News of October 13, and an Associated Press article published in the Waycross, Ga., Journal-Herald, that cites facts and figures about this growing problem.

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

[From the Georgia Business News, Oct. 13, 1969]

CHEAP LABOR IMPORTS CUT INTO DOMESTIC TEXTILE SALES, PROFITS

(By Curtis Collins)

The plight of the textile industry—Georgia's number one employer—due to foreign imports was underscored last week by two of the state's biggest mills as they reported lower earning and income.

Macon-based Bibb Manufacturing Co. reported an unaudited net loss of $2.2 million for its fiscal year ending Aug. 31, compared to $1.5 million net income for the previous fiscal year.

Bibb President Robert Train said the high level of textile imports had contributed to depressed conditions in several segments of the company's business. Also noted were the drain on profits by some of the newer operations and year-end inventory write-downs exceeded earlier estimates.

Bibb said net sales for the past fiscal year were $121.8 million, compared to $129.6 million for fiscal year 1968.

"The results for the year were a severe disappointment to all of us," Train said. "We are determined that the coming year will show substantial improvement."

West Point Pepperell reported a $2.7 million drop in net income despite a $25.2 million increase in sales for the 12 months ending Aug. 30.

J. L. Lanier, chairman and chief executive officer, said sales totaled $372.2 million for the 12 months, but included sales of $28.2 million from Alamac Knitting Mills and American Rug and Carpet Co., both purchased during the fiscal year.

Net income for the year was $12 million, or $2.55 per share, a decline of 18 per cent from 1968.

"The profit result for the year was disappointing," Lanier said. "Sales volume was good considering the state of our markets but sales prices were under pressure and, in many of our product lines, lower than last year.

"Because of the generally weak market situation, added to by the continued increase in the quality of textiles from low-wage countries, we have been unable to pass on cost increases attendant to the inflationary conditions in the country."

West Point Pepperell directors on Sept. 23 declared a dividend of 35 cents a share (payable Nov. 15), a 35-cent reduction from the former level of 50 cents a share. The new dividend is payable to stockholders of record Oct. 24.

Meanwhile, a spokesman for the industry told the Alabama Textile Manufacturers Association the industry has been criticized unfairly for seeking relief from increasing foreign imports.

The textile industry wants nothing more than "limitations which will give foreign countries a reasonable share in our market and, very importantly, a share in the growth of our market, but which will also keep imports from taking all of our market or all of the growth in our market," said Robert W. Armstrong, director of public relations for the American Textile Manufacturers Institute, Charlotte.

[From the Waycross (Ga.) Journal-Herald, Oct. 13, 1969]

NATION'S TEXTILE INDUSTRY CAUGHT IN FINANCIAL TIGHT

(By Jack Stillman)

ATLANTA, GA.—While most businesses bask in a warm glow of prosperity, the nation's textile industry is caught in a profit squeeze that is looking more and more like a stranglehold.

Although economic forecasts vary, all reflect gains in the marketplace.

But the textile industry is seeing its domestic market become inundated by foreign imports, manufactured for less and sold at higher profits abroad.

Textile men and congressmen from textile states say the only salvation is voluntary controls controls in agreements between foreign and domestic industry—or Congress is going to have to act.

The climate is becoming more favorable for federal controls over textile imports.

The seriousness of the economy within the industry is reflected in financial statements.

West Point-Pepperel, Inc., ended its fiscal year with profits down 18 per cent from last year.

Bibb Manufacturing Co. ended its fiscal year with a loss of $2.2 million.

Burlington Industries, the giant of the industry with 130 plants and 83,000 employees, reports net earnings per share at $2.32 through nine months of this fiscal year, compared with $2.34 for the same period last year.

But Burlington's profits held primarily because of diversification. The corporation makes thousands of different products. It also has acquired two furniture companies.

Textile men have called for controls of imports for years, and many of them feel that the next session of Congress is going to provide them.

Secretary of Commerce Maurice Stans toured Europe and Japan recently to discuss the possibility of agreements on controls of imports. But he made little, if any, progress.

There is a strong sentiment in both houses of Congress to enact legislation to provide some kind of restraint on imports.

Rep. Wilbur Mills, D-Ark., chairman of the House Ways and Means Committee, declared on the House floor that if the industry doesn't arrive at voluntary agreements, Congress will have to act.

"The pressures for unilateral action for textile import relief are stronger than ever in the Congess and throughout the country," he declared.

Sen. Herman Talmadge, D-Ga., has argued strenuously for some kind of controls over imports.

"The United States has long been recognized as the greatest manufacturing nation in the world," he declared. "But this position of industrial leadership is being eroded by outmoded trade policies which are turning us into a nation which exports raw materials in exchange for imported cheap labor.

"Recent U.S.-Japan trade figures from the Department of Commerce dramatize this resources-for-labor swap. In 1968, we imported from Japan some $4.1 billion (b) worth of various products. At the same time, we sold $2.9 billion (b) worth of goods in Japan. This is a serious deficit."

In the present economy, the Japanese can import cotton from the United States, manufacture it and sell it back to this country cheaper than American companies can market similar products.

Some of the industry's problems are traced to Public Law 480, which provides that the United States can sell certain agricultural products to foreign countries, such as cotton, but that the money for these products cannot be brought back into this country. It has to be spent in that country.

This money usually is spent through the military or embassy services. Textile men argue that this does nothing to improve this country's balance of payments.

There are nearly one million persons employed in textile manufacturing in this country, approximately half of them in the South.

The Japanese can undersell the American producers by about 1.5 cents or 2 cents a pound and the American industry figures at the present rate, Japan will have about 25 percent of the textile market in this country within ten years.

About 10 years ago, the General Agreement on Tariff and Trade (GATT) was set up in Geneva. This covers only cotton textiles.

Under this agreement, the United States can execute bilateral agreements with signatory nations, and at present about 30 such nations are involved.

Fate of this agreement is being decided in negotiations now. The present agreement expires in October 1970, unless a new pact is reached a year in advance.

The private agreements through GATT provide limitations on the amount of cotton textiles that can be brought in by category. It also provides for a gradual increase each year in the amount that each nation can send into this country.

Now, the textile industry as well as President Nixon has approved the idea of a similar agreement covering synthetic fiber textiles and wool.

The industry argues that with few exceptions, foreign textiles sell in this country only because they are produced at extremely low wages abroad.

Many industry spokesmen hope that foreign industry will negotiate with American industry, rather than run the risk of controls being imposed by Congress.

They feel that foreign businesses, especially Japanese, would rather talk turkey with U.S. businessmen than run the risk of killing the goose that is laying the golden egg.

REPRESENTATIVE FINDLEY'S PROPOSALS ON NATO

Mr. PERCY. Mr. President, I have just returned today from meetings of the NATO North Atlantic Assembly in Brussels. The Assembly is the parliamentary arm of NATO and annually brings together legislators from the countries of the NATO alliance.

On the trip were also two colleagues from Illinois, the House minority whip, Representative LESLIE ARENDS, and Representative PAUL FINDLEY, as well as other Representatives and Senators. Representative ARENDS contributed greatly to the discussions at the Assembly as did Representative FINDLEY.

Representative FINDLEY made a proposal at the meetings which generated a great deal of interest. He pointed out that NATO seems threatened with various countries considering reductions in their troop commitments to NATO. He considers it far better to have a more modest integrated force whose continuity is assured rather than a larger force whose component parts could be pulled out at any time. He therefore proposed a formal new agreement within NATO to assure continuity and permanence in the alliance.

He urged that at least a 5-year agreement be made, preferably 10 years, which would include the following specific items: First, definite force units would be assigned and committed by each nation, including, where appropriate, nuclear forces. These forces could only be reduced by consent of the North Atlantic Council.

Second, definite agreed-upon financial arrangements for fulfilling these commitments including agreement on a formula through which all costs of common defense will be shared.

Third, agreement on the circumstances in which forces—including nuclear weapons—will be utilized, setting forth plans for all contingencies.

Although this plan would not alter the basic NATO Treaty it would spell out the terms of membership in the integrated command and restate convincingly the American nuclear commitment to the treaty. Congressman FINDLEY feels it would help to restore confidence, stability and strength to the alliance which it sorely needs at the moment.

Mr. President, so that the rest of the Members of Congress can see Representative FINDLEY's proposals in detail, I ask unanimous consent to have printed in the RECORD his speech of October 20, 1969, before the Assembly.

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

Mr. FINDLEY (*United States*): At each of the last three plenary sessions I have had the privilege of speaking to the group and I have done so by sounding alarm and a note of urgency. Today is no exception. There are some promising signs in NATO, but at the same time in very important respects NATO is in serious trouble.

The immediate danger I see is not so much from external assault as from internal bleeding. The question which must be faced is how to stop the hemorrhage before it becomes fatal. Even though we have given our attention to many excellent ideas in the course of committee hearings and debate here, I question whether we have really squarely confronted the problem of how to stop this hemorrhage before it becomes fatal.

In the past three years France, the United States and the United Kingdom have each made substantial withdrawals from the integrated command. As has been well noted, Canada has just made substantial reduction. On the September tour of NATO military bases, I heard disturbing forecasts from private but very reliable sources that further cutbacks may be made by Belgium, Holland and Germany. Needless to say, the United States commitment is no longer what it once was. Empty barracks reserved for dual-based ground forces creates concern rather than confidence.

The report of Senator Cooper of the United States reflects accurately the strength of public demand in our country for further troop reduction. Senator Mansfield's statement reported this morning is a reflection of his early comments on the growing tide of opinion in our country. While President Nixon has plainly expressed his determination that U.S. forces in Europe will not be reduced for the time being he cannot deliver indefinitely more than public opinion will sustain.

If other nations follow Canada and those others I have mentioned, including the United States, in cutting back, these actions will inevitably trigger louder and more numerous American cries for fewer troops in Europe. Once started the flow of force reduction builds its own deadly momentum and one haemorrhage begets another. The question is, will it be halted before NATO's integrated structure bleeds to death? The peril lies not so much in a lack of quality and quantity of force commitments—important as these are—but rather in the uncertainty as to what will exist tomorrow and the day after that.

A modest integrated force whose continuity is assured is far better than a larger one whose elements may unexpectedly be pulled out next week or next year. It is better from the standpoint of alliance cohesion and mutual confidence. It is also better in terms of deterrent effect. The present atmosphere in which member nations no longer give primacy and permanence to their obligations to NATO but feel free to make sudden unilateral changes is bound to encourage the Soviets in the ancient game of divide and conquer. The Soviets would be far more impressed by, say, 10 or 15 divisions firmly committed to integrated command for ten years or even 5 years than by twice that number of divisions brought together only on a year to year basis.

Related to this debilitating trend is the question of nuclear defence for Western Europe. European concern is accurately reflected in the proposals just made by Dr. Erik Blumenfeld of Germany. Many Europeans realise that nuclear weapons are crucial to their security. They also recognise the weakness of relying for this most essential form of defence upon a decision by the head of a non-European Government. They naturally must do all possible to reduce to the absolute minimum any uncertainty as to whether nuclear weapons will be used to defend European homes. Without certainty as to the use of nuclear weapons in a crisis conventional arms have little importance in the modern world.

European concern about nuclear defence is in my view thoroughly understandable and justified. Here are some of the factors which contribute to this concern. First, the obvious rise in nuclear power of the Soviet Union which enables Moscow to retaliate against the United States with devastating force should the U.S. employ nuclear weapons to defend Europe. Secondly, the implementation in Czechoslavakia of the Brezhnev doctrine. This stripped away the facade of a mellowing Moscow that would no longer use naked force across national borders to extend its authority. Third, the introduction of flexible response as a NATO doctrine. This left somewhat vague the circumstances in which nuclear defensive action might occur.

Fourth and most important of all, developments in Vietnam. The United States has ruled out a military solution in Vietnam. The withdrawal of troops from Vietnam has begun. These decisions I applaud as essential, but American public pressure for an early and complete withdrawal of ground combat forces is quite plainly gathering strength throughout our country. If, as I predict, this disengagement proceeds it will develop with it a powerful demand for pull back elsewhere, including Europe. The American people will likely seek scapegoats to blame for the traumatic experience they will have as a result of this withdrawal. Inevitably many of them will demand that our troops come home from Europe as well as Vietnam, using the superficial, but nonetheless appealing, argument that our NATO allies provided no troops to help us in our time of trial in South East Asia.

I therefore conclude with the thoughts of Mr. Blumenfeld in proposing a European defence unit based on European nuclear weapons which speaks in a practical and constructive way to a vital and urgent problem. I present a suggestion which I feel will help us to tide over the very difficult period which lies immediately ahead. I urge that the NATO Council should make for a minimum period of 10 years—at the very least five years—a formal new agreement in which is specified the following items:

1. Forces to be assigned and committed by each nation, including where appropriate, nuclear forces. These forces under my proposal could be reduced only by the consent of the Council, for example, in the event that a force reduction in fact acceptable to the Council is negotiated with the Warsaw Pact.

2. Financial arrangements for fulfilling these commitments including agreement on a formula through which all costs of common defence will be shared. This could be similar to the present cost-sharing formula on infrastructure.

3. The circumstances in which forces—including nuclear forces—will be utilized, setting forth plans for all contingencies.

Would this ten years commitment regarding the integrated command structure require a change in the basic treaty which now permits any member to withdraw on one year's notice? My answer is that it would not. Any member State signing the five-year or ten-year commitment would still retain the option to withdraw completely from the Alliance thus terminating its ten-year commitment regarding the integrated command structure along with all advantages derived from being a signatory to the Alliance Treaty. But is such an act of withdrawal likely? In my view it is most unlikely that during the next 10 years any member state will sever itself completely from the all-for-one and one-for-all defence benefits of the Alliance. Although it would not alter the basic treaty it would spell out the terms of membership in the integrated command and restate convincingly the American nuclear commitment to the Treaty.

Because it would spell out clearly and specify a continuing obligation of each member, it would, I believe, be the type of agreement which we could sell to the American Congress and which I feel the other delegations could sell to their own Parliaments. It would go far to restoring confidence, stability and strength to the Alliance. It would prevent intermittent disputes over cost sharing and overcome the present tendency of Member States to make unilateral reduction of forces.

NATIONAL BUSINESS WOMEN'S WEEK

Mr. BYRD of Virginia. Mr. President, this week, October 19 through October 25, the 3,800 Business and Professional Women's Clubs of the country are observing National Business Women's Week.

Early this month, I had the pleasure of addressing the Business and Professional Women's Club of Arlington, Va. The occasion reminded me how alert to public issues our business women are, and what an enormous contribution they make to the life of their communities.

The progress of working women during the past half century has been remarkable. Career women—many of whom carry out the duties of wives and mothers while pursuing their careers—are a tremendous "plus" in the American economy.

I take this occasion to salute American business and professional women, and the fine work of their organizations throughout the country.

PRESERVATION OF THE TULE ELK

Mr. CRANSTON. Mr. President, last week I introduced S. 3028, which would authorize a feasibility study of the de-

sirability of establishing a national wildlife refuge in California and/or adjacent Western States for the preservation of the Tule elk.

At that time I said that range is the Tule elk's crucial problem. This morning's New York Times contains an article entitled "Killing of Rare Tule Elk in California Arouses a Dispute," written by Gladwin Hill.

The Times article clearly demonstrates the problems associated with our current Tule elk range policy with an excellent description of the controversy caused by the State authorized Tule elk hunt in the Owens Valley.

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

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

KILLING OF RARE TULE ELK IN CALIFORNIA AROUSES A DISPUTE

(By Gladwin Hill)

OWENS VALLEY, CALIF.—"There's some elk!" The three hunters, armed with powerful rifles with telescopic sights had been plodding for 40 minutes over the treeless, lava-strewn foothills of the Sierra Nevada when a state fish and game inspector peered across a shallow draw to a slope 200 yards away where the animals grazed, camouflaged by sagebrush, in the dawn light.

The inspector quietly indicated which animal each hunter was to take.

In turn, Kenn Fawn, a young chemical engineer, Ross Miller, a 57-year-old contractor, and his son Donald, a high school teacher, crouched and fired.

Two cow elk and a buck lurched a few paces and toppled over, dead almost instantly.

PLEASED AT BAG

Five minutes later, the three men, all veteran deer hunters, were slitting open their kills to clean them, variously interested in the hide and meat, but generally just pleased to have gotten their first elk.

Superficially, the event—the first since 1964—was as routine as a deer hunt. But in fact it was a process that has evoked intense controversy among conservationists across the country.

The dead animals were three of approximately 400 of the only remaining specimens of the rare tule-elk species, a miniature variety standing about five feet and known only in California.

A century ago, big herds of them ranged the San Joaquin Valley on the other side of the Sierras, grazing on the bulrushes, or tule lands. They were almost exterminated by the Gold Rush pioneers and the farmers who followed.

The few survivors were transplanted over the last serves in Kern and Colusa Counties, most of them released over 600 square miles in the thinly populated Owens Valley on the east side of the Sierras, 250 miles north of Los Angeles.

There, no longer depleted by vanishing predators like mountain lions, and protected by felony laws from hunters, these elk have slowly multiplied.

Valley farmers complain about their depredations against alfalfa fields and their competition with grazing cattle in the sparsely vegetated foothills. Some experts contend that the capacity of the land is so limited that uncontrolled reproduction could lead to famine, disease and possible extinction of the herd.

After years of debate, the State Department of Fish and Game adopted in 1961 the policy that whenever its annual census showed more than 300 elk in the valley, they would be thinned to 250 by a closely supervised hunt.

Since 1961, there have been two thinning operations, eliminating 59 elk in 1962 and 50 in 1964. Eight thousand hunters entered a lottery for 80 killing permits this year. Winners pay $50 for a permit. The permits specify buck or cow.

PRESERVING THE ELK

The system is vehemently opposed by the Committee for the Preservation of the Tule Elk, a national organization with headquarters in Los Angeles claiming several thousand members in nearly every state.

Members call the thinning process barbaric, and oppose any herd reduction at all. They cite the international criterion that any species with less than 2,000 specimens is a vanishing one, subject to extinction from an epidemic or other unpredictables.

Cited in support of the thinning policy is a study sponsored by Resources for the Future, another national conservation organization. The study made by Dale McCullogh, a zoologist at the University of California, Berkeley, says that, under the system, the chance of the species becoming extinct is only 1 in 178,000.

Holders of the last nine permits of the season deployed at dawn last Saturday from the old airstrip at Manzanar, the site of a World War II Japanese-American internment camp.

STIFF EXAMINATIONS

Their papers were checked by the regional fish and game inspector; their rifles and ammunition examined to see that they met the requirement of 1,000 foot-pounds of force at 100 yards; every two or three were assigned a state game supervisor as a guide, and some were instructed to bring back their kills for official examination.

Mrs. Beula Edmiston of Los Angeles, the secretary of the Committee for the Preservation of the Tule Elk, watched the process and remained at the checkpoint all day until the hunters returned.

She and other members of the organization make it a habit to be on hand, although they have never been permitted to accompany the hunters. They converse politely with Ned Dollahite, the inspector, an earnest man who explains the state's policies with equal conviction.

"The culling process is followed by many Government agencies across the country with many species," he said. "Some think that any killing should just be done by official personnel.

"We believe in giving hunters, whose license fees are department's bread and butter, an unusual opportunity. But that isn't really the argument. The people on this committee just don't believe that any elk should be killed at all."

"Why take even one chance in 178,000 of eliminating a species?" Mrs. Edmiston asked. "For every hunter who wants to see one of these animals dead, there are a thousand taxpayers who'd rather see them alive. Opinion is growing in this direction. I have hopes that this may be the last of these hunts that we will see."

THE CONSTITUTION AND THE RATIFICATION OF HUMAN RIGHTS TREATIES—II

Mr. PROXMIRE. Mr. President, yesterday I stated that there is no basis for the argument that the ratification of the three human rights conventions concerning genocide, the political rights of women, and forced labor would violate certain constitutional provisions. The second principal constitutional argument advanced by those who oppose ratification is that the treatymaking power does not extend to that which is forbidden to the Federal Government. Thus, it has been argued that matters exclusively within the domain of the several States cannot properly be the subject of treaties.

A special report prepared by the Special Committee of Lawyers of the President's Commission for the Observance of Human Rights Year 1968 stated the following regarding this argument:

> But the argument begs the question. Matters within the scope of the treatymaking power cannot lie within the exclusive domain of the states. This doctrine has been clear from the very founding of the Republic.

The special committee supports this argument by quoting the decision of Justice Chase in the case of Ware against Hylton:

> If doubts would exist before the adoption of the present national government, they must be entirely removed by the 6th article of the Constitution . . . There can be no limitation on the power of the people of the United States. By their authority the State Constitutions were made, and by their authority the constitution of the United States was established; and they had the power to change or abolish the state constitutions or make them yield to the generai government and to treaties made by their authority.

In Chirac against Lessee of Chirac, Chief Justice Marshall similarly ruled that the validity of a treaty could not be questioned on the grounds that the subject matter of the treaty was a matter within the competence of the State.

Thus, objections to ratification of the human rights conventions and the covenants on human rights cannot be based upon the proposition that the treatymaking power is limited by the power reserved to the States under the 10th Amendment. It is time we stopped making excuses for 20 years of delay: there can be no valid constitutional argument against ratification. The Senate must see this and take action now.

TAX REFORM ACT OF 1969—ACTION OF COMMITTEE ON FINANCE

Mr. LONG. Mr. President, yesterday, October 21, the Committee on Finance completed its consideration of the portion of the House tax reform bill which relates to capital gains and losses. Additionally, the committee approved a suggestion made by Secretary George Romney, of the Department of Housing and Urban Development, with respect to investments in low and moderate housing.

So that Senators might follow the progress of these executive sessions, I ask unanimous consent that the press release be printed in the RECORD.

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

[A press release from the Committee on Finance, U.S. Senate, Oct. 21, 1969]

TAX REFORM ACT OF 1969

CAPITAL GAINS COMMITTEE DECISIONS

The Honorable Russell B. Long, (D., La.), announced today that the Committee on Finance had concluded its work on that portion of the House tax reform bill dealing with the treatment of capital gains and losses. He reported that the Committee had

substantially approved the restrictions contained in the House bill. However, he recalled that on October 10, the Committee had agreed to retain the 6-month holding period required before gain on the sale of the property could qualify for favorable capital gains treatment. (The House bill would have extended the holding period to one year.)

Senator Long also reported that Secretary George Romney of the Department of Housing and Urban Development had prevailed upon the Committee to consider further a suggestion he had made to encourage investments in low and moderate housing. The suggestion had been explored, but not approved, at Monday's meeting of the Committee. Following the Secretary's presentation, the Committee approved his suggestion.

A complete description of the actions taken at today's meeting follows:

Low and moderate income housing

Tax-Free Reinvestment.—As noted above, the Committee approved an amendment to the provisions of the House bill relating to the real estate industry. This amendment, recommended by the Department of Housing and Urban Development would permit a taxpayer who invests in low- or medium-income housing to sell the property and pay no current tax on the gain involved, provided (1) he sells the property to the occupants or to a tax-exempt organization which manages the property, and (2) the full proceeds from the sale are reinvested in other government-assisted housing. In such a case the taxpayer's basis for the old property, to the extent the proceeds are reinvested in similar property, will be carried forward and become a part of his basis for the new property.

Capital gains

25 Percent Maximum Rate.—The Committee generally agreed with the objective of the House bill in repealing the present 25 percent maximum rate on capital gains. However, it felt that taxpayers with relatively small amounts of capital gain should continue to be eligible for the 25 percent maximum rate. Accordingly, it provided that married couples could continue to apply this rate in the case of gains up to $140,000 ($85,000 for single persons), provided they did not have "preference" income of more than $10,000. (The Committee has not yet taken up that part of the House bill concerned with the limit on tax preference, and for this reason, no announcement as to the items constituting "preference" income is being made at this time).

The Committee further agreed to move the effective date for the higher capital gains rate to December 31, 1969 (it was July 25, 1969 under the House bill), and to phase it in over a three-year period. While the exact amount of the increase will not be finally determined until the Committee has reviewed the rate reduction provisions, based upon the rate structure contained in the House bill the phase-in would be as follows:

	Percent
1969 (including the surtax)	27.5
1970	29.5
1971	31
1972	32.5

Alternative Tax for Corporations.—The Committee agreed to adopt the provision of the House-passed tax bill which would increase the alternative tax rate for a corporation's net long-term capital gains from 25 percent to 30 percent. The effective date of this change will also be December 31, 1969 and, as in the case of the alternative 25 percent tax rate for individuals, this higher tax will also be phased-in. However, the phase-in in the case of corporations will involve only 2 years. The rates applicable during this period are:

	Percent
1969	27.5
1970	29
1971	30

Transitional Rules.—In addition to the date change and the phase-in, described above, the Committee agreed to adopt several transitional rules which will apply both to the alternative tax for individuals and the alternative tax for corporations. The Committee agreed to a transitional provision which provides that capital gains arising from sales or other dispositions under binding contracts that were in effect on or before October 9, 1969, would be taxed under present law. This binding contract rule would not apply, however, in certain cases of gain from timber, coal, or domestic iron ore which is taxed as a capital gain under section 631 of the Internal Revenue Code. Further, the Committee adopted a provision which would except a capital, or liquidating distribution from a corporation which was made under a plan adopted prior to October 9, 1969.

The Committee further adopted a provision which clarifies the status of installment payments received after 1969 but which relate to sales made on or before October 9, 1969. This new provision provides that such installment payments would be taxed at the maximum alternative rate of 25 percent until the sale price is paid off.

Capital Losses of Individuals.—The Committee adopted the provisions of the House-passed tax bill relating to capital losses of individuals. This provision provides that only 50 percent of an individual's long-term capital losses may be offset against his ordinary income. In addition, the deduction of capital losses against ordinary income for married persons filing separate returns would be limited to $500 for each spouse. The Committee did, however, change the effective date of this provision. Under the Senate version, this provision would be effective for taxable years beginning after December 31, 1969 (the House bill would have applied to taxable years beginning after July 25, 1969).

Sales of Life Estates.—The Committee also adopted the provision of the House-passed tax bill which relates to the sales of life estates. In general, this provision provides that the entire amount received on the sale or other disposition of a life (or term of years) interest in property, or income interest in trust (whether acquired by gift, bequest, inheritance, or by a transfer in trust), is to be taxable without any reduction for the taxpayer's basis. Presently, only the excess of the amount received over the seller's basis is taxed. The Committee, however, did change the effective date for the provision. Under the Senate version, this provision would become effective as to sales or other dispositions after October 9, 1969 (the House bill would have applied with respect to sales or other distributions after July 25, 1969).

Casualty Losses Under Section 1231.—The Committee further adopted the provisions of the House-passed tax bill which change the tax treatment of certain casualty losses. The Committee did provide that the provision would include casualty gains and losses on personal capital assets. Personal capital gains and losses were not included within the House bill. Further, the Committee changed the effective date of this provision to years beginning after December 31, 1969 (the House bill would have applied with respect to taxable years beginning after July 25, 1969).

Transfer of Franchises.—The Committee adopted the provisions of the House-passed tax bill relating to transfers of franchises. However, the Committee added additional rules to the provisions to help distinguish between those cases when the transfer of the franchise is to be treated as a sale as contrasted with when the transfer is to be treated as a license. In addition, the Committee adopted rules for the tax treatment of the franchises which would be consistent with that treatment given to the franchisor. Further, the Committee provided that the section would apply to trademarks and tradenames as well as franchises. Under the Committee version this section would apply to transfers made after December 31, 1969. However, present franchisees who are otherwise eligible for the more liberal rules included in this provision could elect to come under this new provision, rather than continuing to be taxed in accordance with present law. Finally, the Committee agreed to exclude professional sports from the application of these new rules.

Collections of Letters, Memorandums, etc.—This matter was dealt with by the Committee on October 13, 1969. See press announcement of October 14, 1969.

Holding Period of Capital Assets.—This matter was dealt with by the Committee on October 10, 1969. See press announcement of that date.

Total Distributions from Qualified Pension and other Plans.—This matter was dealt with by the Committee on October 14, 1969. See press announcement of that date.

AN AMERICAN SATELLITE COMMUNICATIONS SYSTEM—ADDRESS BY SENATOR GRAVEL

Mr. ELLENDER. Mr. President, I invite the attention of Senators to the speech delivered by the junior Senator from Alaska (Mr. GRAVEL), on Monday, October 13, at the meeting of the Inter-university Communications Council held at Notre Dame University in South Bend, Ind.

Our distinguished colleague discussed a most vital issue which affects all of us; namely, the availability of communications to distribute educational and cultural programing that cannot be a profitable commercial enterprise for network broadcasters. Alaska, which is nearly void of modern communications, seeks a solution by use of satellites for much of its land mass.

Many of our States invest large sums of taxpayers' moneys to establish cultural and educational transmission facilities. My own State of Louisiana is, like Alaska, pioneering in one segment of communications applications by establishing a cultural French-speaking network to preserve the rich, unique heritage that is firmly rooted in Louisiana.

Mr. President, I believe we should all reflect a moment on the profound issues that are discussed by Senator GRAVEL, because these issues touch on the quantity and quality of one of man's most powerful instruments—television—which penetrate into the homes and influences the most precious part of our society's fabric.

I ask unanimous consent that the speech be printed in the RECORD.

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

AN AMERICAN SATELLITE COMMUNICATIONS SYSTEM

(By Senator MIKE GRAVEL)

Mr. Chairman, Delegates to the Inter-University Communications Council Meeting, invited guests, ladies and gentlemen:

Victor Hugo said there is nothing more powerful than an idea whose time has come. That is precisely what your organization is engaged in doing . . . advancing applications for a powerful idea.

It is fundamental to our academic environment that scholars have the right to probe banks of knowledge and that academic institutions maintain close links with one another. And that, of course, is your primary goal.

Your pioneering continues to be important. Your reports and your conferences over the past few years highlight the opportunities facing society today. They have focused interest on public issues related to the new communications technology.

My involvement in your field has come about through the demands of my own constituency.

Let me describe one of the principal problems facing Alaska today, and you will see why I have such an interest in what you are doing.

My state is the most remote state in the Union, extending deep into the Arctic. It is larger than the combined areas of England, France, West Germany, East Germany, Poland, Czechoslavakia, Switzerland.

It is larger than all of the Eastern seaboard states combined, from Maine to Florida. However, Alaska's population is no larger than metropolitan South Bend . . . approximately 270,000 people.

Our state's major problems in education and acculturation stem from our very low population density. It is difficult to attract competent teachers for isolated communities and to keep them there out of touch with their teaching colleagues, out of contact with sources of assistance and research.

The knowledge gaps that have been bridged in rural America by the media as described by Marshall McLuhan, have yet to be successfully challenged in the North Country. In most of Alaska there are virtually no modern communications.

As you know, telecommunications in the United States has been predicated on commercial exploitation. Under these conditions of profit only a few Alaskan communities have the economic base to support adequate communications.

Compared to other areas of this nation, my state is in the communications stone age. But, as a result of the technological gains in satellite communications, Alaska's characteristics—former liabilities—are now ideally suited to make my state the showcase for space applications.

We in Alaska are not hide-bound to the equity interests which are threatened elsewhere by this new satellite technology.

Our long-term goals are these: Every single community including the smallest village must enjoy television—educational television, cultural television and commercial television.

Alaskans everywhere must have access to new bio-medical diagnostic assistance.

Audio-visual programs must be a part of each school's curriculum.

Telephonic services generally taken for granted here in the south 48 must now become available to all Alaskans regardless of how remote their community.

Alaska must also have direct outside links through international satellites; and must have a complete internal communications system, using a sensible mix of terrestrial and space facilities.

You know as well as I that the state-of-the-art easily permits Alaska to have what I just described.

Not many months ago I proposed bringing the Apollo 11 telecast directly to my state. This idea initially was scoffed at by authorities who should have known better. However, by insisting that the Department of Defense conduct tests, we proved that it could be done.

We employed a double satellite hop, using first a civilian satellite and then a military one to transmit TV for the first time to Anchorage—live TV. Alaskans along with their fellow Americans saw Neil Armstrong impress man's footprint on the moon.

Now we are working on another step toward permanent adequate communications—a pilot program to bring educational and cultural TV to four Alaskan communities using NASA's ATS–1 satellite. We are very close to realizing success in this effort.

And what we learn from this relatively modest experiment, we can apply to our permanent system. In fact the experiment itself will be a strong argument for a total satellite program.

Imagine the system I have just outlined for Alaska superimposed on the total United States.

Direct educational TV could be beamed into each of America's 50,000 school districts. NASA has estimated the cost of small receiver stations for this type of application at less than $500.

A domestic American satellite would provide TV and high speed data channels plus associated voice circuits. The cost of the bird in space and the related ground facilities should be borne by both government-dedicated funds and lease income from commercial sources.

After this quick look at the future let us turn to the present.

Private interests, constrained by the dictates of commercial economics, have long been whipping boys for those of us dissatisfied with both the quantity and quality of our national communications.

Why waste any more time condemning commercial interests. The final responsibility for utilizing the full spectrum of communications lies not with private enterprise but with government.

Educational TV will never make a profit and should not be expected to.

Cultural TV will never make a profit and should not be expected to.

And likewise, commercial TV should not be the pack horse of educational and cultural TV.

Our government should turn away from past confusion and develop the full spectrum of communications utilizing today's satellite technology.

In analyzing what government should do to further this end, let's concentrate on one issue that affects all of you and is basic to everything we say on this subject.

Who's responsible for getting the job done? And why hasn't the job been done? What are the facts?

The management of our satellite technology is vested in the Communications Satellite Corporation, COMSAT. An entity chartered by Congress through the Communications Satellite Act of 1962.

When we look back on the debate which led to this legislation, we can understand the difficulty Congress had at that time in establishing a law controlling a technology about which it knew so little. However, today we have considerable experience and we can now look at that law and know that it has enormous shortcomings.

It was Congress that assigned COMSAT the duty of developing and managing international satellite communications system. But it was also Congress that neglected to clearly assign a similar responsibility to meet our domestic needs.

The result has been that in this decade, the utilization of communications technology in the U.S. has lagged far behind its potential. In fact we have been exporting the benefits of our own technology without sharing those benefits with ourselves.

Not only have we denied ourselves with respect to these benefits but we have taken our management skills and directed them to the operation of an international consortium—INTELSAT. COMSAT, an American chartered and financed corporation, is the agent operating INTELSAT.

Whatever interest COMSAT might have in developing an acceptable domestic system is blunted in yet another way.

By law, representatives of the communications industry sit on COMSAT's Board of Directors. At the moment, there are four.

These men are paid by the very industries that benefit from the absence of domestic satellite communications. Their companies systematically litigate against COMSAT before the Federal Communications Commission.

Three members of COMSAT's Board are Presidential appointees. The remaining eight board members are "public" members. As in most corporations today, management dictates the composition of its own governing board. And no one can really deny that this is in fact the case with COMSAT.

Unfortunately for the American public, the ultimate interest of many of those who sit on COMSAT's Board are best served by COMSAT's inactivity.

COMSAT has gone through the motions of filing for a domestic satellite system. It did so after others attempted to fill the vacuum. However, the application is still pending. Combine this with the additional fact that the same interests holding seats on COMSAT's Board of Directors have brought strong opposition to the FCC. The net result is that we have no domestic satellite system.

The conflict of interest is obvious. Profit-motivated corporations are forced to protect their equity interests. Our free enterprise system will not and can not be expected to solve this dilemma or operate in any other way.

Meanwhile, what is going on in other parts of the world?

Canada is now building the equipment for a domestic satellite system that will be operative in 1972. Their crown corporation has been established and contracts awarded. Their system will provide them with transcontinental telephone as well as data and television systems. These same services will be extended to the far reaches of the Arctic.

A very real possibility exists that Canada's system could satisfy Alaska's needs. This economic and political determination has yet to be made.

There are other examples: German and French governments are constructing a communications satellite called "Symphony." Under present plans, it will provide educational TV and cultural TV to portions of Europe and Africa in 1973.

India is developing a particularly noteworthy system. India's problem is the crushing birthrate which has thus far eluded all prior attempts at control. Their satellite will offer the only feasible method of reaching untold millions with a convincing enough argument to solve their problem. By 1972 India will then be able to extend the full spectrum of communications to millions who are now without any form of mass communications.

The United States will launch the satellites for all three . . . the Franco-German "Symphony," the Canadian "Telesat," and the Indian "ATS–F."

I feel a sense of pride that the United States is enriching so many lives around the world. I feel an equal sense of frustration over our inability at the same time to further enrich American lives.

It is obvious that COMSAT, which is the only American agent created to pursue the benefits of satellite communications, devotes its efforts to international projects. What we have created is a foreign agent devoted to international programs and no organization devoted solely to serving the domestic needs of this country.

Any COMSAT plan related to a satellite system for the United States will of necessity be structured around INTELSAT programs and economics which have been machinated in London, Paris, Rome and Beirut.

The present national administration, like

the last one, has focused its attention on these problems. The results of its study are expected soon. Hopefully, the President will make recommendations and use the full force of his office to influence and prepare legislation that will provide the United States with a complete domestic communications system.

I am convinced that the American people, developing a greater recognition of this dilemma will not settle for anything less.

The Nixon Administration must address itself to the following problem areas if it is to have an effective plan:

1. A clear designation of responsibility for a domestic satellite system must be given to some entity. This entity could be COMSAT, it could be a newly formed corporation, it could be an existing corporate giant in the field of communications, or it could be a new organization owned entirely by the Federal Government.

2. We must guarantee the full utilization of the total communications spectrum. This means that free educational and cultural TV must be available to every citizen. Biomedical and diagnostic assistance must be available to all doctors everywhere and academic banks of knowledge must permanently be linked in all our universities.

3. And finally any plan must assure an orderly transition. Existing equity interests must be recognized and dealt with fairly.

My involvement with satellite communications prompted me to introduce Senate Bill 2928. The bill's main objective is to permit states, their political subdivisions and chartered institutions such as universities and hospitals to own satellite terminal facilities. They could own ground stations outright or co-own the stations with an authorized communications common-carrier or co-own them with COMSAT.

The bill further provides that a domestic satellite be available for domestic use.

Our advances in aeronautics and space engineering have been passed on to benefit American citizens. The same has been true in medical research and nearly all other scientific fields.

But in communications we have placed ourselves in a straight-jacket. We have permitted the policies and economics of the situation to thwart rather than advance the full utilization of the new technology.

Reflect for a moment on the implications involved in this bill. You will see that virtually all the issues that interest you are affected by its provisions.

The powerful idea I spoke of at the beginning is at hand. We must all begin to focus on and push for an immediate communications plan. Adding your individual voices to a chorus that will be heard by this Administration and this Congress will, I am sure, produce the desired results.

Man's greatest problem is communicating with his fellow man.

We here address ourselves to an opportunity for solving the population problems of India, providing a vehicle for the acculturation of Eskimos in the far reaches of the Arctic, providing our ghetto population with the necessary training and education and bringing to all Americans cultural enrichment far beyond existing horizons.

We now have the opportunity to bring about a greater degree of communications to satisfy all appetites and needs.

The technology exists. What a crime not to use it.

FEDERAL PRICE FIXING PRODUCES GAS SHORTAGE

Mr. TOWER. Mr. President, I invite attention to an extremely important and timely article published in Baron's national business and financial weekly for October 13.

The article concerns a billion-dollar bet that the United States cannot solve its own natural gas problems which have been under Federal control now for only the last 15 years—since 1954.

Early this month, a staff report to the Federal Power Commission's boss revealed that by the end of 1973 our national reserves-to-production ratio will be reduced to 10.2. On October 3, the FPC decided to treat as new supplies—hence, worth more money—all gas henceforth discovered on acreage already committed to the interstate market. A week ago last Tuesday in what the agency described as a "turning point" in regulation, it decided to liberalize the pricing of gas reserves which the pipeline companies themselves own. The industry spokesmen say: "Too little, too late."

The open market should be the mechanism for determining price because governmental fiat is not only unnecessary but unworkable as presently attempted. Federal price fixing is finally producing this looming gas shortage.

The billion-dollar bet is El Paso Natural Gas Co.'s planned arrangement with the Algerian Government to import natual gas in a liquified and refrigerated form to the United States east coast for sale to the consumer. This will be a very expensive item to the household user and industrial user. And one can bet it will be a costly headache for the U.S. concerns which will have to continue to do business with the already hostile Algerian Government. Three years ago, Algeria began pressuring the American oil concerns to submit to discriminatory treatment regarding royalties and taxes. Since then Algiers has "sequestered," or confiscated, the bulk of U.S. investment within its borders.

To quote Dr. Milton Friedman:

Economists may not know much. But we do know one thing very well: how to produce shortages and surpluses. If you want to produce a shortage of any product, simply have a government fix and enforce a legal maximum price on the product which is less than the price that otherwise would prevail.

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

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

FEDERAL PRICE FIXING IS FINALLY PRODUCING A SHORTAGE

El Paso Natural Gas Co., which (according to an article in Barron's barely six months ago) was supposed to be "Making Fewer Headlines, More Money," last week made quite a splash on the financial page. The company announced that it has signed with Sonatrach, Algeria's state-owned petroleum monopoly, "definitive agreements for the largest liquefied natural gas (LNG) project in history," one which involves capital outlays of nearly $1 billion and is designed, starting in the fall of 1973 and extending nearly to the end of the century, to deliver one billion cubic feet of fuel per day to East Coast ports. Besides pipelines and the like, the project calls for the construction of liquefaction and regasification plants, as well as nearly a dozen specially designed vessels, biggest of the kind ever built, to carry the frozen gas. "This will mark the first time that energy supplies of this type have been imported into the U.S. on a permanent basis," the company proudly observed, adding that it was "particularly pleased to be associated with the pioneering venture. . . ."

Apart from its unprecedented size and scope, the project is noteworthy on a number of counts. For one thing, if carried out faithfully by both parties, the contract will mark a welcome change in the commercial practices of the Algerian Government, which up to now have smacked less of the Harvard Business School than of the Barbary Pirates. Since gaining independence a decade ago, Algeria has seized without compensation a vast amount of foreign property, including banks, insurance companies and the personal possessions of thousands of former French residents. Sonatrach—Societe Nationale pour la Recherche, le Transport, la Transformation et la Commercialization des Hydrocarbures—launched its career three years ago by borrowing $15 million from a couple of gullible U.S. banks. No sooner had the ink dried on the loan agreement than Algeria began pressuring the American oil concerns on the scene to submit to discriminatory treatment regarding royalties and taxes. Since then Algiers (which broke off diplomatic relations with Washington during the last Israeli-Arab War) has "sequestered," or confiscated, the bulk of U.S. investment within its borders, including concessions held by El Paso Natural Gas. "Never do business with a man you can't trust," advised J. P. Morgan, but the old man has been dead a long time. Perhaps the company will come out all right.

That's the stockholders' worry. Profitable or otherwise, the huge transaction, which last week's announcement said was "designed to ease U.S. gas supply problems," has disturbing significance for the whole country. For it plainly indicates that domestic reserves of the useful and versatile fuel, once deemed inexhaustible, are not keeping pace with future needs, an alarming state of affairs which the Federal Power Commission belately has come to recognize. Just a fortnight ago, the FPC, which regulates interstate distribution of natural gas from wellhead to burner tip, released a staff report on supply and demand, warning that within the next five years—sooner in some areas—a critical nationwide shortage will flare. What the agency failed to point out is that its own regulatory policies, by deliberately (if not with malice aforethought) imposing an artificial lid on prices, have been largely to blame. Price control will always have its blind worshipers (hi there, professor Galbraith). Only the free market, however, can keep the home fires burning.

For the past 15 years, to be sure, the regulatory bodies have been singing a different tune. In 1954, the U.S. Supreme Court, in a singularly ill-advised decision, thrust on the Federal Power Commission authority to regulate not only transmission and distribution companies but also producers of natural gas. Since then, despite protracted litigation, the FPC has gradually extended its sway. The agency has decreed, beyond further legal appeal, area prices of approximately 15.5 cents per thousand cubic feet of gas for the Permian Basin. (Ceiling prices for all other major areas are still in dispute.) The ceiling for Southern Louisiana was finally set by the FPC at nearly five cents per mcf., or 20%, below the provisional guideline posted eight years earlier. As in the Permian Basin rate case, moreover, the FPC employed in its calculations 1960 cost figures, which it so far has refused to up-date. Thus, according to Stanley Learned, director and former president of Phillips Petroleum, the government has "established a concept for producer prices under which the industry cannot recover its costs."

Such policies have naturally warmed the hearts of users. However, producers, discouraged by lack of incentive, have sharply curtailed their efforts. Completions of U.S. exploratory gas and condensate wells declined from 909 in 1959 to 429 in 1968. In the latter year, for the first time in history, net pro-

duction exceeded additions to reserves. The reserves-to-production (or R/P) ratio today stands at only 14.6, or considerably less than a 15-year supply, barely two-thirds of what it was when the FPC acquired jurisdiction. Some pipelines are unable to contract for future needs; hence, expansion programs are in jeopardy. Now El Paso Natural Gas Co. has decided to go four thousand miles overseas for fuel which will cost more than 50 cents per mcf., perhaps half again as much as gas moved by pipeline from the Gulf Coast.

Even the federal regulators, as noted, have finally grown concerned over what they have wrought. Early this month the FPC issued a staff report that didn't make pleasant reading for the boss. In brief, it concluded that the national reserves-to-production ratio would decline to 10.2 by the end of 1973. "Even a substantial improvement in reserve additions above that experienced during the past five years will not prevent the R/P ratio from dropping to about 11." Regional gas supply deficiencies are likely. "The uncommitted portion of the total proven reserve inventory will have been exhausted by 1974, at which time the natural gas industry's capacity for growth will be limited." None of the foregoing, said a miffed Commissioner, provides "the basis for a round of price increases." Nonetheless, the full Commission has swiftly moved to make a start. On October 3 the FPC decided to treat as new supplies (hence, worth more money) all gas henceforth discovered on acreage already committed to the interstate market. Last Tuesday in what the agency described as a "turning point" in regulation, it decided to liberalize the pricing of gas reserves which pipelines themselves own.

Too little, say industry spokesmen, and too late. To meet the looming emergency, in the view of Phillips' Learned, the Commission must take more far-reaching steps, including reconsideration of its Southern Louisiana decision; approval of an increase of at least five cents per thousand cubic feet in both wellhead and flowing gas; and recognition in price-fixing of "changes in taxes and the results of inflation." For the long haul, Mr. Learned approvingly quotes the views of Dr. Clark A. Hawkins, associate professor of finance and economics at the University of Arizona, an authority on the subject. In a new book, the latter writes: "The market should be the mechanism for determining price because natural gas price fixing by governmental fiat is not only unnecessary but unworkable as presently attempted. Also, it is only the market that will give the lowest price consistent with maximum output in the long run. The standard of market price could be feasible under existing law if the Commission would espouse it and proceed to the courts." Failing that, of course, a Congress truly responsive to the needs of consumer and producer alike would undo the longstanding judicial mischief.

Like El Paso Natural Gas Co., we would be inclined to bet on the sorry status quo. The East Coast doubtless will come to rely for fuel on a source of supply that is unfriendly at best and, at the slightest provocation, downright hostile. As the U.S. proceeds to import natural gas—at higher prices, be it noted, not lower—the poor old balance of payments will suffer a fresh, and wholly gratuitous, setback. "Economists," so Dr. Milton Friedman has said, "may not know much. But we do know one thing very well: how to produce shortages and surpluses. Do you want to produce a shortage of any product? Simply have government fix and enforce a legal maximum price on the product which is less than the price that otherwise would prevail. . . ." He should be teaching at Harvard.

PROUD AMERICANS

Mr. DODD. Mr. President, in the words of a well-known columnist, our Nation is undergoing an "agony of protest."

The society known as America has splintered into the rich and poor, young and old, black and white.

The policy known as the United States is fragmented into the "silent majority" and the "dissident minority." From radical to reactionary, our discontent is becoming cataclysmic.

Because of the division and dissent with which we are faced, "Americanism" is no longer a term easily defined. The points on which we all agree are growing fewer and fewer.

Surely this is cause for concern. At the same time, however, I see it as a great cause for optimism. For Americans are, as at no other time, deeply involved and highly informed with respect to the state of our Nation.

To me this implies that a significant factor unites us all; namely, love of our country and commitment to making it great.

Because I believe this so strongly, I am pleased and encouraged by the recent formation, by a group of Connecticut citizens, of the Proud American Club.

This group was initiated under the leadership of the New Haven County Sheriffs' Association. Its purpose is to reaffirm faith and pride in this free Nation.

The Proud American Club is a nonpartisan group. It stands against racism, crime, and any form of injustice. More importantly, however, it stands for freedom, equality, opportunity, and pride in our National heritage.

In the words of New Haven County Sheriff J. Edward Slavin:

> We are going to make an effort to organize Proud Americans in this Country. A Proud American can be black, white, yellow or brown . . . but he or she must believe in this Country and be proud and help to keep what our forefathers struggled so hard for us to enjoy.

Mr. President, as a proud American, I commend Sheriff Slavin and the other leaders and members of this fine effort.

I know that Senators share my hope that, whatever our differences and our troubles, every American will be a proud American.

PROPAGANDA PAWNS

Mr. FANNIN. Mr. President, many wonderful women in my State of Arizona, as well as across this Nation, are waiting. They are waiting for word from Hanoi. They are waiting to find out if they are wives or widows.

Mr. President, this kind of inhumane, indecent, uncivilized treatment of Americans who have gone down behind enemy lines is not only inexcusable, it is a loathsome international action. The treatment our American POW's have received at the hands of Communist governments is despicable and deserves the abhorrence of all legitimate world officials.

If we are to have demonstrations in the streets, let us have some demonstration against this kind of violation of international relations and the Geneva conventions. Let us have an outpouring of protest against these international gangsters who use wives and children as propaganda pawns of war.

An excellent article detailing this situation—written by Mr. Louis R. Stockstill—was published in Air Force magazine for October.

Hanoi has consistently refused to permit inspections of its prisons; to release the sick and wounded; to allow exchange of letters and packages; or to protect U.S. prisoners from public abuse.

All these things are violations of the Geneva conventions of 1957, which were signed by the Hanoi Government.

The prisoners, in fact, have been used and exploited for propaganda ends, this with the full knowledge and cooperation of members of the so-called new left.

I am incensed about this, and I think the American people are, too.

I ask unanimous consent that the article and an accompanying editorial from the same magazine be printed in the RECORD.

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

PRISONERS OF WAR: THE FORGOTTEN AMERICANS OF THE VIETNAM WAR

(By Louis R. Stockstill)

(NOTE.—On the following pages you will find one of the most important articles ever published in this magazine. Telling you this may seem redundant. If an article is unimportant, we should not be publishing it at all. At the same time, we have always acknowledged to ourselves that not all readers are interested in everything we print. Our job is to supply a balanced buffet table—not intravenous feeding.

(But the matter of our American servicemen who have sacrificed their freedom, their health, and the peace of mind of themselves and their families in behalf of freedom for others—this is a matter that concerns us all. By the hundreds, these men languish in North Vietnam prisons and in Viet Cong jungle camps—unprotected by the Geneva Conventions which are supposed to guard the rights and persons of all prisoners of war. That the bulk of these American prisoners are airmen brings their plight a little closer to us, perhaps. That others have lost life and limb in the same cause is even more saddening. But death and wounds are irretrievable, and all we can do is to make suitable provision for the wounded and the survivors of the dead. The prisoners, on the other hand, are alive and are retrievable. We can do something about them. We must.

(The author, who has done such a thorough and painstaking job, served for many years on the staff of The Journal of the Armed Forces, ultimately as its Editor. Lou Stockstill has devoted his professional life to the examination and explanation of the problems of the armed forces of the United States. He is now a freelance writer in Washington. This article represents, in our judgment, the finest effort of his distinguished career. It explains the POW problem better, and in more detail, than anything published to date. It includes some concrete suggestions as to what you can do to help.

(Read it, and let your conscience be your guide.—The Editors)

Once a month, from her living room high up in an Arlington, Va., apartment building, removed from most brutalities of life except her own thoughts, Gloria Netherland walks

a long hallway to the mail chute and deposits a letter.

She watches it drop from sight on the first leg of a journey into an unknown void halfway around the world. The letter begins "Dear Dutch." But whether Dutch will read it, or someone else will read it, or whether it will go unopened is impossible to say.

Gloria and Dutch have been married eighteen years, but she doesn't know—hasn't known for a long time now—if he is alive or dead. And if alive, she doesn't know where he is or how he is.

For more than two years she has written the monthly letters—limited to six lines each, according to current Communist rules. None are answered, none are returned.

But, in the pattern of "dreadful uncertainty" that characterizes her daily life, she never fails to write.

"I realize," she says, "that there is just a fifty-fifty chance he is alive, but I feel that I cannot afford to let anything go undone."

Capt. Roger M. Netherland, USN, who was shot down over North Vietnam in May 1967, is one of the senior US pilots missing in the Vietnam War. Flyers reconnoitering the site where his burning plane plunged to the ground believe they heard his voice. But no word has come through since.

"When you are married to a flyer," Gloria Netherland says, "you learn to live with potential disaster. But you expect it to be black and white, not like this. I can't think of him as being gone, but it is very difficult for me to think of him as a prisoner."

She says, "The worst day for me was not the day they came to tell me he had been shot down. The worst day was the day his clothes and books and personal things came back. To have to unpack a man's life is not an easy experience.

"And if he is gone, I will have to do it all again. There will be another complete healing period to go through."

Gloria Netherland is but one of hundreds of wives and parents who live on an emotional roller coaster of grief, hope, faith, anxiety, and raw courage. For some, the waiting has lasted more than five years.

Their husbands and sons are the forgotten men of the Vietnam War—approximately 1,400 men captured by the enemy or missing and possibly in enemy hands. Most of the known captives are imprisoned in North Vietnam, others by the Viet Cong in the jungles of the South. A few are interned in Laos and Red China. Files of 981 men have been stamped with the heart-wrenching legend "MIA"—missing in action.

Some 3,000 "next of kin"—wives, children, and parents—in every state now endure what one calls "this limbo of anguish."

The other side has revealed tragically little about these "casualties" of the war. North Vietnam and the Viet Cong, defying international agreements and basic codes of humanitarianism and decency, have consistently refused to discuss the whereabouts of the missing men. Similarly, they have dribbled out only limited and distorted information about selected prisoners in infrequent propaganda movies tailored to their own purposes, often peddling doctored film to foreign outlets. Many wives quite rightly believe that "our husbands are being sold for so much propaganda."

On the shoddy pretext that U.S. captives are not prisoners of war but "criminals," North Vietnam will not allow neutral inspections of its prisons. Yet such inspections are required under the Geneva Convention, signed by North Vietnam in 1957 and by 119 other governments.

Using the "criminal" charge to mask its defiance, Hanoi not only has rejected inspection of its camps, but has refused to:

Identify the prisoners it holds;

Release the sick and wounded;

Allow proper flow of letters and packages; or

Protect US prisoners from public abuse.

The Viet Cong and Communist forces in Laos have followed Hanoi's lead by imposing an even more rigid blackout.

The curtain of secrecy the enemy has thrown around the prisoners and missing men has, until recently been duplicated to some extent by the US government. But this is now changing. A brighter spotlight has been turned on the problem. The change has been wrought by the Nixon Administration. The United States government has now opened up some of its previously closed files of information on the imprisoned and missing men. New initiatives and a tougher approach are the order of the day. Further steps may be in prospect.

NEW HOPE FOR POW'S

For the first time, Administration officials are waging an open fight for the prisoners. The diplomatic maneuverings which shielded many aspects of the problem from public view during the Johnson Administration—although perhaps rightly so for that time—have now been partially cast aside. The United States is speaking out.

Two of President Nixon's top Cabinet officers have embarked on a strong public offensive in which they stress concern for, as well as facts and figures about, the treatment of the US prisoners and missing men.

"I don't understand how the North Vietnamese can be so lacking in humanity that they won't even give us the names of the prisoners they have," declares Secretary of State William P. Rogers. "All they have done is to be more intransigent, more unreasonable, and more inhumane."

Secretary of Defense Melvin R. Laird says there is "clear evidence that US prisoners are not being treated humanely," and that conditions in the prison camps are "shocking."

Yet, in order for the tough and forthright new policies to produce desired results, citizens must join the attack. Their assistance could be crucial. Many citizens may never have asked themselves how, or if, they can help. Many still may not be aware of the full story of our forgotten men.

Here then are the sobering facts about the prisoners and the missing, the details of the obscure existence they live, the way they are used and abused by Hanoi. And here, too, is an account of what the US is doing to aid the men and their families, and suggestions as to how you might lend a hand:

Of the known prisoners—the 401 the armed forces have been able to positively identify as captured—192 are Air Force, 140 are Navy, forty-six are Army men, and twenty-three are Marine Corps personnel.

Nearly 1,000 others are missing in action and thought to be captives. The largest number missing from any single service is 516 from the Air Force. More than 260 are missing in the Army, more than 100 in the Navy, and ninety-four in the Marine Corps.

The prisoners and missing men range in rank from private to colonel, or Navy captain. They include such men as Col. Robinson Risner, of Oklahoma City, one of the top AF pilots, and Navy Lt. Cmdr. J. S. McCain, III, son of the US Commander in Chief, Pacific, Adm. J. S. McCain, Jr.

Several of the known prisoners have now been behind bars more than five years. More than 200 have been imprisoned or missing for more than three and one-half years, more than 500 for over two years.

Some military intelligence the United States has gleaned about these men must be kept secret or couched in guarded language to protect the prisoners.

Nevertheless, accounts of torture and inhumane treatment have emerged. The widely publicized story of the capture, escape, evasion, and rescue of Navy Lt. (j.g.) Dieter Dengler in 1966 presented stark examples. Captured by the Pathet Lao but eventually turned over to North Vietnamese soldiers, Dengler was spread-eagled by his captors and at night left to the mercy of jungle insects, tied to a tree for harassment target practice, repeatedly beaten with fists and sticks (once into unconsciousness) for refusing to sign a statement condemning the US, and tied behind a water buffalo and dragged through the bush. The once 180-pound flyer weighed ninety-eight pounds following his escape and rescue.

STORIES OF MALTREATMENT

Other escaped prisoners have told of similar maltreatment in Pathet Lao and Viet Cong jungle camps.

Most recent evidence about those imprisoned in North Vietnam discloses that many have been tortured by being deprived of sleep, refused food, hung from ceilings, tied with ropes until they developed infected scars, and burned with cigarettes. At least one had his fingernails ripped from his hands. The broken bones of another, set by Communist doctors and still in a cast, were rebroken by guards.

It is difficult to know how typical these examples may be. But, regardless of the continuing secrecy in certain areas, substantial information is available on some prisons and the basic treatment of some prisoners. Portions of the record are cloaked in "it is believed" language, some is official hard fact, and some has come from those foreign news sources Hanoi has permitted to peek into selected prison keyholes.

Prisoner treatment, of course, varies, and often the enemy attempts to camouflage the worst conditions. With that in mind, consider these details about three types of prisons—a jungle camp operated by the Communist Pathet Lao; a Viet Cong jungle camp; and a North Vietnamese institution known euphemistically as the "Hanoi Hilton."

The Pathet Lao camp is a bamboo stockade of primitive thatched huts. Prisoners are fed twice a day, mostly rice but with occasional supplemental foodstuffs. Many suffer from malnutrition. Some are afflicted with intestinal parasites. Except when allowed outside to empty toilet pails, prisoners are confined inside the huts, often locked in crude wooden foot blocks or handcuffs. Barbaric treatment, including beatings, is not unique. Prisoners are forced to listen to Radio Hanoi.

The Viet Cong prison or junge camp houses fewer than a dozen men. The prisoners are fed three times a day, again mostly rice, supplemented by some meat, fish, or vegetables. They are supplied with soap and toothpaste, fifth-rate medical treatment, pills thought to be antimalarial, and even occasional vitamin injections for those in most obvious need. Between meals, prisoners are allowed to smoke, exercise, or just sit. About once a month, they are furnished news of the outside world. They have been told, for example, of the assassinations of Dr. Martin Luther King and Sen. Robert F. Kennedy, of the release of the *Pueblo* crew and the election of President Nixon. They are allowed to write occasional letters, but have no way of knowing the effort is futile. No letters have ever arrived in the U.S. from prisoners held by the VC. To maintain the pretense of a mail-exchange, however, at least one prisoner in this camp was permitted to receive two letters over a ten-month period.

DAILY ROUTINE IN HANOI

In the North Vietnam prison camp (in central Hanoi), daily routine is more formalized. Prisoners are awakened between 5:00 and 6:00 in the morning by a gong, followed by a thirty-minute Radio Hanoi (English language) broadcast piped into their cells. At mid-morning they are taken out to empty toilet buckets. About 11:00 a.m., seventeen

to nineteen hours after they last ate, they are fed the first of two daily meals. Food consists mainly of pumpkin or squash, pork fat, a vegetable resembling wild onion tops, and bread or rice.

One former prisoner said, "The main diet is based around bread, and during the summer we got a squash soup and pig fat." Prisoners receive three daily cigarettes and sometimes, possibly for propaganda purposes, have been given sweets. (Propaganda films staged by Hanoi have shown tables laden with food, including mounds of fresh pineapple and bananas. But no one was eating.) After the morning meal—picked up on a wooden tray and eaten in their individual cells—prisoners are allowed to "nap" on their bare-board bunks until 2:00 in the afternoon, when their cells are flooded with another half-hour Radio Hanoi broadcast. Between 4:00 and 6:00 p.m., they are fed the second and final meal of the day. The day ends around 9:00 p.m.

Each prisoner is provided with two sets of pajama-like clothing, two blankets, and toilet articles. Each is allowed to shave twice a week and wash his clothing once a week.

CONSTANT INDOCTRINATION

Brainwashing efforts do not follow the hard-line techniques employed during the Korean conflict, but prisoners are subjected to constant lower-key indoctrination. Not only does Radio Hanoi bombard their cells with slanted news and propaganda a full hour out of each day, but prisoners also are furnished with Communist propaganda periodicals and are lectured on the "history" of Vietnam and the provisions of the 1954 Geneva Accords as conveniently interpreted by their captors. Sometimes men reportedly are taken from the prison to visit state institutions where they can "learn" more about North Vietnam's "culture."

Attempts also are made to induce them to write or record statements expressing sympathy with the North Vietnamese cause and condemning U.S. involvement in the war.

Within the confines of the prison, the captives generally are isolated from contact or communication with more than one or two other prisoners who may share the same cell. Many men are kept in solitary confinement. As they are moved around in the prison to pick up food, empty toilet buckets, wash, etc., they are carefully shepherded so that one prisoner or group of prisoners seldom encounters another.

At infrequent intervals, certain prisoners have been allowed to write to their families, although few letters ever reach home.

That the prisoners are allowed to write at all, and that they are accorded other elemental amenities, may likely be because the so-called "Hanoi Hilton" is anything but typical.

PROPAGANDA SHOWPLACE

U.S. officials, with reasonable suspicion, regard the "Hanoi Hilton" as a propaganda showplace. While foreign newsmen have "seen" prisoners, who have been transported to a central location for that express purpose from at least eight other camps, the "Hilton" is the lone place outsiders have been allowed to enter. And it is the only prison from which U.S. prisoners have ever been released. Obviously, the open-door policy at only one prison creates real doubt that the North Vietnamese can afford to let the world, and in particular the neutral nations, see the conditions that prevail elsewhere.

No prisoner has ever escaped from the prisons of North Vietnam. Those who have managed to struggle back to freedom from the VC jungle camps add up to fewer than two dozen (the specific number is classified). And the Communists have been extremely callous when it comes to returning American prisoners. To date only a handful has been set free. Sixteen have been released by the Viet Cong, nine by Hanoi.

Procedures followed by Hanoi in releasing prisoners are particularly meaningful since North Vietnam has been the bellwether in establishing what might be regarded as overall policy guidance in the treatment of prisoners elsewhere. And it is in North Vietnam that the greatest number of men are believed to be imprisoned. Of the more than 1,400 captured and missing, nearly 800 (mostly pilots) were downed over North Vietnam. The Defense Department believes "a substantial percentage of the missing" may be prisoners.

POW RELEASES FOLLOW PATTERN

All the prisoner releases by Hanoi—two last year and one this August—have followed a similarly disturbing pattern. First, they have been but token gestures, letting just three men out at a time. Second, they have been accompanied by blatant propaganda announcements in the guise of either "humanitarianism" or "good will," or coupled with some "special" day. Third, the names of the men to be freed are withheld for periods of more than a month, thus creating untold agony for thousands of hopeful next of kin. Fourth, releases are carried out through dissident U.S. intermediaries instead of the International Committee of the Red Cross, the traditional go-between in matters affecting war prisoners.

As a condition of each of the three prisoner releases, Hanoi has insisted that U.S. pacifist groups be sent to North Vietnam to take custody of the prisoners and accompany them out of the country.

After a protracted wait, the identities of the prisoners are presented to the world in a staged ceremony. Finally, they are allowed to depart for home with their pacifist countrymen, who are merely used by Hanoi in a grossly overt effort to foment further unrest among American citizens and abet military critics abroad.

The first two prisoner releases took place last year. Three men were released in February, three more in July. All six were "short termers"—that is, men who had been held prisoner for relatively brief periods of time.

The February 1968 group consisted of two Air Force officers, Lt. Col. Norris M. Overly and Capt. John D. Black, and twenty-three-year-old Navy Lt. (j.g.) David P. Matheny. None had been in captivity as much as six months. Lieutenant Matheny had been captured only four months earlier.

The three prisoners released in July 1968 were all Air Force officers: Maj. James F. Low and Capt. Joseph V. Carpenter, imprisoned for seven and six months, respectively, and Maj. Fred N. Thompson, captured less than four months before.

The man designated by Hanoi as the principal go-between for the releases is a fifty-four-year-old pacifist named David Dellinger, Chairman of an organization known as the National Mobilization Committee to End the War in Vietnam, he has traveled frequently to Communist bloc nations and to North Vietnam. Currently, he is under indictment on charges of conspiring to incite a riot in Chicago during last year's Democratic Convention.

As the main contact in the prisoner releases, Dellinger, in turn, has named other US pacifists to act as "escorts" in bringing the prisoners out of Hanoi.

THREE RELEASED IN AUGUST

The most recent release—three men, again—came in August of this year and illustrates how completely Hanoi milks the prisoner situation for its own purposes. However, it marked a minor breakthrough of sorts. For the first time, North Vietnam released prisoners who had been held captive for fifteen to twenty-eight months.

The new policies of the Nixon Administration may have had something to do with the release of the longer-term prisoners. Publicity about two of the men had been widely aired by DoD several months earlier.

Like the two preceding releases, the third also was carried out under the banner of David Dellinger. On this occasion, he designated a somewhat ragtag escort group. The group was substantially larger than any previously dispatched. There were four escorts. They took along three cameramen.

Leader and spokesman was Rennard C. Davis, twenty-nine, National Coordinator of Dellinger's National Mobilization Committee. A member of Students for a Democratic Society, Davis is also under indictment on charges growing out of the Chicago riots. He had to obtain a court ruling in order to leave the country.

With Davis in the escort group were Linda Sue Evans, twenty-two, an SDS regional organizer; Grace Paley, forty-six, a member of antiwar and antidraft organizations; and James Johnson, twenty-three, Negro, former GI who served a stockade term for refusing to fight in Vietnam. The three cameramen, from an underground movie-making outfit, were identified as Robert Kramer, thirty-six, an SDS member during a stint at Columbia University; Norman Fruchter, thirty-two; and John B. Douglas, thirty-one.

TEAM FLEW TO HANOI

The seven-member team flew to Hanoi in mid-July, about two weeks after North Vietnam announced plans to release the prisoners. For the next couple of weeks they received Hanoi's "grand tour," were escorted on a 500-mile trip into the DMZ, met with the Prime Minister, and were ultimately entertained at a farewell party well-oiled with rice liquor and propaganda.

At the farewell ceremony, according to details churned out by the North Vietnam News Agency (VNA), the prisoners were "handed over . . . to the American antiwar delegation" with a Madame Bui Thi Cam denouncing the "monstrous crimes" perpetrated by the "U.S. imperialists" who had destroyed towns and crops and "massacred . . . women, children, and old folk."

She said US pilots "caught in the act of committing grave crimes" are not entitled to the protection of the Geneva Convention, but are, nevertheless, treated "in accordance with the humanitarian policy of the government."

James Johnson, accepting the prisoners "on behalf of the American antiwar delegation," said, "We know, as these pilots must know, that all over the world the United States has been branded an outlaw nation." His statement, running some 500 words, might almost have been written by Hanoi.

The North Vietnam News Agency said, "The three released American military men then took turns in expresing, each in his own [way], their deep gratitude to the Vietnamese People, the DRVN government, and the Vietnamese People's Army, for this humanitarian act as well as for the humane treatment all of them had received throughout the period of their detention."

The names of the prisoners were revealed. Two were Navy men: Lt. Robert F. Frishman, captured twenty-one months earlier, and Seaman Douglas B. Hegdahl, imprisoned for two years and four months. The third was Air Force Capt. Wesley L. Rumble, held for fifteen months.

The prisoners and their escorts left Hanoi on August 5. Arriving in Vientiane, Laos, that night, they were seen for the first time by U.S. newsmen. They were described as "pale and gaunt," clad in "dungarees and sandals."

The press accounts noted that Frishman, acting as spokesman for the prisoners, selected his words "carefully." He said only that he was happy "to be returning home, to be back with my country and my wife."

There then followed a question-and-answer session. Here are revealing excerpts from Frishman's interrogation by the newsmen:

Q. How was the treatment you received . . .?

A. I received adequate food, clothing, and housing.

Q. Would you describe it as humane treatment?

A. Sir, I believe I have answered that question.

Q. Did they make any attempt to indoctrinate you or brainwash you in any way?

A. I have no comment.

Q. Was their treatment better at all when they decided you were going to be released?

A. As I say, my treatment has been adequate.

Q. Are you concerned that other prisoners might be harmed by something you might say here?

A. Yes. I in no way want to jeopardize any of the other people who have been . . .

The sentence trailed off.

When the prisoners arrived in Bangkok the following day, Frishman was quoted as saying, "It's great to be back." Nothing more. At some point during the return journey, Frishman had indicated the desire of all three men to be furnished with military clothing. "We left in uniform," he said. "We intend to return in uniform." The clothing was rushed to Frankfurt, last stop before New York.

ARRIVAL IN NEW YORK

When the three men arrived at Kennedy International Airport in New York, I was there to see them for myself. To television audiences, the returning prisoners may have looked reasonably well cared for. But their appearance on the hot, noisy flight line was deeply saddening.

When the general passengers and the pacifist escorts had disembarked, the families of the prisoners were allowed to board the plane for a brief reunion away from the eyes of the curious. Twenty minutes later, the men and their families began emerging.

There was no brass band, no flags, no clamoring throng to welcome them. Only a cluster of newsmen, cameras, government representatives, police, and a small crowd of onlookers.

Lieutenant Frishman, followed closely by Seaman Hegdahl, was first off the plane. Both wore their new uniforms, the Navy blue contrasting starkly with their drawn, pallid faces. Captain Rumble, ill, stooped, pale, was assisted down the steps, helped into a police car, and rushed to a waiting medical-evacuation plane.

The two Navy men and their families were led to a small platform, barren but for a gaggle of intertwined microphones. Uncertainly at first, and then with alert precision they returned the salute of Air Force Col. Milt Kegley standing nearby.

They were ashen in color. Their eyes were deep, hollow circles of darker gray, much like the exaggerated eyes of starving children. They smiled, but somehow their smiles seemed macabre; not forced, but not exactly real; joyful surely, but with an underlying tautness; perhaps nearer to tears than laughter.

Lieutenant Frishman once again spoke for all three men, repeating what by now had become his stock statement. They were happy to be home, they had received "adequate food, clothing, and housing" from their captors.

He, himself, had been "seriously wounded." The North Vietnamese doctors had removed his elbow and tied the muscles together. "I am glad to still have my arm," he said.

THE ARM WAS WASTED

It hung at his side, the loose sleeve of his jacket emphasizing that the arm was wasted, thin, far shorter than the other. When the suggestion had been made to him earlier that, "They'll fix it better at home," he replied, "Oh, no. They won't. It's impossible now."

Now, as he extolled the "adequate" treatment he and the others had received, and praised the North Vietnamese for saving his arm, Frishman voiced the "hope that there will be some more releases."

At his side, Douglas Hegdahl, once a robust heavyweight, continued to smile, his face almost skeletal. A reporter asked how much weight he had lost. He had "no comment."

But then Frishman addressed the microphones. "I lost forty-five pounds; Seaman Hegdahl lost sixty pounds," he said. It was the first detailed confirmation of their deprivations.

A newsman asked Frishman why the North Vietnamese had selected him for release in preference to some other prisoner.

"I am sure they released me for some reason . . . this reason I do not know," he said.

What about the welfare of other prisoners still held by Hanoi?

"No comment," Lieutenant Frishman said.

PRESS SESSION QUICKLY ENDED

The session with the press was over quickly, the final questions muffled in the roar of a nearby jet. The men were tired; they had been traveling for thirty-six hours.

"I want to be with my wife now," Lieutenant Frishman said. He placed his good arm around her. The prisoners and their families moved off the platform.

As Frishman turned, I saw him for the first time from the side. His shoulders were incredibly thin. The collar of his shirt hung loosely about his neck. The lines of his nose, his cheeks, and his chin were sharply drawn, haggard. So were Hegdahl's.

If the two men had been well-treated, there was nothing in their appearance to verify it. The almost corpse-like pallor of their skin, tightly stretched, almost translucent, mutely testified to long seclusion from the sunlight.

The men and their families moved to waiting transportation for the short trip to the medical-evacuation plane and the final leg of their journey to military hospitals. I turned with the other newsmen to walk back into the International Arrivals building for the meeting with the pacifist escorts.

We waited for an hour in a small, stuffy room intensely illuminated by bright klieg lights.

Finally, the pacifists straggled in, having been delayed in customs. The four escorts and the three cameramen gathered on a platform at one end of the room. By any standards, they were unprepossessing in appearance.

The leader and spokesman, Rennie Davis, was the most presentable, dressed in neat trousers and shirt, hair slightly long but combed and parted.

Peering from time to time at notes clutched in his right hand, Davis began a recitation of what the seven-member team had seen and done in North Vietnam. His monologue had little to do with the prisoners. It mainly emphasized the "devastation" that US bombing forays had inflicted on a "determined" and "unbeatable" people now instilled with a "mood of victory." The North Vietnamese believe, he said, that they have President Nixon "trapped."

He introduced Grace Paley, a short frumpy woman in a cotton dress. She said North Vietnam considers US prisoners criminals, but releases them to "show good faith" and as a demonstration of their "humanitarian" treatment.

PRAISE OF HANOI'S TREATMENT

Next up was Linda Sue Evans, young, blonde, wearing tightly fitting, flared blue jeans. "We believe," she said, "that North Vietnam should win." She praised Hanoi's "humane" treatment of the prisoners.

The young Negro, Johnson, principal pacifist speaker at the Hanoi ceremony, was next. He said with obvious pleasure that the North Vietnamese "feel they have defeated the United States."

Davis opened the press conference to questions.

"Are our prisoners being mistreated?" he was asked.

He had seen no such evidence. The group had met a "total of twenty-five to thirty all told," and had been informed by the prisoners that they had been protected within the very villages they had bombed, been given immediate medical attention, and "better" food than is provided for their guards.

He said continuing concern is voiced about the treatment of US prisoners, but he is more concerned about the treatment of prisoners from the other side held in camps in South Vietnam.

Davis was asked to comment on a statement by Secretary of Defense Laird that Hanoi's treatment of prisoners is in "flagrant violation" of the Geneva Conventions.

Davis said he thinks North Vietnam "legally regards the United States as an outlaw nation." (An interesting comment. James Johnson had used the same "outlaw" phrase in his Hanoi remarks, but attributed it to the pacifists themselves.)

"You say our prisoners are being treated humanely," I asked Davis. "How many prison camps did you visit?"

Repeatedly, he sought to evade a direct answer, but I kept hammering "how many prisons" at him. Finally he admitted he had "no information at all" about any of the prison camps.

The press conference produced nothing of any kind about the status of US prisoners held by North Vietnam. The pacifists had returned believing what they wanted to believe. They brought back no list of prisoners held by Hanoi, no hint that North Vietnam might consider changing its policy on prisoners.

Except for some 50 letters Hanoi had permitted them to carry home, they had returned only with an array of sugar-coated propaganda. They had swallowed whole as much as possible and stuffed the rest into their luggage.

The press conference could only raise serious doubts about the value of continuing to allow Hanoi the luxury of using such groups to bring back tiny numbers of prisoners. Some Administration officials, even some wives and families of prisoners and missing men, also are beginning to question the validity of this practice.

At the current exchange rate, it would take well over 400 years to get all of the men home. And the current release procedures, in the words of the Washington, D.C., *Evening Star*, are "a little like Oriental water torture—and just as humanitarian."

Twenty-five days after Frishman, Hegdahl, and Rumble reached New York, I went to Bethesda Naval Hospital in Maryland to hear the two Navy men tell about their prison life. Sunshine had improved their color; they had regained some weight. They were ready to open up.

Frishman recounted how he had been blindfolded after his capture and, despite serious injuries, driven in a truck to other locations where he was removed from the truck and stoned by the populace. When he reached the prison, he was refused medical treatment and told he "was going to die in four hours" unless he talked. He "finally passed out" and was taken to a hospital. "Then, even with my bad arm, they tied me up with ropes."

Doctors operated on his arm but failed to remove missile fragments. It was six months before the incision healed over. "I would wake up and find my arm stuck to the blankets . . . the scab would come off . . . the wound would drain again." One of his legs was left with "a seeping sore," still draining when he reached the U.S. almost two years later.

During much of his ordeal, Frishman was isolated in a tin-roofed cell, vented by "a

few holes." In forty-five-degree winter weather, he froze. In summer, it was "like an oven." Sometimes, he was forced to sit on a stool in the stifling room—"just sit . . . and sit"—until he passed out.

Early this year when interviewed by *L'Europeo*, his captors wrote out what he was to say and then "practiced" it with him.

Did they try to "fatten" him in his final weeks of imprisonment, I asked?

"Yes, they did." On July 4 they took him before the camp commander who "had a real nice table with some fruit on it. . . . I knew then that I was going home."

SOLITARY CONFINEMENT

Hegdahl, too, had been subjected to solitary confinement—in all, for more than a year. The longest stretch lasted "seven months and ten days."

He was permitted occasional mail, but the letters were rifled of enclosures (including money) sent by his parents. The lone package he was allowed also was plundered before it was handed to him.

For propaganda purposes, he was photographed "reading" a U.S. magazine which he was allowed to hold "just long enough for them to take the picture."

Frishman said he was threatened before his release. If he embarrassed North Vietnam, they would "have ways of getting even with me," he was told. He was cautioned "not to forget that they still have hundreds of my buddies."

But those still imprisoned want the facts out in the open, he said. One told him "not to worry about telling the truth," that if it means more torture, "at least he'll know why he's getting it and he will feel that it will be worth the sacrifice."

While North Vietnam's claims of "humane" treatment of the prisoners have failed to stand up to public scrutiny, it is equally apparent that Hanoi's policies and those of the Viet Cong have been cruelly lacking in compassion for the families of the prisoners and missing men.

Take Andrea Rander, whose hubsand, Army SSgt. Donald Rander, is held by the Viet Cong. He was first reported missing during the January Tet offensive last year. Four weeks later she was officially notified that he had been wounded and imprisoned. She has been waiting almost two years for a letter that has never come. She has great difficulty, she told me, in making decisions. "I keep putting everything off. I keep telling myself I will wait until Donald comes home. It's my way, I guess, of convincing myself that he will be back."

SPORADIC LETTERS

Billie Hiteshew, wife of AF Maj. James Hiteshew, who was captured by North Vietnam in March of 1967, has lived with the problem longer, but at least she has heard from her husband. She receives sporadic letters, including two this year. And she has seen photographs of her husband. Shortly after his capture, CBS purchased a film of Hiteshew—confined in a hospital with a broken leg and arm—being interviewed by Felix Greene, a British antiwar journalist. She watched her husband say he agreed with Senators who feels "we need to take another look at our foreign policy," a view she had never heard him express or even hint at before.

Evelyn Grubb's only knowledge of her husband came from a similar Hanoi propaganda gesture. An unarmed reconnaissance aircraft, piloted by AF Maj. Wilmer "Newk" Grubb, was shot down in January 1966 while a Christmas bombing halt was in effect. Hanoi gloatingly publicized his capture, conveniently obscuring the true nature of his mission. The day Mrs. Grubb heard of his capture, it was snowing, two of her three sons were ill, and she was three months pregnant. Each time she writes she tells him about their sons (there are now four; one he has never seen), and sends photographs of all of them stapled to the letter so he will know if they have been removed. She doesn't know whether he has received a single photograph or letter. In four years, she has had no further official word of her husband.

Elizabeth Hill is another wife I talked with. Only twenty-three, she was married to AF Capt. Howard J. Hill (both are AF "brats") in August 1967. Two weeks later he returned to Southeast Asia, and just before Christmas was shot down. Nine months passed before she learned that his capture had been confirmed. As she told me this, she smiled. "I can't help smiling," she apologized. "After Howard was missing for so long, I just have to smile when I say he is a prisoner." She has written faithfully for almost two years, but there has never been an answer.

Although regular exchange of mail between prisoners and their families is guaranteed under the Geneva Conventions (even when two countries are not formally at war), the Communists have permitted only a trickle of letters to flow out of North Vietnam.

Efforts of the American Red Cross and the International Red Cross to improve the situation have been essentially futile in the face of Hanoi's obstinance.

NO INSPECTIONS PERMITTED

Not only has North Vietnam rejected Red Cross efforts to establish improved flow of mail and packages to and from US prisoners, and to permit inspections of their prison camps, but they persistently have refused to even acknowledge the existence of, or accept mail from, their own men held as prisoners in South Vietnam. The latter camps are regularly inspected by the neutral International Committee of the Red Cross, and names of all captured North Vietnamese and Viet Cong solders are prepared for Hanoi and the VC, but are spurned.

Although the Red Cross has tackled the problem again and again through all potential channels (even seeking help from the USSR)—and keeps on trying "all the time," according to ARC Vice President Robert Lewis—most of the effort has fallen on deaf ears.

Mr. Lewis says the Red Cross also has made it clear that it is prepared to send representatives to Hanoi at any time to accept released prisoners, but the North Vietnamese prefer to stick to their practice of using dissident go-betweens.

MAIL FOR PRISONERS

Mail for all prisoners and missing men is sent through a variety of channels and addresses. Some is handled by the Red Cross, some is mailed direct to foreign post offices, but little is known to have reached the men to whom it is addressed.

Letters written by the prisoners themselves have fared somewhat better because of their propaganda value. But none ever has arrived in the States from prisoners held by the Viet Cong. And fewer than 100 men held by North Vietnam have been allowed to write over the past five years. The average for this small group has been less than two letters a year.

Currently the letters from prisoners are written on a prescribed form, about five by seven inches, which makes its own envelope when folded. Six lines are provided for the message. Instructions tell the prisoners to write "legibly and only on the lines" and "only about health and family." The form states that "Letters from families should also conform to this pro forma."

Not all wives and parents abide by the advice, but many, like Gloria Netherland, do. Forms are provided by the armed forces. All carry a mailing address in the Vietnamese language reading: "Camp of detention for US pilots captured in the Democratic Republic of Vietnam."

But for most families, whether they use the six-line form letter or a longer page, the return on their investment is slim at best.

For families of men listed as "missing," even the lack of mail might be bearable if Hanoi and the VC would release the names of all prisoners. But they have consistently refused. Some US Senators say Hanoi "could devise no subtler cruelty."

While no solution to either the mail problem or the list of missing is in sight, the US armed forces, meanwhile, do what they can to ease the plight of the next of kin.

It is not a simple job, nor has it always received top marks in every area, but as the list of prisoners and missing has grown and as the services have learned from past mistakes and found out more about what the families want and need, they have moved increasingly into programs that now garner well-deserved praise.

All of the wives I talked with feel that their husband's service, as one put it "is doing everything humanly possible."

NOTIFYING NEXT OF KIN

In the early days when a man was captured or turned up missing, next of kin sometimes were advised by telegram. This impersonal approach proved highly unsatisfactory and has long since been abandoned.

Today when catastrophe strikes, a service representative is sent to the home to call on the family, break the news in person, give whatever details are immediately available, and offer such solace and assistance as he can provide.

Either this representative or another is thereafter permanently assigned as an "assistance officer" for all future contacts. He makes sure the families are informed of breaking developments, if any; answers their questions, or refers the queries to someone who can; and ensures that they receive such legal, financial, or other aid as they may require.

The main Air Force effort is performed from the personnel center at Randolph AFB, Tex. Service is available twenty-four hours a day, seven days a week, and next of kin may make collect telephone calls any time, day or night.

Families are told everything the services can tell them about the circumstances surrounding the capture or disappearance of the man. Any subsequent news is passed along as quickly as it is received.

On a broader front, all services have put together special informational programs for the next-of-kin to keep them informed about over-all prisoner developments. These most often take the form of newsletters. But the Army's Adjutant General, Maj. Gen. Kenneth G. Wickham, writes a personal, individually prepared letter to each Army family once a month.

The letters and newsletters are supplemented by personal meetings with individual family members or with groups. This practice was instituted early by the Navy, but has now been made uniform for all services, under expanded policies of the Nixon Administration.

Beginning this past spring, group meetings were instituted under the aegis of a joint Defense/State/military team, with families from several services attending at a central location for each given area. At the meetings, the next of kin receive a full briefing on the prisoner problem.

Much of what they can be told is not new, but it has demonstrated to the satisfaction of many, if not all, of those attending that the government is giving the prisoner problem priority consideration, and sincerely wants, and is trying, to help in every way possible.

MEETINGS WITH NEXT OF KIN

The meetings have been spread all across the country. Scheduled mostly at Air Force bases, they are generally held in Service or Officers Clubs, in an informal atmosphere, with local volunteer-wives serving coffee or

punch to the families—normally about 100 wives and parents.

One meeting held at Bolling Air Force Base near Washington, D.C., was attended by Ambassador Henry Cabot Lodge (home to report to the President). He told the group what was happening at the Paris peace table. Another briefing session was conducted at the Pentagon itself. Defense Secretary Laird met and talked with the families.

One member of the briefing team, Deputy Assistant Secretary of Defense Richard G. Capen, Jr., said, "We are always frank about telling the families there have been no great breakthroughs. I review the over-all situation; Frank Sieverts [State Department representative] discusses the Paris talks and other State Department efforts conducted through diplomatic channels. Then we spend the remainder of the time, about an hour or an hour and a half, responding to questions."

Mr. Capen says reaction to the briefings has been excellent. Sometimes "wild suggestions" are offered or family members give vent to angry frustration. ("Some cannot understand why we learn so little about the men.") But the meetings, Capen feels, have been extremely useful and have helped to partially satisfy the yearning of many families for some closer contact with their government in Washington.

He has been through many heartrending conversations, but what remains most vividly in his mind is the meeting at which one wife stood up and declared, "I want my husband back, but I don't want to give my country away to do it."

Most of the families, he says, "have real understanding and appreciation of the problems. We want to assure them that when the men do come back, we will be in a position to say we did all we could." He thinks most of the families now feel, if they didn't before, that this is the case.

In addition to the programs designed for the next of kin, the armed forces also carry out certain procedures for the prisoners and missing men themselves.

All, for example, are considered for promotion at the time they normally would have been considered if not in captured or missing status. Their full pay and allowances are continued indefinitely, and they receive whatever general pay increases are authorized for others on active duty. Allotments the men provided for their families are increased as needs dictate.

New laws also have been enacted, and others are being sought, to protect rights of the men that might otherwise be jeopardized.

The military "savings deposit" program, for example, encouraged overseas servicemen to bank a portion of their pay in high-interest accounts as a means of cutting down on the US gold-drain. But the law contained no provision for men who were captured or reported missing. This inequity was corrected only to have a second develop. The maximum that can accumulate in such accounts is $10,000. Anything above that amount draws no interest. With deposits of some men now approaching or exceeding the ceiling, the Defense Department recently asked Congress for authority to invest "excess" amounts in the purchase of US savings bonds and notes.

Yet, despite these and other continuing efforts on behalf of the men and their families, it is all too apparent that the combined activities of the armed forces, the State and Defense Departments, the American and International Red Cross, and the efforts at the Paris talks have reunited few prisoners with their loved ones. Nor has there been any new hope for proper medical care of the sick and injured, neutral inspection of prison camps, full disclosure of the names of all captives, or proper flow of mail.

The new Nixon Administration initiatives are helpful, but only full and continuing exposure of the plight of the prisoners and their families, together with relentless public pressure at home and abroad, are likely to produce desired action.

An occasional newspaper editorial is not enough. Limited news coverage of developing prisoner stories is not enough. An infrequent letter-to-the-editor is not enough. A statement inserted in the back pages of the *Congressional Record* is not enough. A business-as-usual attitude on the part of the American pubic can only make apparent to Hanoi that these men who have given so much to their country have indeed been forgotten by those for whom they made the sacrifice.

Some wives of the prisoners and missing men have reached the same conclusions. Some are taking steps to counter public apathy, and to arouse the Congress.

Mrs. James Bond Stockdale of Coronado, Calif., wife of a senior Naval officer held by North Vietnam, has encouraged other wives to send telegrams to the North Vietnamese delegation in Paris, and helped to organize prisoner families. Mrs. James Lindberg Hughes of Santa Fe, N. M., wife of a captured Air Force lieutenant colonel, and Mrs. Arthur S. Mearns of Los Angeles, wife of a missing Air Force major, also have been urging the Congress and others to act.

Many of the wives are essentially satisfied that the services and the Administration are doing all they can. But some feel, as Evelyn Grubb says, that "there is a bargaining point for everything; we have to find it." The wives are convinced that more public pressure is essential.

Some have been particularly critical of the inaction by Congress. "Usually," Mrs. Stockdale has said, "they put something in the *Congressional Record* and then forget about it."

A check of the *Record* discloses that this practice was, until very recently, more or less standard. But there is hopeful evidence of a growing change—partly as a result of appeals by the wives, partly as a result of the more open discussion policy encouraged by the Administration.

In August, shortly before Congress went into brief summer recess, forty-two Senators banded together in a strong statement condemning North Vietnam for its "cruel" treatment of the prisoners and their families. Instigated by two opponents of our Vietnam policies, Charles Goodell (R-N.Y.) and Alan Cranston (D-Calif.), the declaration says if North Vietnam thinks it can "influence the policy of the United States toward the Vietnam conflict" through its intransigent position on the prisoners, it is "doomed to failure."

"Neither we in Congress, nor the Administration, nor the American people as a whole, nor indeed the families directly affected, will be swayed by this crude attempt."

Those signing the statement included both Democrats and Republicans representing thirty-three of the fifty states. Three names that might have added weight but were absent from the list of signatures were those of war critics J. William Fulbright (D-Ark.), George McGovern (D-S. D.), and Eugene McCarthy (D-Minn.).

The Senate statement ended with a specific plea to "the governments, the statesmen, and the ordinary men and women around the world" who spoke out in 1966 against Hanoi's proposed "war-crimes trials"—a plan that was abandoned by North Vietnam after a wave of world protest.

The Senators said those who protested in 1966 should "make their voices heard once more. Then, as now, the issue was not political but humanitarian—and Hanoi responded to the force of world public opinion. If that force can again be mobilized, this too may contribute to inducing from Hanoi greater respect for human decency and for the rule of law." On August 21, the North Vietnamese delegation in Paris vehemently rejected the protest as "slander" and an attempt "to deceive public opinion."

In the House of Representatives, Congressman William L. Dickinson (R-Ala.) sent a letter to his colleagues asking that they join him, after the August recess, in making floor statements protesting the treatment of our war prisoners.

Whether these moves are one-shot efforts remains to be seen. What members of both houses seem to have overlooked is the potential force of a Joint Congressional Resolution condemning Hanoi's prisoner policies.

Whatever action Congress may take, what will count most significantly is the time and effort the American people are willing to expend in helping solve the problem.

In my numerous interviews with government officials, representatives of the Red Cross, members of the armed forces, and next of kin of the prisoners, I asked each person what he or she thought would be the most effective attack that could be launched.

They agreed that a four-pronged letter campaign could produce dramatic results. The letters should be directed to:

Representatives of foreign nations;

Newspapers and magazines in foreign nations;

Members of the U.S. House and Senate; and

Xuan Thuy, chief North Vietnamese negotiator in Paris.

The letters to the foreign nations and the press in those nations should urge that pressure be brought to bear on Hanoi to live up to the spirit of the Geneva Conventions by putting into practice the Conventions' rules on the treatment of war prisoners.

The letters to Xuan Thuy should demand the same points. And those individuals who are not necessarily in sympathy with the war should make it clear that proper treatment of the prisoners is nevertheless an overriding consideration. All should note that continued intransigence on the part of Hanoi will only stiffen the resolve of the American public, not weaken it.

Letters to members of Congress (addressed to the Representative from your own congressional district and to either or both of your U.S. Senators) should call for a Joint Resolution demanding proper treatment for the prisoners and missing men, and stressing the solidarity of the nation in this aim.

HOW YOU CAN HELP

If you want to help, send a postcard to Air Force/Space Digest at 1750 Pennsylvania Ave., N.W., Washington, D.C. 20006, and you will be mailed a list of Washington, D.C. addresses of ambassadors of foreign nations whose assistance could be crucial, together with a list of selected foreign newspapers and publications.

Letters to Xuan Thuy can be addressed, in simplified form, as follows: Xuan Thuy, North Vietnam Delegation, Paris Peace Talks, Paris, France.

There is a chance—possibly a good chance—that world opinion might force Hanoi to honor basic codes of human decency.

"By any human standards," the position of North Vietnam is "totally inexcusable," Secretary of State William Rogers says. "I don't understand why we have not become more excited about the prisoner question."

The Secretary is telling the people of the United States that their concern is important. The rest is up to you. If you want to help the men many Americans have forgotten, you can. Your letter could be the one that spells the difference.

[From the Air Force/Space Digest, October 1969]

PEACE, LAW, AND OUR MEN IN HANOI

(By John F. Lossbrock)

There is an organization on Capitol Hill called Members of Congress for Peace Through Law. It is described in the *Con-*

gressional Record of September 3 by one of its members, Sen. Mark Hatfield (R-Ore.), who serves as chairman of the group's Military Spending Committee.

"This informal organization," said Senator Hatfield, "is a grouping of about eighty Senators and Representatives who have met together for several years discussing matters of mutual concern." Insofar as the Military Spending Committee is concerned, these "matters of mutual concern" encompass just about all of the major military hardware programs on the congressional docket. As the Senator from Oregon put it:

"These were the items which our committee chose to study: the proposed advanced manned strategic aircraft (AMSA), our continental air defense program, the antiballistic missile system, the Navy's attack aircraft program, the proposed F–14 aircraft, the chemical and biological warfare program, the new main battle tank, the level of our military manpower, the manned orbiting laboratory (MOL), the MIRV program for our strategic missiles, and procurement procedures."

To the great surprise of hardly anyone, the Members of Congress for Peace Through Law are against all of these things and can point to a modest number of victories, all of which to date have come about, however, through executive, rather than legislative action. MOL has been canceled, there have been stringent restrictions placed on chemical and biological warfare research, and Secretary of Defense Laird has announced manpower reductions. On the Hill itself, MCPL is not doing too well although there is still a large number of items that remains to be checked off their laundry list. The President's Safeguard ABM system was approved in the Senate, although by the narrowest of margins, and the additional aircraft for the C–5 program (a target for MCPL under their category of "procurement procedures") passed the Senate by the thumping majority of 64 to 32. But there are many battles yet to come.

We recognize, of course, the right of the members of MCPL to interest themselves in whatever they deem important, and certainly their list of interests represents an imposing array of things to be against. Encouraged by the words "Peace Through Law," however, we would like to suggest an additional "issue of mutual concern" to which these, and all, legislators might address themselves—an issue in which the potential cost-benefit ratio is highly favorable.

No one interested in Peace Through Law could fail to be deeply moved by the plight of the approximately 1,400 American servicemen who are either known to be in the hands of the North Vietnamese or Viet Cong or who are carried as missing and possibly prisoners of war. Their story is told with compassion and in great detail in the article beginning on page 38 of this magazine.

In it, author Lou Stockstill points out that, in defiance of international law as represented by the Geneva Conventions, which North Vietnam and 119 other countries signed in 1957, Hanoi has refused to:

Permit neutral inspection of its prisons;

Release the sick and the wounded;

Allow the exchange of letters and packages; and

Protect U.S. prisoners from public abuse.

From the handful of prisoners who have been released to date—sixteen by the Viet Cong and nine by Hanoi—has come evidence of mistreatment—solitary confinement, bad food, execrable medical care, looting of mail, and torture. Perhaps worst of all has been the exploiting of released prisoners for propagandistic ends, with the full cooperation of some members of the American New Left who have seen to it that Hanoi got its full propaganda dividends.

There is no implication here that all Congressmen and Senators who oppose the Vietnam War or who are critical of military spending policies are distinterested in what is happening to our prisoners of war in Vietnam. Indeed, as author Stockstill points out, two such critics, Senators Charles Goodell (R-N.Y.) and Alan Cranston (D-Calif.), headed a group of forty-two Senators who, last August, signed a strong statement condemning North Vietnam and pointing out that, if its treatment of prisoners were designed to influence U.S. policy in Vietnam, Hanoi would be deeply disappointed.

What we do feel, and this applies not only to Congress but to the American people as a whole, is that very little thought, very little effort, very little activity of any kind is being directed toward the ends of right and justice insofar as these prisoners are concerned. And it is ironic that so many of those who are concerned about paring the military down to size, who are interested in peace, and law, and justice in the abstract, cannot get at least equally indignant about our men in Hanoi.

Mr. Stockstill suggests some action that any one of us can take to help. We hope his words are heeded, by the Members of Congress for Peace Through Law and by all the members of Congress.

THE PESTICIDE PERIL—LXIX

Mr. NELSON. Mr. President, Gov. Marvin Mandel, of Maryland, is to be commended for his progressive leadership in the campaign to improve the control of persistent pesticides. He has constantly stated his deep concern about the serious threat to our environment and to human health from the continued use of DDT, and has initiated significant action in Maryand to eliminate the threat.

According to an article published in the Washington Post of October 12, Governor Mandel has asked Secretary of Health, Education, and Welfare Robert Finch to urge the World Health Organization to conduct a new study of DDT and related persistent pesticides. The Governor also announced the establishment of an eight-member State Advisory Committee on the Effects of Pesticides on Man and His Environment.

In another article published in the same issue of the Post, it was announced that Delegate Mary Marshall, of Arlington County, Va., has introduced proposed legislation to ban DDT in Virginia.

State bans have already been imposed in Michigan and Arizona, and many other States are actively considering similar proposals. The action taken by Governor Mandel and Delegate Marshall may soon add Maryland and Virginia to the list.

I ask unanimous consent that the two articles be printed in the RECORD.

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

GOVERNOR MANDEL ASKS GLOBAL DDT STUDY

(By John Hanrahan)

Citing "new evidence" that widespread use of DDT poses a "potential global health threat," Maryland Gov. Marvin Mandel called yesterday for a new study of the pesticide by the World Health Organization.

In a letter to Robert H. Finch, Secretary of Health, Education and Welfare. Mandel stated he has "become increasingly concerned that continued use of DDT and similar hydrocarbon pesticides is posing a serious threat to human life, wildlife and waterfowl."

Mandel urged Finch to use his "good offices" to prod the World Health Organization into undertaking a new study.

The governor told Finch that his letter was prompted by "recently gathered scientific data" that show "the potential hazards of DDT by tracing its patterns of use and flow from one continent to another by various modes, thus endangering the lives and food supplies of many more people than those in its immediate area of application."

"For example," Mandel wrote Finch, "when a farmer in Europe, where these 'hard' pesticides have been in extensive use, applies the chemical to his crops, some of the molecules are destined to accumulate in the citizens of Maryland and other seaboard states.

"As you know, several European countries recently have become alarmed over the dangers of DDT and suspended its use."

Two months ago, Mandel told the nation's manufacturers of the DDT line of pesticides "to eliminate dangerous elements from their products or face having them outlawed in Maryland."

Although acknowledging that "significant public health progress has been made" through the use of pesticides, Mandel told Finch "perhaps . . . we should pursue to a larger degree scientific research so that safe and inexpensive alternatives could be developed."

In releasing his letter to Finch, Mandel also announced appointment of an eight-member Advisory Committee on the Effects of Pesticides on Man and His Environment.

The committee will study and monitor the residual effects of DDT and other pesticides on Maryland citizens and the state's crops, livestock, fish and wildlife.

Members are: Dr. Cornelius W. Kruse, chairman of Johns Hopkins School of Hygiene and Public Health; Thomas D. McKewen, assistant commissioner of environmental health services, State Health Department; George W. Schucker, assistant commissioner of sanitary services, Baltimore City Health Department; Dr. Barton Childs, medical geneticist at Johns Hopkins Hospital; Dr. Emanuel Kaplan, chief of the division of biochemistry, State Health Department; Dr. Charles P. Ellington, director of the State Board of Agriculture; Dr. Matthew Tayback, assistant secretary of the State Department of Health, Mental Hygiene and Scientific Affairs, and Dr. Eugene J. Gerberg, president of Insect Control and Research, Inc.

STATE DELEGATE TO PROPOSE BAN ON DDT SALES

Del. Mary Marshall (D-Arlington County) said yesterday that she would introduce a bill in the 1970 session of the General Assembly to ban the sale of DDT and its derivatives in Virginia.

She said her plan had the support of the other three Arlington Democratic candidates for delegate seats.

Speaking at a campaign meeting at the home of Del. William M. Lightsey, Mrs. Marshall said, "DDT isn't just a killer of insects, an insecticide; it's really a killer of life, a biocide."

Noting that all Virginians have at least 10 parts per million of DDT in their bodies, she said, "No one is entirely sure what this means. She called on all Virginians "to do their part in pushing DDT, the compound of extinction, into oblivion."

PROPOSAL TO LOWER VOTING AGE TO 19 IN OHIO

Mr. SAXBE. Mr. President, on November 4, the electorate in Ohio will decide whether the minimum voting age should be lowered to age 19. Chester T. Cruze, one of the cosponsors of this resolution, has asked me to place his remarks in the CONGRESSIONAL RECORD. I ask unanimous

consent that they be printed in the RECORD.

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

AMERICAS YOUTH—TOO YOUNG TO VOTE?

On November 4, 1969, the voters in Ohio and New Jersey will be given the opportunity to amend their respective state constitutions,[1] in Ohio enfranchising young people at 19, and in New Jersey at 18. It has been a long fight in those particular states, and is a fight that will spread across the country in years to come.[2]

The real issue is: "Are 18, 19 and 20-year olds really incompetent", and should the older generation "show them" that they must "graduate", not only from high school, but "mature" for three years before they can claim citizenship—or shall the efforts of those in Ohio, New Jersey and those other states who have manifested their political maturity be rewarded with that valued prize—the vote.

The history of the American franchise has been one of constant expansion ever since President Andrew Jackson in 1830 advocated the abandonment of property ownership as a voting qualification. The expansion of the franchise continued after the Civil War and proponents of expanding the franchise saw the passage of the 14th and 15th amendment to the U.S. Constitution which finally brought suffrage for the American Negro. The 19th amendment, fought for in the 1920's, brought the franchise to the American women and in the 1960's Americans again acted to enlarge the franchise by eliminating the poll tax as a qualification for voting.

In preparing the legislation, the fight for Women's Suffrage was reviewed and noted; opponents claimed women were too emotional and too stupid to vote. The dire results predicted have not materialized. It is obvious that similar charges against young people are equally fallacious.

There are two basic issues that ought to govern qualifications for voting. The first is that voting is a public decision, not merely a personal right. It is the act by which the people choose men to occupy public offices and to govern the community. From this point of view, the question is whether lowering the voting age will tend to produce an electorate that is superior to the present one and better qualified to choose honest and capable public officials.

The other issue is this: No segment of the community should be excluded from the electorate, if its rights and interests cannot be adequately safeguarded by an electorate of which it does not form a part.

Pro and Con discussions are waged on a number of levels; some appealing to the intellect and others not. "If you're old enough to fight, you're old enough to vote" is perhaps the number one phrase used by proponents of reduced voting age, not because they see it as a super-relevant statement, but because it sells.[3] That is the job to be done, to sell the idea, on a non-partisan basis.

President Nixon in March 1969 stated the more relevant pro reason: "I favor voting at 18 not because, as many say, 'If you're old enough to fight you are old enough to vote,' but because you are smart enough to vote . . ." Today's young people are smart enough to vote, not only because of their formal education, but because of the areas of political involvement that are open to them. The public media of television, radio, the increasing numbers of politically oriented reasoning matter, etc., factors omnipresent in everyone's lives sometime give young people, I am ashamed to say, a better understanding of issues and problems than many of their elders.

The average 18 to 21 year old is a high school graduate.

He has intensive knowledge of the world around him, and the breadth of his knowledge and even of experience is far more than the great majority of our populace had during any previous generation—certainly far more than previous generations. People should acknowledge the product of excellence in education by bringing youth into full participation in public decisions.

A prime pro argument, seldom heard, is that in the immediate post high school years a young man will decide just which way he will go in his life. The U.S. Census Bureau backs this idea up and terms the years from 18–25 as "the ages at which adult roles and responsibilities are assumed." Not only can the habit of voting be matured in those important years, but a young person can discover a way to vent his political feelings, in a sedate and peaceful way—the vote. For example, New York Senator Jacob Javits notes that political activism among 18 to 21 year olds is "all happening outside the existing political framework."

Therefore, he and others of his persuasion, feel that enfranchising 18 year olds would bring that activism within the acceptable democratic framework for instituting social and political change.

In the same vein, Dr. Thomas E. Shaffer, Professor of Pediatrics at Ohio State University, feels that "a lot of irresponsibility (among 18–21 years olds) is the result of not being given responsibility in the first place." Thus, in his estimation, giving the vote to 18 year olds would be a vote of confidence in their ability to assume political responsibility, thus encouraging them to exercise such responsibility wisely.

Also several million young women and more than one million young men 18 to 21 years old have established homes and families but have no vote on the issues at city hall, the courthouse, or the capitol.

A more basic argument is that 18, 19 and 20 year olds pay taxes and in numerous areas of law are considered adults at present. "Taxation without representation is tyranny" applies to the twentieth century as it did to the eighteenth century. Young adults pay heavily in sales, use, gasoline and income taxes. Beyond the idea that the young help support government monetarily, it is easily seen that there is a legal inconsistency—seeing law enforcement as an adult province, while the privilege to vote is withheld as being beyond youth's capabilities. A person is responsible to the law—but not responsible enough to make law in the representative sense.

Most, however, are committed to it, because of the therapeutic nature it will have upon this country. In a society that is adding to its longevity but also to its youth population, the average age 27.7. Yet the average voter's age is 45. How can a nation sustain itself when such a large share of its population has no voice in choosing its government?

Though no organized opposition has yet formed, the "silent vote" is feared by all supporters of a lowered voting age, and it is their task to dispel words such as "ungrateful and immature." These words are currently being leveled at the younger generation, while they should actually be directed at the small percent who have earned such a name.

The Con discussion invariably begins with those persons who are in the political activision of 18 year olds dangerous tendencies that should not be given political expression. For example, they fear that 18 year olds would tend to vote for extreme leftist parties and issues, and presumably their vote could not be balanced by the more conservative voters of their elders. Some even see such philosophies as "anti-adultism" being translated into political policy. There is a hesitancy to unleash a new tool to those people in our society who riot, disturb the peace generally, and appear ungrateful to the past generations who so painstakingly constructed this country to be the finest in the world.

These same people who will vote against the issue see the further consequence of allowing persons as young as 18 or 19 to hold office or be inconsistent suggesting less than true confidence in the work of majority rule. However, the Founding Fathers felt that a person should be 25 years of age to be a U.S. Representative, 30 to be a Senator, and 35 to be a President, which certainly indicates they saw no major problem with an "inconsistency" between being able to vote for an office and actually holding one.

Tied to the issue, is concern from both parties that the new voters would register more in one party than another, a thought which is easily dispelled by several polls.[4] Partisanships on the issue, nevertheless is better kept, out, placing country above party or personal gain.

[1] The authority of the states to determine voting qualifications is embodied in the 10th amendment of the U.S. Constitution providing that any power not specifically granted to the federal government, nor denied to the states, is reserved to the respective states or to the people. The 14th amendment protects against the denial of suffrage to persons twenty-one years of age, but it does not purport to set twenty-one as the legal voting age.

Every state, except West Virginia, has a constitutional provision setting an age qualification upon suffrage. Therefore, any state changes in the age qualification to vote would require a constitutional amendment in the other forty-nine states.

[2] Mexico may beat the U.S. to the punch giving 18-year-olds to vote. The change is now under study. President Diaz Ordaz likes the idea. He says youngsters today are better prepared to vote at 18 than his generation was at 21. More than 58 percent of Mexico's population is under 21, with 3 million between 18 and 21. With youth clamoring for change, the President says, the vote could head off possible future violence.

[3] U.S. News & World Report disclosed that of the 34,000 U.S. Servicemen killed in Vietnam since 1961, about half of them were too young to vote in most states.

[4] A George Gallup poll revealed the following breakdown:

George Gallup Poll

	Percent
1 to 29 years:	
Republicans	22
Democrats	38
Independents	40
29 to 49 years:	
Republicans	25
Democrats	44
Independents	31
50 and older:	
Republicans	30
Democrats	46
Independents	24

An examination of the results by other groups among those 21 to 29 shows the democratic party with an advantage in each case except among persons with a college background, where party allegiance is evenly divided.

Independents among young voters are found more frequently among men than women, white persons than Negroes, and the college-trained than persons with less formal education.

The political affiliation of persons in their early twenties (21 through 24) closely parallels the results for persons in their late twenties (25–29), although the proportion of Independents is slightly lower among the older group.

The political question is really neutralized since both parties support it, but you will still hear that it is generally recorded by political scientists that newly enfranchised voters are, for a period of time, grateful to the party that enfranchised them. The Whigs made a big thing of it during the 19th century in England, as did the Republicans and then the Democrats in the United States in vying for the Negro vote.

The drinking issue too is drawn into the discussion, many persons being hesitant to vote for Vote 18 or 19 if it allows people that young to drink hard liquor. The fact here, is that the drinking age is determined solely by statutory enactment, i.e., acts of the legislature.

The pocketbook certainly cannot remain divorced from any political issue and we find this true with the voting age discussion. Many persons fear that the young voters would vote unnecessary and additional taxes—a thought buried by political scientists in Kentucky and Georgia, both states with 18 year voting.

It remains only to be said, that the reasoning of those who favor the lowered voting age is extremely logical, they look at the increased responsibility; the de facto situation of the young person in this modern, complicated society. They stare in wonder at the changes of society as every newer and closer (to them) generation takes responsibility and they wonder why they are excluded. Is the age of knighthood, *"21"* an extremely arbitrary determination, to remain the institution it is? Will those who ask for a change be successful in persuading a majority of the electorate that it will be a competent and equitable change or will we force them to the streets.

NARCOTICS AND DANGEROUS DRUGS

Mr. MONTOYA. Mr. President, each and every time that we pick up a newspaper, there is, inevitably and unfortunately, an account of a murder, robbery, rape, or aggravated assault, both in our Nation's Capital and throughout the United States. My own State of New Mexico is no exception.

The 1968 version of the FBI report entitled "Crime in the U.S." documents that in 1968 almost 4.5 million serious crimes were recorded, a 17 percent rise over 1967. The reason for our crime increase has been due to an increase in the use of narcotics and dangerous drugs. Addicts and chronic users of dangerous drugs increasingly resort to crime to obtain the necessary money with which to support their drug habit.

Recently the Albuquerque Journal published an article about the war on narcotics along the Mexico-United States border and underscored the serious overall implictations of the problem of crime and the use of narcotics and dangerous drugs in the United States. According to the article, Assistant District Attorney Donald J. Wilson, of Albuquerque, estimated that 75 percent of all burglaries in Albuquerque are committed "either by addicts or people who have been addicts." Clearly, then, our crime problem is not only a problem of better law enforcement but of preventing a situation—such as drug addiction and use—from occurring.

Of course, there are other reasons for the increase in crime, such as crowded, unfit conditions in our major metropolitan areas, inequitable distribution of opportunities for our citizens, and the like. One thing that I believe will contribute to curbing the crime problem, and that relates to the drug abuse problem, is the urgent need for establishing drug-abuse prevention and rehabilitation centers. A bill I introduced on July 10 would provide the authority and funds to States for that specific purpose. It is my hope that the Committee on Labor and Public Welfare, under the able chairmanship of the Senator from Texas (Mr. YARBOROUGH), will act favorably on the measure.

The FBI reports that narcotics and dangerous drugs arrests were up by 64 percent in 1968 over 1967. This increase was primarily due to the greater number of users among people 18 years of age and under.

The crime problem in the United States must be attacked on all fronts, by improving our law enforcement efforts, improving our court administration, improving our penal system, and improving and revising our educational system. I believe that information and education rather than repression and ignorance of the facts of life concerning the inherent dangers of harmful narcotics and dangerous drugs are the most intelligent ways to discourage the indiscriminant use of drugs among our youth. The use of narcotics and dangerous drugs does no good to the individual, threatens the entire social structure, and therefore our society.

So that others may share my thoughts on this subject I ask unanimous consent that an address made recently on narcotics and dangerous drugs be printed in the RECORD together with the October 1969 article published in the Albuquerque Journal.

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

REMARKS BY SENATOR JOSEPH M. MONTOYA, NARCOTICS AND DANGEROUS DRUGS PREVENTION SEMINAR—ALBUQUERQUE, N. MEX.

Thank you, Jim, for that introduction. And thank you, ladies and gentlemen, for the fine turnout.

There are many people who were responsible for making this Seminar possible, and I would like to begin this morning by thanking them. I want to thank the Disabled American Veterans, Cutting Chapter #3, and the New Mexico Medical Society for their invaluable advice, assistance and support; and I want to recognize the Federal Bureau of Narcotics and Dangerous Drugs for their technical advice and assistance, and for making it possible for us to have their fine personal representation at the Seminar, and the National Institute of Mental Health for their support and assistance—their contributions are greatly appreciated. I also want to express my sincere thanks and appreciation to those of you who will be making formal presentations and last, but not least, I want to thank my staff for their efforts—especially Mark Greenfield—for his persistance and hard work.

Let us now begin the serious business. Why are we here today, and what can we hope to accomplish?

First, why a Drug Seminar? Others will go into it this morning in more detail, but I would like to answer that question briefly at this time. I believe we are all here today because there is a wealth of alarming evidence that the use of dangerous drugs generally, and particularly among our youth, is rising, and promises to continue to rise unless we—as responsible members of society and the community in which we live—do something to counteract the trend. That's it in a nutshell. No fancy phrases, no complex theories, just the plain fact that there is a drug use problem and it's on the rise. We can avoid the truth, we can return to the sanctuary of our homes and hide from the facts—but it won't do. It won't do each of us any good, nor our neighbors, nor the community at large. According to the figures I've seen, New Mexico ranks 10th in drug use in the nation, while ranking only 37th in population. Certainly this indicates we're involved beyond a small degree.

My concern is that our State, which is relatively undeveloped but has tremendous economic growth potential could be undermined by inaction and indifference to problems of the youth of our State. Population statistics show an ever increasing number of our young people migrate out of the State each year. Jobs are difficult to obtain here. There is so much to do that has been left undone. With all these basic developmental problems our State can ill afford to neglect to educate our children about the inherent dangers surrounding the use of narcotics and dangerous drugs.

The national crime statistics for 1968, made public this month, show an incredible and frightening increase in narcotics offenders among our youth. According to the report "Crime in the U.S." prepared by the F.B.I., in 1968 the number of violations of narcotics drug laws rose by 121% in the under-15 age bracket, and by 104% in the under-18 age bracket. According to the same report—one-half of all serious crimes in the U.S. were committed by persons under 18 years of age. And nearly one-fourth by persons under 15 years of age. The National crime rate has almost doubled in the last eight years, in 1968 there were 4.5 million crimes committed in the U.S., up 17% from 1967. Narcotics arrests in 1968 were up 64%. New Mexico shares in all these statistics.

According to the U.S. Senate's permanent Investigations Subcommittee and I quote, "next to professional gambling, most law enforcement officials agree that the importation and distribution of narcotics, . . . is organized crime's major illegal activity."

But more than illegal drug traffic is involved.

The impact of the ever-growing problem of drug abuse and addiction must be obvious to each one of us—not only does it destroy the lives of individuals who have succumbed to the habit through its physical and emotional effects, but also it threatens the destruction of our socley. An addict's physical dependence becomes the focus of his activities, leaving little room for considerations of job, family and worthwhile participation in the activities of the community. Supporting the habit requires huge sums of money, usually inaccessible unless obtained through illegal means, resulting in a high rate of robbery and assault.

The beneficiary of narcotics and dangerous drugs is organized crime syndicates. Profits from illegal narcotics trafficking is estimated at $350 million yearly. The losers are the American citizenry. Honest law-abiding citizens. I am convinced that we can, if we begin now, make it extremely difficult for organized crime to make a living through illegal narcotics traffic in New Mexico. If we do not act soon though, our State will spend each year more and more money on often futile police investigations while narcotics becomes the mainstay of a free society's worst enemy—organized crime. I am not for the perpetuation of crimes' major outlets of activity, such as professional gambling, loan sharking, infiltration of big business, takeover of legitimate unions—all of these act to subvert the democratic process and undermine our social structure. Illegal trafficking of narcotics and dangerous drugs will do this. We can deny criminals one avenue

of profit and promote a better America by educating our children about the dangers of narcotics and dangerous drugs.

Over the years the front line of attack against misuse of drugs has been the law. The Federal government has been searching for effective deterrents to drug abuse for at least 60 years, but as we can see the problem is intensifying. Stiff penalties accompany Federal drug laws—first convictions for buying, selling or possessing marijuana have penalties of 2 to 10 years and subsequent convictions have increasingly stiffer penalties. Federal laws banning the importation of dangerous drugs have been in effect since 1909. Most States have enacted their own drug laws; nearly all are very stringent. For example, in the State of Washington the penalty for the first offense of possessing narcotics is 5 to 10 years in the penitentiary plus a fine of $10,000. However, punitive measures alone are ineffective. In 1967 there were 95,417 arrests by Federal authorities for violations of narcotic laws. One F.B.I. study of persons who had been convicted on narcotics abuse charges and were released on probation, parole or mandatorily indicates a high rearrest rate; of those on probation, 71% were rearrested; of those paroled, 60%; of those mandatorily, 59% were rearrested.

Laws to control drug traffic are also largely ineffective. The Bureau of Narcotics and Dangerous Drugs reports that they impound only one-tenth of drugs being illegally imported. This does not include drugs from clandestine laboratories within the country. I think we should understand that no matter how comprehensive and extensive drug abuse laws are, they are useless unless enforceable. The scope of the drug problem in the United States today illustrates the laws are obviously unenforceable. The problem is getting more and more serious and it is time that we pursued additional approaches.

The additional tool which we need is education.

An intensive program of drug education at all levels of our society with contributions for our national, State, and local authorities is the only answer in arresting the spread of what is becoming national subculture.

What especially concerns me, as I have indicated before, is that the younger generation is rapidly gaining the title of the "drug generation." The age of drug users has dropped even to the elementary school level! The increasing tempo of drug use among students is starkly illustrated by this fact: while it took about ten years for illegal drug experimentation to spread from the intellectual-artistic groups to graduate students, it took about only 5 years for regular use to spread to the undergraduates, only two or three years to reach the high school level, only two years to reach the elementary grade school children! Illegal drug use is no longer confined to the liberal campuses of the East and West coasts or the large universities, but is as close as the school around the corner from your home.

The National Institute of Mental Health reports that in 1967 about 20% of all the Nation's college students admitted experience with marijuana. Most statistics are gained from local studies. One California study put drug experimentation by college students in 5 universities well above the 50% mark. A recent survey of San Mateo, California high schools was running about 26% with marked increases from 1968 to 1969. Another report estimated use of marijuana in Southern California high schools as over 50%.

I think we all realize that drug experimentation and regular use among young people of high school and college ages has developed into a fashionable and accepted phenomena. However, it is a mistake to think that today the acceptability of drug use and experimentation is confined to the peace-profession flower children—for it has broken the margins of our so-called conventional society. Today's middle and upper class high school students find fascination in drugs. Why? There are a number of conjectures—stories passed among peers of experiences with drugs, popular flouting of parental authority, a feeling of security in being involved in an "in" craze. Probably the most important realization we must come to as adults, educators, enforcement officials, guidance counselors, and parents is that drug use is acceptable to a large portion of the younger generation. Here then is the crux of the problem—our efforts must be centered on extensive education of our youth on the many dangers of drug use.

We can no longer avoid recognizing the problem of increased use of drugs by youth, and assume it will go away like any other "fad." Nor can the adult community crusade *against* use of narcotics and dangerous drugs with such enthusiasm that truth and objectivity are sacrificed to pure negativism. No bright young person will accept an anti-drug stand on the basis that he will be a "criminal" or an addict for life because of his experimentation.

As far back as 1963, the President's Advisory Commission on Narcotic and Drug Abuse included in its report strong recommendation for extensive drug education programs, to dispel distorted attitudes on drugs of the general public and many professional circles. The report also stressed the need for an enlightened educational campaign for the general public, and especially one for professional personnel whose activities touch upon some aspect of the problem such as physicians, lawyers, social workers, educators, and others. The Commission stressed that an educational program focused upon the teenager is the essential aspect of any program to solve the social problem of drugs. The teenager should be made aware that, although the world of drugs may seem exciting and offer an escape from the world around him (or in some cases entrance into his peer-world), in the long run drugs will destroy him and all to which he aspires. The Presidential Commission report completely rejected the notion that if the teenager is educated in the field of drugs it will tempt him to experiment. I think each one of us here is aware that temptation will reach the young person long before educators can. I believe strongly—that we should go on the premise that in our American way of life, the fundamental belief is that information rather than repression is always the better avenue to follow.

The final recommendation of the Commission was that it was the Federal government's role to see that a core of information and educational materials be prepared by the Secretary of the Department of Health, Education, and Welfare to provide the public and all professions involved with accurate knowledge on narcotic and drug abuse to combat misinformation. The information and educational materials would be developed by the National Institute of Mental Health and the Federal Bureau of Narcotics. They should be aimed at the many audiences involved—parent, teenager, college student, and professionals. This report stressed that the Federal government could do little else than supply these materials through the National Institute of Mental Health, and educational lectures and technical assistance from the Federal Bureau of Narcotics. It should be up to the States, municipalities, community groups and private organizations to use the Federal resources. I believe it is time we examined carefully their recommendations and determined what Statewide action should be taken.

Three years later, in 1966 the President's Commission on Law Enforcement and the Administration of Justice reported on the appalling inaction in the area of drug abuse education. The Commission recommended that educational aspects of drug abuse control be concentrated in a single Federal agency for greater efficiency. Last year a House of Representatives bill was introduced with this intent, but the measure was defeated.

I, and others in the Congress realize the inaction of the Federal government in this area has contributed to the continued unchecked rise in drug abuse.

The recommendations of the Presidential Commissions, medical societies, and private organizations has resulted in educational materials being produced—but not nearly enough implementation of Statewide education programs has been realized.

To this end I have introduced a bill in the U.S. Senate, S. 2592, entitled the Drug Abuse Control Act of 1969. If passed the Federal government will provide grant assistance for drug education programs through the Department of Health, Education and Welfare; it will charge HEW with the responsibility of disseminating educational materials to State and local agencies and non-profit private organizations; also, it will authorize HEW to provide advice, counsel, and technical assistance for drug abuse prevention programs; and will require HEW to issue an annual report on drug prevention programs. Both in the House and Senate this year the prospects for passage of a Drug Abuse Education bill are good. But passage of this bill will only provide the money and technical assistance to help implement a program. The impetus, and ultimately the success of a drug abuse prevention education program—will depend upon you. It will depend upon the individual initiative of each and everyone of you working through your respective organizations and groups to see to it that New Mexico responds to the need.

In this connection, and for purposes of discussion, elaboration, and I would like to offer the following suggestions for your consideration.

First, consider this Seminar as a beginning, hopefully, a beginning of similar, and naturally smaller seminars, in the State so that the information obtained here can be passed on to other groups, individuals, and of course to students.

Second, I ask that you consider the feasibility of establishing a Drug Abuse Prevention Studies Committee or perhaps as an alternative, you might consider the possibility of establishing a study Committee within the community, with representation from the schools in the area, the local governmental and enforcement officials, and appropriate civic and social groups. The purpose of the committee would be to determine the extent of the problem, and prepare a plan for an on-going Statewide Drug Prevention education program for the next five years.

Third, I suggest you identify a single State agency, that will be responsible for a Statewide drug prevention program. In the very near future any Federal assistance monies to be obtained will require a detailed proposal with matching State funds, and will require State professional staff assistance who will be responsible for administering the program.

Fourth, I ask you to consider carefully the experiences and proposals offered by today's Seminar participants and determine ways in which their recommendations may be adopted to New Mexico's needs.

Fifth, I recommend that you consider a broad program of teacher education be established, and that new curricula and teaching methods be developed for Statewide use.

I am sure there are many other ideas and approaches to be considered, and I look forward to today's proceedings for them.

SUMMARY

Drug education is not a responsibility of the public schools alone—but of all segments of the community—parents, teachers, law enforcement officials, physicians and nurses, social workers, and the students themselves. As responsible professionals and leaders of the community you can lead the way to community cooperation—you have the closest contact with the drug problem because you alone have daily contact with those involved. It is our responsibility to understand and educate young people. But, it will not suffice for drug education to stop with the student or stop in the schools. Only when our alienated young go home to an atmosphere of frank discussion, understanding, and a well informed older generation, will our preventive approach be of value.

Only by educating ourselves and our youth about the dangers of narcotics and dangerous drugs can we deal effectively with the rise in drug usage in New Mexico. In the final analysis it is this same approach—creative and responsive education—that will combat many of the social ills of our society. For if we continue—as we have in the past—to ignore the problems of our society—and retreat into a shell of punishment-oriented self-righteousness we will have only ourselves to blame.

I now would like to ask our distinguished Attorney General, Jim Maloney, to begin what I am confident will be a very interesting program.

[From the Albuquerque Journal]

WAR ON NARCOTICS COULD HIKE PRICE, BURGLARIES HERE

(By Mike Padget)

A city narcotics agent anticipates a hike in prices of illicit narcotics as well as an increase in the number of burglaries in Albuquerque—if President Nixon's "Operation Intercept" proves effective.

The agent, who requested that his name be withheld, said the recent crackdown along the Mexican border by the Nixon administration also could mean mass weekend exoduses to the Midwest by the area's "pot heads" to pick marijuana from fields where it grows wild.

"I definitely think the addicts are going to burglarize more if the price of narcotics goes up," the agent said.

He said most of the pushers in Albuquerque procure their hard narcotics and marijuana from "Mexican border towns."

Many of the other drugs, such as LSD and a small percentage of the amphetamines, are brought into the area from California, he said.

The marijuana smokers—although they tend to prefer the Mexican grass—probably will make some attempt to establish sources in the Midwestern states, he said.

"I know of some instances involving local people where someone has driven all the way to Kansas to pick marijuana," he said. "There are many places there where it will grow wild in large patches.

"I would say the traffic would increase that way (to the Midwest), but the user will have to have a contact to know where to go to pick the stuff. If enough people find contacts, the traffic will get pretty strong," he said.

On the other hand, some of the marijuana smokers may choose to "try something else," because they say state-side marijuana doesn't provide enough kick, he said.

"It's been my experience in talking to people that they would prefer not to smoke the local grass because it doesn't have the kick that the marijuana grown in Mexico has," he said.

The city agent said the average cost for a "cap" of heroin in Albuquerque is $5. He said to his knowledge the price has not yet changed, illustrating that Operation Intercept has not been effective long enough to diminish the local supply of the drug.

However, he said, if the massive drug search program at the border proves itself, the price probably will jump to about $7.50—the average cost of a cap in states farther north from the Mexican border.

"If this happens, I anticipate a proportionate increase in the number of burglaries," he said.

Many addicts in the advanced stages have a need for as many as 20 caps of heroin daily, he said. (A cap contains enough of the drug for one fix.)

"You can see that this can get to be a very expensive habit," he said. "These people, when they're not mainlining, will be plotting for a way to get money for their next fix."

Most addicts consider committing a burglary the "easiest" method of obtaining money to feed their habit, he said, because the goods can be easily turned over for instant cash to known "fences."

Asst. Dist. Atty. Donald J. Wilson estimated that 75 per cent of all burglaries in Albuquerque are committed "either by addicts or people who have been addicts."

The only problem the addict faces is that he is paid only a small percentage of what the stolen item is worth.

"I know of at least one case where an addict had stolen a $1000 color television set and then sold it for $25. But he's willing to do it, because that much money is enough to pay for his habit long enough for him to steal something else and sell it," he said.

DECISION EXPECTED SOON ON WISCONSIN DDT CASE

Mr. NELSON. Mr. President, the Wisconsin Department of Natural Resources began hearings last December on a citizens petition to ban the use of DDT in Wisconsin.

The petition, filed by the Citizens Natural Resources Association of Wisconsin and the Izaak Walton League, stimulated the first major public confrontation between the pesticide industry and concerned citizens and scientists on this vitally important environmental subject.

At issue in the proceedings is whether the department shall issue a ruling declaring DDT to be a highly toxic, persistent chemical that should be restricted in use so that it cannot enter the biological, geological, chemical, and ecological cycles of the biosphere, and also make a ruling that the use of DDT constitutes pollution.

After having several weeks of hearings on the case, the Department of Natural Resources has just completed assembling 46 volumes of testimony and exhibits and have been distributing the documents to all parties involved. The parties have 30 days in which to file their briefs, and then another 15 days in which to file answers to each other's briefs. So we can expect the long-awaited decision from the department in about 2 months.

News articles published in several Wisconsin papers have reported that the pesticide industry has been attempting to block the decision by the State Department of Natural Resources. The industry contends that the entire case should be handed over to the newly created pesticide review board, recently set up by the legislature to coordinate pesticide regulations among the State agencies.

I feel that it is essential that the Department of Natural Resources retain the final decisionmaking authority on this case. The department's scientific and ecological experts have been deeply involved in this matter for more than a year and should rule on it.

I ask unanimous consent that articles published in the Capital Times and the Stevens Point Daily Journal be printed in the RECORD.

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

[From the Capital Times, Sept. 23, 1969]

CHEMICAL FIRMS TRY TO BLOCK DDT RULING; ATTEMPT SWITCH OF FORUM

(By Whitney Gould)

Concern is growing within the conservation community over an apparent attempt by the agri-chemical industry to block a decision by the State Department of Natural Resources on a petition ban use of DDT in Wisconsin.

That concern is matched by irritation with the department itself, for its long delay in acting on what many scientists feel is one of the most critical environmental issues of the past quarter century.

The department began hearings last December on a petition by two conservation groups—the Citizens Natural Resources Association (CNRA) of Wisconsin and the Wisconsin division of the Izaak Walton League. The petitioners asked that the department, which administers Wisconsin's water quality laws, declare DDT a pollutant and ban its use wherever it might enter the state's lakes, rivers and streams.

The hearings ended last May, after testimony by scientists from throughout the United States, and from Canada and Sweden, linking DDT with the decline of numerous bird species, reproductive failures in fish, and a host of other ecological disruptions that were never anticipated when the pesticide was introduced in the 1940s.

Witnesses for the chemical industry defended DDT as the cheapest and most effective pesticide available for some vegetable crops, and said it was useful in fighting malaria and other mosquito-borne diseases.

In the meantime, the Wisconsin Legislature, with the cautious endorsement of some conservation groups and the enthusiastic support of the chemical industry, set up a pesticide review board to co-ordinate pesticide regulations among the state agencies. The board, which is to meet for the first time this week, will be made up of the secretaries of the Departments of Natural Resources, Health and Social Services, and Agriculture.

Many of the foes of DDT and other persistent pesticides fear that the new board, which lacks any representative from the environmental science community, will be more vulnerable to the pressures of the agri-chemical industry.

Their fears were not allayed earlier this month, when Madison Atty. Willard Stafford, representing the National Agricultural Chemicals Association's (NACA) "DDT Task Force," filed a brief of intervenor with the Natural Resources Department, asking that the petitioners' complaint be dismissed. Stafford pointed to the newly-created pesticide review board, which, he contended takes the DDT question out of the hands of the department.

Conservationists have reacted angrily to the industry move.

One of the most irate is Victor J. Yannacone of Patchogue, N.Y., attorney for the Environmental Defense Fund, Inc., which handled the case for the petitioners in the Madison hearings. The petitioners have until Oct. 15 to respond to Stafford's brief for dismissal, and they plan to do so, according to Yannacone.

"It is an affront to the people of the state of Wisconsin," Yannacone said in a telephone interview, "and to the people of the United States, for the NACA to make a move at this late stage to prevent the full impact of the first direct confrontation involving DDT with any degree of scientific sophistication and legal due process, from being presented, and a finding of fact and legal determination from being made under Wisconsin law.

"The petitioners, who through the Environmental Defense Fund were representing the environmental science community, and the helpless citizens of this generation, and the voiceless children yet unborn, came to Wisconsin because only the enlightened administrative procedures of this state, developed as they were over 50 years of social evolution, furnished a forum where the full DDT controversy could be aired, free of the emotional, political and economic pressures that have so influenced prior attempt to evalutate the full impact of DDT on the biosphere."

Yannacone called the Stafford brief "another example of the ruthless, callous and unprincipled attempts by a handful of chemical companies to prevent the development and distribution of environmentally safe, ecologically sophisticated pesticides."

Dr. Charles F. Wurster, a biologist at the State University of New York at Stony Brook who led witnesses for the petitioners in their attack on DDT, was equally indignant.

"It's perfectly clear," he said, "that the NACA is doing everything it possibly can to prevent a decision from being made by someone who knows the facts about DDT. They're scared to death of the truth."

He charged that the NACA is "fundamentally a propaganda organization, trying to hush up and bury the weight of scientific evidence (on DDT) by brainwashing the public into thinking it can't live without DDT."

A telegram in behalf of the petitioners, asking the Department of Natural Resources to finish up preparation of a transcript of the hearings without further delay, was sent to Natural Resources Secretary Lester P. Voigt last week by CNRA president, Dr. Frederick Baumgartner, a professor of wildlife at Stevens Point State University.

Voigt, however, insists the department is moving as fast as it can. "We're urging the staff to do everything possible to get the transcript out soon," he said, "and I think they're doing a fine job, despite the natural impatience of the litigants."

Hearing examiner Maurice van Susteren, who conducted the DDT proceedings for the department, said that the transcript—which will run some 4,000 pages, including some 200 scientific exhibits—may be ready "in a week or two, unless somebody comes along with a higher priority item."

The length of the testimony, a shortage of court reporters, and the pile-up of other business have slowed up publication of the transcript, both department spokesmen said.

It is not known at this point just who will make a decision on Stafford's motion for dismissal. "Our legal division will review it," Voigt said, "and we may consult with the attorney general's office on the matter."

A decision on the petitioners' original request for a DDT ban, in turn, depends on the outcome of the dispute over who has ultimate authority in the matter: the DNR, or the new pesticide review board.

Within the department itself, according to Voigt, the procedure would be as follows: van Susteren would prepare a recommendation on the petition and refer it to Voigt, who would then pass it along to the policymaking Natural Resources Board. Whether that board's finding would be final, or merely a prelude to action by the pesticide review board, is the central question now.

Voigt denies that the pesticide review board will be more open to pressure by special interest groups.

"Ordinarily, when you have more people involved," he said, "the more difficult it would be to exert pressure and influence—though I would hesitate to think that pressure would have an effect in either case. We're optimistic about the review board because it seems to offer an orderly way to establish some sort of control over contaminants in the environment."

Four months have elapsed since the Madison DDT hearings ended. And the powerful pesticide, though banned from sale in Michigan and under sharp attack by scientists throughout the world, is still being applied to crops in Wisconsin and other states. It is making its way into waterways, into the bodies of fish and birds and man as well.

Scientists fear that if decisive action against this long-lived chemical is not taken in Wisconsin, which provided the first broad-based forum on its hazards and benefits, the results bode ill for the ability of any policy-making government agency to meet environmental crises.

[From the Capital Times, Sept. 24, 1969]

WILL PROFITS PREVAIL OVER HEALTH IN DDT DISPUTE?

Four months have passed since the Wisconsin Department of Natural Resources concluded its historic hearings on a petition to ban further use of DDT in this state.

World-wide attention focused on Wisconsin during those hearings, which provided the first genuine, public forum for respected scientists from throughout the U.S., and as far away as Canada and Sweden, to tell the DDT story in full.

And it was an environmental horror story of the first magnitude.

The scientists who came to Wisconsin linked DDT to lowered reproduction among many of our birds of prey, which are already threatened with extinction.

They told how the pesticide interferes with the process of photosynthesis in the tiny marine organisms that are at the base of the world food chain, and how DDT builds up at progressively higher levels of that chain.

They also warned how dangerously persistent DDT is, once even small quantities are released into the environment.

And in the end, they made an eloquent plea for ecological sanity at a time when all of the world's natural resources are threatened with corruption by man, the despoiler.

On the other side of the table was the pesticide industry with its economic muscle and well-oiled propaganda machine, defending its obsolete product with the feeble passion of the cigarette industry—all the while ignoring the well—documented facts, maintaining that "not enough is known" to indict DDT, raising the spectre of a malaria epidemic if DDT were banned.

Unable to mount a convincing case for DDT in the DNR's hearing room, the industry is now trying to prevent this Wisconsin agency from rendering a decision on one of the most crucial environmental issues of our time.

The industry instead wants to transfer the matter to the state's newly-created pesticide review board, in hopes that that body, which includes a representative from the Department of Agriculture, will either delay action indefinitely or be unsympathetic to a DDT ban.

Wisconsin citizens who care about the quality of their environment must be shocked at this brazen attempt by persons who put private profit above the public interest.

We urge the Natural Resources Department to act decisively against the industry's move and to exert its clear authority in the administration of Wisconsin's water quality laws, to outlaw use of this chemical killer in our state. The evidence is incontrovertible; further delay is indeed an invitation to disaster.

[From the Stevens Point (Wis.) Daily Journal, Sept. 24, 1969]

BAUMGARTNER HITS DELAY IN DDT DECISION

A wildlife professor at Stevens Point State University reports a private organization he heads will go on record next weekend in opposition to the Department of Natural Resources' delay in issuing a decision on the use of DDT.

Dr. Frederick Baumgartner is president of the Citizens Natural Resources Association which will hold its annual meeting in the Wausau Holiday Inn Saturday and Sunday.

"We consider unpardonable the four-months' delay in completion of the transcript of testimony presented" (in hearings earlier in the year sponsored by the CNRA), Baumgartner said. "If necessary, we are prepared to use pressure available to obtain a decision in accordance with the best interest of the people of Wisconsin."

His statements have been sent in a telegram to Lester P. Voigt, secretary of the Department of Natural Resources.

The CNRA spent about $52,000 at the hearings. Baumgartner said testimony and a rebuttal from agri-chemical people were to have been studied and a decision made by department officials. The results are overdue, he said, "and the agri-chemical representatives have petitioned that the testimony be dropped and the matter be taken up at the annual meeting by a new pesticide review board recently set up by the Legislature."

Discussion also will center on the Navy's plan to build Project Sanguine, a long-range communications facility that would spread a buried cable grid across the northern half of the state.

"Our concern is that no one knows much about it—we're wondering what it would do to the ecology of the area, how it would affect wildlife and ground temperature." he said.

A slate of candidates to be presented to the membership for re-election includes Baumgartner as president.

CAREER EDUCATION

Mr. PROUTY. Mr. President, in an address to a national workshop on Federal programs that the American Association of Junior Colleges gave on October 3, in Washington, Secretary of Health, Education, and Welfare Robert Finch offered a concept which I hope Congress will study with care.

Secretary Finch gave this concept the name "career education." In it, I see the promise of a great national goal—a rallying point on which all of the more than 400 Federal programs fostering both formal education and manpower development might be harmonized and coordinated.

The Secretary also spoke at length on his plans to improve education and to strengthen community colleges. He cited some startling figures on the growth of 2-year colleges. While the junior colleges have nearly doubled in the number of campuses since 1960, they have tripled in total enrollment in the last decade and now serve at least 2 million students.

I am not sure that complete enrollments have yet been compiled for all colleges this fall, but Mr. Finch has indicated that this was the year when, "for the first time, more freshmen entered junior colleges than 4-year institutions."

I know that the junior colleges long ago passed that milestone in the Secretary's own State of California. In my own

State of Vermont, however, we still have much work to do. Although our local schools give more-than-adequate training through the high school level, many of our top graduates leave the area for employment in cities where there are more opportunities for advanced education. This is a problem that is facing most rural parts of America, and I think the community college and career education concepts offer the best solution proposed so far.

Equally significant, he noted that one-fourth of all black college students are now concentrated in public community colleges in three cities—New York, Chicago, and Los Angeles, adding:

> In virtually every large American city, more blacks study at public community colleges than all nearby institutions combined.

To turn these trends in the national interest, and to gain the full promise of the community college movement, he called for a concerted Federal response, based in part on new legislation, but more largely upon a vigorous attempt to orchestrate the many Federal programs that already exist. While reporting that the Commissioner of Education is setting up a new Office of Community College and Career Education Programs, Mr. Finch declared:

> We plan to give this office the greatest visibility and maximum authority to work not only within the Office of Education, but with other elements of government—the Department of Labor, OEO, HUD, the Veterans Administration, and the Departments of Defense and Commerce.

It is a heartening move. Surely the attempt is long overdue. The number of Federal programs dealing with education today is enough to stagger the mind. The Secretary has testified to Congress that the number now exceeds 400. To many schools and colleges trying to utilize Federal resources, this list, I know, is a staggering morass. I am sure the often bewildered institutions find themselves pulled in scattered directions by the various Federal programs. In some instances, I think the programs tend to pit one branch of education against another.

Most clearly, there is a crying need for coordination. I hope that Congress will encourage Secretary Finch in this initiative. At the same time, I hope we will not enact additional major programs without ourselves facing up to the issue of coordination. The national interest will not be served by further proliferation and duplication of services which have the effect of compounding competition and overlap among Federal programs.

We are long past the day when we can afford to set up any large program in a vacuum. As we develop the new manpower legislation, for example, I think we must develop it in close harmony with the proposed new community college and career education programs. Higher education and occupational education must, as Secretary Finch suggests, work in concert. So must manpower development and education. Both will achieve much greater results if they are coordinated and orchestrated. I am pleased that Secretary Finch proposes to take his legislative drafts into regional conferences, to monitor the grassroots response, and to encourage greater local teamwork.

The burgeoning importance of 2-year colleges to nearly every State and the growing national demand for easier access to higher education make Secretary Finch's address well worth the contemplation of the entire Congress. I ask unanimous consent that the text of the address be printed in the RECORD.

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

ADDRESS OF SECRETARY OF HEALTH, EDUCATION, AND WELFARE ROBERT FINCH

I appreciate very much the opportunity to address your workshop today, and I welcome the change to continue our efforts together.

When I was first designated Secretary of Health, Education, and Welfare, I articulated the importance of the community college mechanism. At a recent Governors' Conference, I advocated the necessity for long range State planning for the initiation and growth of these institutions. But my California experience with community colleges also injected a note of caution: California made mistakes which should not be repeated. And so today, I want to explore—just as in our HEW initiatives we are carefully exploring—some of the problems and prospects of this high potential institution.

We are confronted at the outset with the explosive growth of the community college—a truly unique American educational effort. It is a development as revolutionary for this this era as was the land grant college concept for the nineteenth century.

Community colleges now number a thousand—almost double the 1960 count. The Carnegie Commission on Higher Education has urged the establishment of an additional 500 by 1976.

Enrollment has been growing even more rapidly. Today, 2-year colleges serve about two million students—three times the 1960 count. This year, for the first time, more freshmen entered junior colleges than entered four year institutions.

The mushrooming growth of the community college promises to be the chief means of approaching universal higher education in the United States. It is already of critical importance to poor and otherwise disadvantaged students, notably blacks.

For black Americans, the public community college has the potential for becoming the most promising single avenue of higher education. The reasons are obvious: these are the accessible institutions—geographically, financially, academically. A quarter of all black American collegians are concentrated in public 2-year colleges in New York, Chicago, and Los Angeles. In virtually every large American city, more blacks study at public community colleges than all nearby institutions combined.

The dynamic nature of today's community college involves problems, I hasten to add, with which you are all too familiar. We have a very uneven template. Prestige is often low. The community college suffers, in some quarters, the same unfortunate stigma as the vocational school—wrongly regarded as dead-end education.

At the same time, to the extent that it goes outside the vocational sphere, it is regarded in some circles merely as a watered down version of the senior college. And in some instances, let's be candid to admit, it is.

There are dismal statistics behind these impressions. According to one study, a little over 50 percent of all students in 2-year colleges require remedial or compensatory programs. The drop-out rate is over 50 percent for all enrollees, and is especially high among the disadvantaged—maybe as many as eight out of ten. Faculties are often staffed by instructors trained for purposes other than community college teaching.

Community colleges also are handicapped by confused lines of authority and responsibility in their dealings with State and Federal officials. The natural difficulties of institution-building are complicated still further by uncertainties—uncertainties about the community college role in relation to secondary and higher education . . . uncertainties as to research and experimentation, faculty status and community service activities.

Nonetheless, for all the problems it confronts, the community college represents literally one of the most exciting possibilities for educational opportunity in history. I hope, as we proceed, that the dimensions of this possibility will emerge.

Another set of trends that particularly concerns me lies in the imbalance of the labor market. Ironically, unemployment is not the biggest single factor contributing to poverty in this Nation. The majority of those millions classified as poor live in households in which the father or mother both work—and one of them works full time. We thus face major problems with the discouraged worker who is expected to work full time . . . at low wages . . . with little or no chance of advancement.

On the other hand, in nearly all the professions, there are severe and probably growing manpower shortages in jobs which would lead to challenging and fruitful careers.

As important as job training is—to provide equal opportunity, to reduce unemployment, and to end the vicious cycle of dependence—a job is simply not enough. Least of all, let me add, a job that holds out no hope for advancement.

We must be concerned with career education for the young and continuing education for those presently employed. There is no other way to break the cycle of underemployment. There is no other way to prepare our Nation and ourselves for the rapid pace of social and technological change.

The distinction between a job and a career . . . and the importance of maximizing the life-style options at all stages of life . . . can be seen in the frustration today of the middle America—the "forgotten American"—the group of people characterized by one recent article as "The Burnt-Out and the Bored."

Both ends of the contemporary, rigidly-programmed life-cycle press upon this group. It is they who must support the education of the young and the retirement of the old. They have the heaviest responsibilities—emotionally and financially—and the fewest opportunities to escape. These Americans should have opportunities for a new life style. A new career and a new chance for learning . . . quite as much as their sons and daughters.

The Federal response must address both these developments—a burgeoning community college movement still in search of a role . . . and a growing demand for skilled manpower in rewarding careers.

We turn, as seemingly we always turn, to our educational institutions for this dual response. We are now developing—the name is a real jawbreaker—a "Comprehensive Community College Career Education Act of 1970." It will propose that the community college become the capstone institution for a career policy for all Americans.

To insure the commitment of this Administration to deliver career education, the Commissioner of Education is organizing a new office of Community College and Career Education Programs. We plan to give this office the greatest visibility and maximum authority to work not only within the Office of Education, but with other elements of government—the Department of Labor, OEO, HUD, the Veterans Administration, and the Departments of Defense and Commerce.

In these areas lie sources of funding for the disadvantaged and the underutilized. These sources currently lack the effective delivery vehicles which the community college mechanism can become.

The Commissioner will establish priorities under such existing programs as the Education Professions Development Act, the Vocational Education Act of 1968, the Higher Education Act, and the Elementary and Secondary Education Act. He will also be under mandate to develop new legislation for career education, if it is called for. His search will be for new lines of communication . . . and cross-fertilization . . . among all our educational institutions.

We are out to renew American public education from early childhood through graduate school. We believe that the community college is a key vehicle in such renewal. I include under this general rubric community colleges, junior colleges, technical institutes, university extension centers, and satellite campuses—public and private institutions both, which offer from one to three years of post-secondary education. Federal planning should not constrict the variety of potential institutional models.

Let me hasten now to add some caveats. The mold is not fixed. We do not seek the establishment of a nationally directed and controlled community college system. In pointing to some major tasks that community colleges should undertake, I do not mean to denigrate the healthy pluralism fostered by each community's own definition of how its college should serve it.

For that reason, as our own legislation takes form, we want your opinions in regional conferences we intend to hold, and we would welcome now your letters of advice directed to the Commissioner of Education. We intend to consult closely with Senators Prouty and Williams and with all the other legislators who have greeted the community college concept so warmly.

A second caveat is dictated by severe budgetary limitations—a sheer fact of life within which we are now forced to operate. This must fuel our efforts to obtain support from the private sector—business, churches, unions, and the foundations. And it must fuel our efforts at intergovernmental cooperation—at maximum utilization of the Federal dollar, and maximum coordination of governmental efforts at all levels.

The exact templates are not fixed—nor should they be in so young an idea. Most community colleges are public—but not all. Most are vocationally-oriented—but they also serve the "late bloomer" who seeks remedial training in the basic academic skills. Most of their students are enrolled in terminal curricula, to acquire a specific skill—but many are engaged in the traditional disciplines and may use community colleges as "feeders" into regular four-year institutions of higher learning. Most of their students are young people—yet nearly all community colleges offer adult extension courses, and stress mid-career re-training . . . a chance for a new life-style.

The physical properties of the community college do—and should—vary greatly. Sometimes they are strikingly beautiful traditional campuses . . . sometimes central-city complexes . . . sometimes middle-aged office buildings deep within the ghetto—and this is the variety of innovative community service that should be explored and enhanced.

No, the mold is by no means fixed. The precise contour of the community college movement is still in evolution—and I, for one, hope that this remains the case.

In preparing a comprehensive national initiative we are dealing with fifty different State systems, fifty different concepts of maximum effective service to the total community, and fifty different patterns of financing.

In some States, community colleges are developed and operated by independent government boards . . . in some, as a division of the elementary-secondary school system . . . in some, as a subcommittee of the board of higher education. New State plans are on the drawing boards. And, for a balanced national perspective, we need to know a great deal more about what consensus, if any, the State planners are reaching.

This is why we are searching for an assistance formula that will accommodate itself to this infinite variety and this need for maximum flexibility.

Essential to this planning is an overall educational strategy that evaluates . . . in both geographic and curricular terms . . . how the community college can best relate to the total educational process—not to replace or destroy, but to enhance our outreach over the entire spectrum.

Running all through the community college phenomenon, there are certain recurring themes—the marks of their distinctive lifestyle. They are also, I think, the criteria by which your own evaluations should proceed.

They are career centers for young Americans of every class, and every race . . . and for older citizens as well who seek mid-career retraining. They are, today, a largely untapped resource for the returning veterans . . . most of whom are not yet taking advantage of their educational benefits under the G.I. Bill.

They are oriented to the new technology . . . to the practical sciences . . . and increasingly to the development of paraprofessional disciplines—in health, in computer science, in social services, in teaching itself.

In other words, they are in tune with the vocational skill needs of an evolving technological era . . . whose "useful trades" are all the arts and sciences that must be harnessed to preserving a decent human environment and developing humane social institutions.

The community college must work—as indeed they are working—in close partnerships . . . partnerships of necessity . . . with all the public and private and independent institutions of the social matrix.

As the land-grant institutions were at work on the frontiers of the New American Nation of their day . . . so, too, is the community college a frontier institution—the frontiers, now, of a new technology and a new ecology of human relationships.

I think that you have a right to a grand vision of what your institutions can become—of the educational outreach they can provide. Indeed, I trust you never will aspire to less.

I think back to Aristotle's admonition that "only the educated are free"—and to the measured words of the great architect of democracy, Thomas Jefferson:

"By far the most important bill in our whole code is that for the diffusion of knowledge among the people."

H. G. Wells, with his apocalyptic gift of prophesy, once wrote:

"Human history becomes more and more a race between education and catastrophe."

And that, my friends, literally defines the dimensions of our mutual endeavor . . . and the ultimate test of our success.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

EXPORT EXPANSION AND REGULATION ACT OF 1969

Mr. ALLEN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the unfinished business.

The PRESIDING OFFICER (Mr. GRAVEL in the chair). The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 2696) to provide for continuation of authority for the regulation and expansion of exports, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

SURRENDER IN VIETNAM

Mr. ALLEN. Mr. President, I was in the Senate Chamber earlier today when the distinguished junior Senator from South Dakota (Mr. MCGOVERN) made what, to me, was an ill-advised attack upon the distinguished Vice President of our country and Presiding Officer of the Senate.

I think it would certainly be an understatement to say that the full Senate was not present on that occasion.

Thus, it falls to the junior Senator from Alabama, a lifelong Democrat of sorts, to make an answer—and answer should be made—and to express my disapproval of the remarks made by my good friend, the junior Senator from South Dakota, concerning the Republican Vice President.

Before doing so, though, I should like to praise the distinguished junior Senator from South Dakota for having fought for his country during World War II. He was truly a hero of that war.

I should also like to praise the millions of other Americans, including the Vice President himself, who did likewise, and to praise those other millions called into service during the Korean war, also including the Vice President.

I should like particularly to praise those other millions of Americans who continue to wear the uniform of their country proudly. Most of all, those Americans who are fighting today to keep their Nation's commitments.

None of us has any corner on patriotism. All of us, I am sure, are motivated by love of country.

But, Mr. President, there are some of us who just cannot equate surrender with love of country.

There are some of us who think our country's honor is as important as any individual's honor.

There are some of us who feel that a pledge made by the United States to South Vietnam is as binding as a handshake between honorable men.

I am sorry that the junior Senator from South Dakota does not feel that way.

And I am even more sorry that he

questions the motives of the Vice President, who merely had the effrontery to question the motives of some of the Senator's friends.

The junior Senator from South Dakota has no monopoly on the desire for peace. The Vice President and the President, however, are not willing to make this country pay the price of surrender. The junior Senator from South Dakota seems not to recognize the difference between the two. Fortunately, however, most other Americans seem to.

Mr. President, I want to pay tribute, too, to the Vice President of the United States who, I believe, is a great patriot. I believe that he has developed, that he has grown in stature, more than any member of the new administration during its 10 months in office.

What he has said from time to time has made a whole lot of sense to the junior Senator from Alabama, and I want to pay tribute to the service he is rendering our country.

I also want to pay tribute to him for the service he is rendering as Presiding Officer of the Senate.

Certainly, I do not feel that he should be subjected to a blistering and scathing attack by any Member of the Senate.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

VIETNAM—THE WHYS AND WHEREFORES

Mr. MILLER. Mr. President, few editorials have been as clear and succinct on the question of Vietnam as one entitled "An Uncertain Cause," which appeared in the Wall Street Journal of October 15. I cannot recommend it too highly—to those who participated in the moratorium that day, to those who have denounced President Nixon's Vietnam policy, to those who advocate an immediate and unilateral withdrawal. I would like to isolate several sections as food for thought for those who fit into those categories:

1. . . . Both the war and American policy are quite different than they were in March 1968. We are off the ladder of escalation with its terrifying overtones. President Nixon is not sending more troops; he is bringing them home. The violence is not headed up and out of control, but down and gradually less unmanageable. The casualties are not climbing, but dropping.

2. . . . the policy of Vietnamization, unlike the strategy of gradual escalation, does provide a goal including an end to at least the American part of the fighting."

3. If Hanoi continues unwilling to compromise and Vietnamization continues to work, the policy could result in an independent and non-Communist South Vietnam. The outcome would represent a clear if not unblemished American success.

4. . . . capitulation, after all, would carry unfathomable costs of its own. It probably would lead to a sickening blood bath of Vietnamese who put their trust in the United States. It would encourage the forces of instability and discourage the forces of stability throughout the world, including places where flare-up could mean even more deaths than in Vietnam. It would risk an increasingly polarized and possibly anti-rational politics here at home.

5. . . . the spokesmen who do call for immediate withdrawal fail to see that there is no easy way out, just as they fail to grasp the important changes American policy has already undergone.

6. The President does recognize the full extent of the tragedy—that just as there was no easy victory there will be no cheap and easy way out. He has cut his policy toward getting out as quickly as he can without courting a catastrophic reaction.

Mr. President, those pertinent remarks contain the whys and wherefores of the present Vietnam policy. I commend the editorial to all the readers of the CONGRESSIONAL RECORD, and asked unanimous consent that it be printed in the RECORD at this point.

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

AN UNCERTAIN CAUSE

The catch in the Vietnam moratorium today is that its two levels don't mesh. Tragic symbolism and deep emotions are fitting and proper in expressing grief over a tragic war. But it's quite another thing to sanctify the specific policy of immediate and complete withdrawal.

How seriously to take that demand, indeed, is the major puzzle of the day. The organizers of the moratorium have of course been demanding precipitous withdrawal. Complete and unilateral withdrawal has been backed by some Senators, often the same ones who a year ago were hotly denying they held any such idea. A good many of the men in the street who once said we should win or get out are now quite consistently saying that since we aren't trying to win we should get out.

Still, not even the moratorium's organizers claim that all participants actually back immediate withdrawal. And indeed a bit of a counter-trend against so stark a specific demand has surfaced among some who are deeply sympathetic with the moratorium on other levels. In Congress, the anti-war firebrands found they had to tone down their resolutions to attract signers. Center-left politicians like Hubert Humphrey have been backing the President, and center-left publications like the Washington Post have been dismissing outright withdrawal as unrealistic.

What these observers recognize—and what the whole moratorium fails to recognize—is that both the war and American policy are quite different than they were in March 1968. We are off the ladder of escalation with its terrifying overtones. President Nixon is not sending more troops; he is bringing them home. The violence is not headed up and out of control, but down and gradually less unmanageable. The casualties are not climbing, but dropping.

That all this has come about with no adverse effects on the battlefield has implications about the future of "Vietnamization," a policy that demands not victory but merely continued stalemate. Discount all the optimistic reports: Assume that growing control of the countryside is a computerized myth. That the sharp drop in enemy infiltration does not mean his strength is falling. That the growing size and better equipment of the South Vietnamese army does not mean its strength is rising. Even then, you cannot picture recent trends as adverse.

It's also highly significant that the policy of Vietnamization, unlike the strategy of gradual escalation, does provide a goal including an end to at least the American part of the fighting. There are reports that the Administration is hoping to withdraw all the combat infantry, the forces that take the big casualties, within a year or so. It's not realistic to expect that logistics troops and aircraft crews can be brought home soon, but perhaps such a force can be maintained by professional soldiers and other volunteers. It seems to us difficult to quarrel with leaving behind men willing to put their own lives on the line to redeem their nation's promises.

If Hanoi continues unwilling to compromise and Vietnamization continues to work, the policy could result in an independent and non-Communist South Vietnam. This outcome would represent a clear if not unblemished American success. Incredibly, the possibility of any kind of success disturbs the most militant protesters. Sam Brown, chief spokesman for the organizers, complains that President Nixon's policy "seems to be the same as the Johnson policy, which was a policy of military victory." But pray tell, what's wrong with success—even victory—if at the same time the horrible costs of the war can be phased out?

All the more so since capitulation after all, would carry unfathomable costs of its own. It probably would lead to a sickening blood bath of Vietnamese who put their trust in the United States. It would encourage the forces of instability and discourage the forces of stability throughout the world, including places where flare-up could mean even more deaths than in Vietnam. It would risk an increasingly polarized and possibly anti-rational politics here at home.

Many of the protesters are no doubt aware of much of this, and still quite understandably want to pour out the anguish shared by all of us—not least by the President. But the spokesmen who do call for immediate withdrawal fail to see that there is no easy way out, just as they fail to grasp the important changes American policy has already undergone.

This blindness adds a sour note to protests otherwise quite appropriate to expressing grief, and perhaps appropriate to attacking a policy of escalation, if that were the policy. This lack of understanding taints the talk about an "immoral" war, the hints of a national strike, the arrogant use of the war dead—some of whom just conceivably may have believed in the endeavor for which they fought so gallantly.

The President does recognize the full extent of the tragedy—that just as there was no easy victory there will be no cheap and easy way out. He has cut his policy toward getting out as quickly as he can without courting a catastrophic reaction. Against such a considered policy, a call for mindless capitulation hardly strikes us as the makings of a holy cause.

NATIONAL BUSINESS WOMEN'S WEEK

Mr. MILLER. Mr. President, this week marks the observance of "National Business Women's Week" throughout the Nation. I take this occasion to salute all the business and professional women for their achievements and their contributions to the progress of American working women over the past 50 years.

THE PRESIDENCY OF THE UNITED STATES

Mr. MILLER. Mr. President, Theodore R. McKeldin, former Governor of Mary-

land and former mayor of Baltimore, was the principal speaker at the October 12 dedication of the new Mahaska Community YMCA–YWCA Center in Oskaloosa, Iowa.

His remarks on the Presidency were both timely and perceptive, and I ask unanimous consent that they be printed in the RECORD.

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

REMARKS OF THEODORE R. MCKELDIN, AT THE DEDICATION OF MAHASKA CENTER, OSKALOOSA, IOWA, OCTOBER 12, 1969

Public officials many times are sharply reminded that to attempt to satisfy everyone, to take a middle-of-the-road course on issues can be suicidal. After all, on a highway it is in the middle of the road where most accidents take place.

President Nixon is beginning to experience some of this reaction. In an attempt to keep domestic peace, to satisfy all sides to a question, he is beginning to be the subject of debate and criticism by both sides. Liberals find fault with one administration posture; conservatives take exception to another. In this philosophical tug of war, liberals and conservatives even sometimes find themselves unhappy together with an administration action. Surely, Richard Nixon is starting to ask himself what others before him in the Presidency have asked: What's a President to do?

The answer is quite simply that a President must do what he thinks is best for the country. No other consideration exists. No other criteria of judgment prevails.

In any Presidential decision, the country as a whole should come first, and since issues are rarely weighted totally to one side, this means that a President governed by his consideration for everyone must be prepared to accept the inevitable result of irritating someone. Indeed, if we could ask for a barometer of Presidential performance we should find the barometer of criticism from the political spectrum an indication that a President is indeed doing his job.

Our greatest Presidents have understood this maxim, because our greatest Presidents have been the objects of the greatest abuse. From Washington to Lincoln to the Roosevelts to Johnson, Presidents pursuing their convictions of the good for the entire country have been themselves pursued by criticism from liberal and conservative alike. Only the Presidents possessing a misguided embracement of one philosophy or no commitment at all to the total country have escaped criticism. And many times, as anyone who has been in government knows, to avoid criticism is to avoid leadership.

This country desperately needs leadership that leads, not the kind that follows. We must have a President guiding the country by his understanding of where this country must be headed, not by his knowledge of the latest opinion poll. We must have a President dedicated to searching for and making the right decisions, not to reading the latest editorials or perusing the thinking of the heads of America's various organized groups.

The result of such independence of thinking and leading is invariably healthy for the country and harmful for a President's popularity. But although President Nixon is beginning to be the target of liberals and conservatives, his popularity with the American public remains high. The country at large senses his conviction to duty, rather than to one philosophy, and the direction he has set for his administration of cooling the domestic pressures of inflation and race and the foreign pressures of war, both hot and cold, are striking remarkable chords in the American public. If we are to look at opinion polls, we find well over 60% of the American public approves of President Nixon's performance.

Presidents are always being confronted with criticism in America. For we are not a one party, one philosophy, one interested people. Our diversity of background and thinking has made us a great country, and it has forged for us, out of the fires of conflicting opinions, great leaders. Great leaders are those who do not shut their minds to other's views and to new ways of thinking. It is unimaginative—and damaging—for a leader to pursue one approach to all problems.

President Nixon, a close student of the American Presidency, has demonstrated in his first year as President that he has learned well the first lesson of leadership: To have an open mind on all issues, even if this opens the gates of debate and criticism. President Nixon can feel assured, however, that such criticism is invariably closed off by the performance of an open mind.

SENATOR EVERETT MCKINLEY DIRKSEN

Mr. MILLER. Mr. President, like so many of us, Dr. G. S. Bruland, pastor of the First United Methodist Church in Hawarden, Iowa, was an admirer of our colleague, the late Senator Everett M. Dirksen.

After Senator Dirksen's death, Dr. Bruland composed a poem for reading during the memorial service for the minority leader at the Hawarden Rotary Club.

I ask unanimous consent that the poem be printed in the RECORD.

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

EVERETT DIRKSEN

(By Godfrey S. Bruland)

We never know how far a boy
May tread up rapid streams
When he is mastered by the joy
Of early fervid dreams.

But is the lad endowed with health,
And viewing towering sights,
And owns the boyhood's priceless wealth
Of will, he'll reach the heights.

There lived a youngster in mid-west,
And Dirksen was his name.
His visions would not give him rest,
But prompted him to'ard fame.

When this bright lad became a man
The world looked up to see
The pattern of the Maker's plan,
Which grew in brilliancy.

As he grew wise his hopes soared high;
His will became the force
Which answered his ambition's cry,
And held it to its course.

He plunged into the streams of life
To join great citizens
And mingled in their heat of strife,
A dedicated man.

He fought his battles and he won;
Then left his native state
To take his place in Washington;
His seat among the great.

I treasured his sincerity,
And praise him for his love
To'ard aged, and posterity,
His reverence, too, for God.

I cherished his philosophy,
His heart which kept its youth;
His genuine sincerity
That made him fight for truth.

Deep in the furrows of his face
Hid springs of mirthful wit,
And when they hurdled into space
His eyes with fun were lit.

In tribute to your life we say:
Move on and never stop,
But honor the eternal Day
By climbing up, and up!

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ALLEN. Mr. President, I ask unanimous consent that the Senate go into executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONVENTION ON CONDUCT OF FISHING OPERATIONS IN THE NORTH ATLANTIC

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to vote on Executive D, first session, 91st Congress, the Convention on the Conduct of Fishing Operations in the North Atlantic.

Mr. ALLEN. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on both conventions at the same time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I ask for the yeas and nays on both conventions.

The yeas and nays were ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is, Will the Senate advise and consent to the resolution of ratification on Executive D, first session, 91st Congress, the Convention on the Conduct of Fishing Operations in the North Atlantic? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Tennessee (Mr. GORE), the Senator from Minnesota (Mr. MCCARTHY), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I also announce that the Senator from Nevada (Mr. BIBLE), the Senator from Missouri (Mr. EAGLETON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Rhode Island (Mr. PELL),

and the Senator from Alabama (Mr. SPARKMAN) are absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. BIBLE), the Senator from Nevada (Mr. CANNON), the Senator from Idaho, Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Tennessee (Mr. GORE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Maryland (Mr. TYDINGS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Idaho (Mr. JORDAN), the Senator from South Dakota (Mr. MUNDT), the Senator from Illinois (Mr. SMITH), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that the Senator from New York (Mr. JAVITS) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from New York (Mr. GOODELL) are detained on official business.

If present and voting, the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senators from New York (Mr. JAVITS and Mr. GOODELL), the Senator from Idaho (Mr. JORDAN), the Senator from South Dakota (Mr. MUNDT), the Senator from Illinois (Mr. SMITH), and the Senator from Alaska (Mr. STEVENS) would each vote "yea."

The yeas and nays resulted—yeas 80, nays 0, as follows:

[No. 129 Ex.]

YEAS—80

Aiken	Gurney	Muskie
Allen	Hansen	Nelson
Allott	Harris	Packwood
Anderson	Hart	Pastore
Bayh	Hartke	Pearson
Bellmon	Hatfield	Percy
Bennett	Holland	Prouty
Boggs	Hollings	Proxmire
Brooke	Hruska	Randolph
Burdick	Hughes	Ribicoff
Byrd, Va.	Inouye	Russell
Byrd, W. Va.	Jackson	Saxbe
Case	Jordan, N.C.	Schweiker
Cook	Long	Scott
Cooper	Magnuson	Smith, Maine
Cotton	Mansfield	Spong
Cranston	Mathias	Stennis
Curtis	McClellan	Symington
Dodd	McGee	Talmadge
Dole	McGovern	Thurmond
Dominick	McIntyre	Tower
Ellender	Metcalf	Williams, N.J.
Fannin	Miller	Williams, Del.
Fong	Mondale	Yarborough
Fulbright	Montoya	Young, N. Dak.
Gravel	Moss	Young, Ohio
Griffin	Murphy	

NAYS—0

NOT VOTING—20

Baker	Goldwater	Mundt
Bible	Goodell	Pell
Cannon	Gore	Smith, Ill.
Church	Javits	Sparkman
Eagleton	Jordan, Idaho	Stevens
Eastland	Kennedy	Tydings
Ervin	McCarthy	

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

VIENNA CONVENTION ON CONSULAR RELATIONS

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to vote on Executive E, First Session, 91st Congress, the Vienna Convention on Consular Relations.

The question is, Will the Senate advise and consent to the resolution of ratification? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Tennessee (Mr. GORE), and the Senator from Minnesota (Mr. MCCARTHY), are necessarily absent.

I also announce that the Senator from Nevada (Mr. BIBLE), the Senator from Missouri (Mr. EAGLETON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Rhode Island (Mr. PELL) and the Senator from Alabama (Mr. SPARKMAN), are absent on official business.

I further announce that, if present and voting, the Senators from Nevada (Mr. BIBLE and Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Tennessee (Mr. GORE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Rhode Island (Mr. PELL) and the Senator from Alabama (Mr. SPARKMAN), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Idaho (Mr. JORDAN), the Senator from South Dakota (Mr. MUNDT), the Senator from Illinois (Mr. SMITH), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that the Senator from New York (Mr. JAVITS) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER), and the Senator from New York (Mr. GOODELL) are detained on official business.

If present and voting, the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senators from New York (Mr. JAVITS and Mr. GOODELL), the Senator from Idaho (Mr. JORDAN), the Senator from South Dakota (Mr. MUNDT), the Senator from Illinois (Mr. SMITH) and the Senator from Alaska (Mr. STEVENS), would each vote "yea."

The yeas and nays resulted—yeas 81, nays 0, as follows:

[No. 130 Ex.]

YEAS—81

Aiken	Brooke	Cranston
Allen	Burdick	Curtis
Allott	Byrd, Va.	Dodd
Anderson	Byrd, W. Va.	Dole
Bayh	Case	Dominick
Bellmon	Cook	Ellender
Bennett	Cooper	Fannin
Boggs	Cotton	Fong
Fulbright	Mathias	Randolph
Gravel	McClellan	Ribicoff
Griffin	McGee	Russell
Gurney	McGovern	Saxbe
Hansen	McIntyre	Schweiker
Harris	Metcalf	Scott
Hart	Miller	Smith, Maine
Hartke	Mondale	Spong
Hatfield	Montoya	Stennis
Holland	Moss	Symington
Hollings	Murphy	Talmadge
Hruska	Muskie	Thurmond
Hughes	Nelson	Tower
Inouye	Packwood	Tydings
Jackson	Pastore	Williams, N.J.
Jordan, N.C.	Pearson	Williams, Del.
Long	Percy	Yarborough
Magnuson	Prouty	Young, N. Dak.
Mansfield	Proxmire	Young, Ohio

NAYS—0

NOT VOTING—19

Baker	Goldwater	Mundt
Bible	Goodell	Pell
Cannon	Gore	Smith, Ill.
Church	Javits	Sparkman
Eagleton	Jordan, Idaho	Stevens
Eastland	Kennedy	
Ervin	McCarthy	

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

LEGISLATIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

EULOGIES FOR THE LATE SENATOR DIRKSEN

Mr. BYRD of West Virginia. Mr. President, at the request of the able majority leader, I ask unanimous consent that eulogies for the late Senator Everett McKinley Dirksen be given on Wednesday, October 29, commencing at 1 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. I make that statement in order that Senators might be put on notice and have ample time in which to prepare their eulogies for that occasion.

EXPORT EXPANSION AND REGULATION ACT OF 1969

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, which the clerk will state.

The BILL CLERK. S. 2696, to provide for continuation of authority for the regulation and expansion of exports, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. MONDALE obtained the floor.

Mr. BYRD of West Virginia. Mr. President, will the Senator from Minnesota yield for the purpose of my asking for a brief quorum call, without the Senator's losing his right to the floor?

Mr. MONDALE. I yield.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask that the Senate be in order.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Minnesota may proceed.

Mr. MONDALE. Mr. President, before I begin my discussion on the pending bill, the Senator from North Dakota (Mr. BURDICK) has stated that shortly he will ask me some questions relating to certain restrictions imposed by the Department of Commerce, and I look forward to that colloquy.

Mr. President, over a year and a half ago, the International Finance Subcommittee of the Banking and Currency Committee began a study of the export control laws. The legislation before the Senate today, the Export Expansion and Regulation Act of 1969, is the result of that study. It is a direct result of the exhaustive hearings and the efforts by individual members of that committee personally to view the areas and talk with the leaders concerned about the problems.

Many of the members of the Banking and Currency Committee contributed to the development of this new approach to export control, and I am pleased to have shared in the preparation of the committee-reported legislation. I am pleased to report that the proposal enjoys a strong bipartisan support and is a product, in addition to those of us on the majority side, of creative contributions by the minority members of the committee.

Basically, the legislation retains U.S. control over exports to Eastern European countries; it retains the President's flexibility to administer the controls. At the same time, it updates the controls to respond to important changes in the international trade picture and to the needs of American businessmen.

The bill, reported by the Banking and Currency Committee, does the following:

First, declares a national policy of encouraging trade in peaceful goods and restricting trade in goods with significant military applications.

Past uncertainty about Government East-West trade policy has hampered American business exports, to the detriment of our trade balance. The language of the Export Control Act of 1949 conveys U.S. attitude against trade with Russia and Eastern Europe, regardless of the nature of the goods sought to be exported. The new policy of encouraging trade reflects that the open hostility of 20 years ago has eased. The United States must take advantage of changing circumstances such as the mood expressed by Soviet Foreign Minister Andrei A. Gromyko, speaking this year in Moscow to the Supreme Soviet:

> We are for the development of good relations with the United States and would like these relations to be turned into friendly ones because we are convinced that this would correspond to the interests of both the Soviet and American peoples.

One way is by increased trade which reduces tensions and increases mutual contact and understanding.

Since enactment of the original Export Control Act in 1949, the nations of Eastern Europe have acquired the capacity to manufacture sophisticated items to meet their own needs. What they do not produce themselves, they can acquire from almost any other sophisticated nation of the world. While the categories of nonmilitary goods which might reach Eastern markets, about 1,100 of these goods are fully available to Eastern Europe from other free world sources. These controls have little or no effect on Eastern Europe. They simply mean that American businessmen are at a disadvantage competing for trade in Eastern markets.

The trade statistics reflect this disadvantage: the United States has less than 2 percent of the fastest growing market in the world. At a time when the United States needs to increase its trade balance surplus, it can no longer afford to ignore a vital market unless some overriding national objective is served.

This situation is deteriorating. In the quarterly report for the first quarter of 1969, the Department of Commerce reports that U.S. exports to the U.S.S.R. and the other countries of Eastern Europe during the first quarter of 1969 totaled $39.3 million. This was a decrease from exports of $62.5 million in the previous quarter and $55.2 million in the first quarter 1968. Exports to these countries in the first quarter 1969 represented 5 percent of total U.S. exports for that period.

U.S. imports from the U.S.S.R. and Eastern Europe during the first quarter of 1969 amounted to $41.8 million, a decrease from the $45.8 million imported in the previous quarter and from the $58.5 million imported in the first quarter of 1968. First quarter imports from Eastern Europe represented 0.6 percent of the total U.S. imports for that period.

I shall, later in my remarks, indicate that these percentages are astonishingly beneath the standard percentage of world trade which the United States enjoys elsewhere in the world. I think a good deal of what might be called pathetically weak trade with that area of the world is attributed to the present law, and to the present administration of that law as vested in the Department of Commerce, and by virtue, as well, as regulations under which that act is administered.

The committee view, set out in its report, is "that any restriction of exports is unwarranted if it does not serve some positive function." Although the size of American involvement in East-West trade has not been large, export control legislation has given Department of Commerce administrators control over more than $30 billion worth of exports per year to all countries of the world. Therefore, section 3 of the reported bill declares a national policy of encouraging trade in peaceful goods with all countries with which we have diplomatic or trading relations except where the President shall determine otherwise.

Section 3 also states the policy of the United States to restrict the export of goods and technology which would make a significant contribution to the military potential of any nation which would prove detrimental to the national security of the United States. Present legislation contains no explicit restrictive policy statement.

Section 12 or the new bill requires administration of the export controls in effective coordination with the authority exercised under section 414 of the Mutual Security Act of 1954, the embargo on sales of military items to Communist nations.

Second, eliminates "economic potential" as a measure of whether goods may be exported, thus removing one of the major restrictions of the present Export Control Act.

In 1949, the Soviet war-ravaged economy was beginning a slow-rebuilding process. Now, the Soviets have one of the world's most self-sufficient economies, counting on imports for only 1½ percent of their gross national product. Russia and the other nations of Eastern Europe can obtain anything they need by producing it themselves or purchasing it from our allies.

Trade with Communist nations is not a form of aid. All imports must be paid for, and the money for imports can come only through exports developed by investment in the production of items for export. No nation can gain through imports the economic advancement it is not capable of providing for itself; trade quickens the economic growth of both trading partners. In the world of 1969, U.S. denial of exports to Eastern Europe on the ground that they contribute to the "economic potential" of these nations is an act of self-denial, restricting only the markets and sales open to American business.

Application of the test—whether a U.S. export will make a significant contribution to the economic potential of some nation—has been complicated and frustrating. Inadequate factual evidence, difficult to evaluate, gives rise to differences of opinion and under a rule of unanimity, delays occur.

Therefore, the legislation we consider today removes the "economic potential" test from the operative language of the Export Control Act of 1949 which now provides for "denial of any request or application for authority to export articles from the United States—to any nation or combination of nations threatening the national security of the United States if the President shall determine that such export makes a significant contribution to the military or economic potential of such nation or nations which would prove detrimental to the national security and welfare of the United States.

Third, establishes availability of comparable products from other sources as a consideration in licensing of exports.

I think this is one of the key items which this measure seeks to correct. It is ironic, if not absurd, that today there are over 1,100 items freely available from our allies, not controlled by COCOM, which can be purchased by countries of

Eastern Europe, of a nonmilitary nature, but which U.S. businesses cannot sell because of the unilateral restrictions imposed through the administration of our Export Control Act.

It is manifest—it is obvious—that such restrictions in no way aid the United States and in no way interfere with the countries of Eastern Europe, because they simply buy elsewhere.

The present policy might be called a pro-French policy, or a pro-English or a pro-West German or a pro-Italian or a pro-Japan policy, because the result is simply to assure them markets free from U.S. competition and to deny to us markets that in many cases would obviously be ours, or in which we could compete, if it were not for the unilateral policy of self-denial.

The reported Export Expansion and Regulation Act of 1969 sets out a new test for export licensing. The key operative phrases in section 4(b) provide that express permission and authority must be sought and obtained to export from the United States to any nation or combination of nations if the President determines that the articles, materials, supplies, data, or information sought to be exported would make a significant contribution to the military potential of such nation or nations which would prove detrimental to the national security of the United States and that the articles, materials, supplies, data, or information of comparable quality and technology to that sought to be exported are not readily available from other sources. It is further provided that in the event the President has not made the determination that comparable goods are not available elsewhere, he may still require express permission and authority to export such item if he determines it to be necessary in the interest of national security and includes a detailed statement with respect to that action in the next quarterly report submitted pursuant to the act after the action is taken.

Testimony by American businessmen before the Banking and Currency Committee included numerous examples of lost sales resulting from U.S. export controls.

I intend to give some of those examples later in my remarks.

Items unilaterally controlled by the United States are normally available in comparable kind and quality from a competitor in a nation which does not control such items. While the American businessman to make a sale must seek a license which may be denied his competitor—often from Western Europe or Japan—delivers the goods.

Under the new bill, if goods are available outside the United States, they must be removed from the export control lists unless they are items of military applicability or the President decides otherwise and states his reasons.

I would point out here that the committee very clearly sought, in this measure, not to deny the President any powers that he might need to control or restrict the sale of items, even if available from other countries, if in his judgment those items should be controlled. In no sense did we wish to restrict the President or the scope of his powers.

However, recognizing that this act is not administered personally by him, but by the Department of Commerce and by the Export Control Office, which I think has been unduly conservative in this field in those cases where items are freely available elsewhere and are not of military significance, but which items we nevertheless unilaterally restrict, a special report to Congress giving the reasons justifying the present action would be required by this legislation, so that we might analyze the reasons justifying the action, where we unilaterally deny business to ourselves, without hurting the Communists, by simply transferring business opportunities to our Western allies.

The fourth objective sets as policy the uniform application of export controls for all nations with which the United States maintains diplomatic or trade relations except where specifically designated by the President and the formulation of uniform export controls in cooperation with all nations with which we have defense treaty commitments.

The present comprehensive export schedule lists items requiring a validated license for certain countries. All export destinations are divided into seven country groups: Group S, Southern Rhodesia; Group T, all Western Hemisphere countries except Canada and Cuba; Group W, Poland and Rumania; Group X, Hong Kong and Macao; Group Y, Albania, Bulgaria, Czechoslovakia, East Germany, Estonia, Hungary, Latvia, Lithuania, Outer Mongolia, and the U.S.S.R.; Group Z, Communist China, North Korea, North Vietnam, and Cuba; and Group V, all other countries except Canada.

The listing of countries subject to export controls demonstrates the political nature of the controls. For the past 20 years the United States has attempted to express approval or disapproval of political developments abroad through the granting or restricting of trade concessions. Administrative consideration of license applications reflects political events on a day-to-day basis. Although the goal of uniform treatment and trade concessions may be impossible under present circumstances, the policy expressed in section 3(3) would bring advantages both to the conduct of our foreign affairs and to individual American businessmen.

U.S. export controls would have been completely ineffective without the cooperation of Western European countries and Japan. The NATO countries and Japan cooperate through the Coordinating Committee of the Consultative Group—COCOM—to license the shipment of strategic goods to Communist countries.

I emphasize the point that in addition to these restrictions found in the Commerce Department, the United States, with its NATO allies, has a committee known as the COCOM Committee, which coordinates and collectively agrees on a list of items which none of the nations may agree or permit to be sold to Eastern Europe.

This is another protection which we have, to guarantee that items of important military significance may not be sold by us or by any of our allies. It is, in fact, the only effective means the United States has to deny items to Eastern Europe which we feel would be of military significance, which are generally available from other sources.

If there is, for example, an item produced in West Germany which we feel to be of military significance, but which the West Germans do not wish to restrict and which is not restricted by COCOM, unilateral U.S. policy concerning the same item really has no applicability, because it can easily be purchased by those countries from West Germany. It is only through COCOM that we can effectively impose an international standard restricting to any significant degree sales in Eastern Europe of military goods.

The COCOM controls, considerably fewer and less restrictive than the unilateral U.S. controls, apply to the countries of Eastern Europe with the exception of Yugoslavia and to China, North Korea, and North Vietnam. American attempts to include Cuba in the COCOM controls failed.

The NATO countries and Japan, meeting last month, agreed to relax controls further on the export of many strategic goods to the Soviet Union and Eastern Europe. Without a corresponding reduction of U.S. controls, American businessmen will find their competitive position weaker. Ideally, our export control list should be reduced to the level of the COCOM list since only those items which are under a mutual Western embargo will be effectively prevented from reaching Eastern Europe. Therefore, section 3(4) of the reported legislation declares the policy of the United States to formulate, reformulate, and apply any necessary controls to the maximum extent possible in cooperation with all nations with which the United States has defense treaty commitments.

In other words, that resposibility and that power remain unimpaired, and this measure reaffirms our desire to empower our Government to continue to work through COCOM to keep from the hands of the Communist countries of Eastern Europe those items of military significance which collectively we decide we should keep from their hands.

The fifth objective of the measure is to require regular consultation between the Government and American businessmen in setting export standards and licensing procedures.

Permit me to say here that the committee was impressed by the fact that most businessmen who testified before us confessed that the whole process by which their applications were considered, delayed, and denied was something that was kept entirely from their view. They rarely knew what was happening to their applications. They rarely knew who was delaying them, who was denying them, and on what grounds; and when action was finally taken, many times weeks or months later, the reasons were not provided to the American businessman; he was simply told that his application was denied or granted.

Thus there is an effort, in this measure, not to deny the President the power he needs, but to make certain that the American businessman involved receives a just and fair hearing and an opportunity to have his views heard before final action is taken.

Witnesses before the International Finance Subcommittee demonstrated a wide knowledge of the Eastern European market and the problems they encounter with export controls. The administration of any law is aided by regular consultation with those who must live with its restrictions. Therefore section 5 of the reported bill provides that in addition to seeking information and advice from various executive departments—as is the practice under current export control administration, the President's designated administrator of the act, consistent with considerations of national security, must seek information and advice from private industry. In addition, section 4(a)(2) directs the Secretary of Commerce to keep American businessmen informed of changes in export control policies and procedures.

The sixth objective is to require reports to businessmen by Federal agencies whenever a license application faces delay or denial, with specification of reasons, and provides opportunities for businesses to provide further information that may strengthen their applications during the licensing process.

The businessmen witnesses appearing before the subcommittee described their lack of information during the licensing process. Once an application is filed, the applicant is unable to ascertain its status, which of the agencies consulted is holding it up, how long a decision will take or if the license is denied, the reasons.

Section 8 of the act requires the executive branch, insofar as is consistent with national security, foreign policy, and effective administration, to inform each prospective exporter of the considerations which may cause his export license request to be denied or delayed. He must be informed of circumstances which arise during the Government's consideration of the application which delay the process or are cause for denial and be given the opportunity to supply further information which he believes may resolve the problem. If the license is denied, the exporter must be advised of the reasons.

Seventh, requires streamlining of application and processing procedures which industry representatives estimate now cost American businessmen as much as $100 million per year.

Present export documentation requirements are needlessly expensive for American businessmen. An exporter must file and have authenticated an export document prior to the date of shipping in addition to the export license which he has already received. The purpose of the export document is a check on the licensing, to ascertain that goods are not being shipped in violation of a license or without a license. However, there have been virtually no prosecutions as a result of information obtained by export documentation. An additional purpose of the documents is to obtain trade statistics. Witnesses claimed, and the Department of Commerce agreed, that statistical information could be obtained on a periodic basis rather than with individual filings for each export.

Because the Department of Commerce has plans for reform in this area, section 7(d) only requires that the cost of export documentation be reduced to the extent feasible. The Department of Commerce must periodically review documentation requirements and report actions taken to reduce costs and redtape.

Eighth, mandates the Office of International Trade Promotion in the Department of Commerce to reorganize its efforts in order to promote American trade wherever the proportion or volume lags behind that of our NATO allies.

The East-West trade market has been growing in the late sixties at the rate of about 24 percent a year. If present trends continue, Eastern Europe by 1980 will have a market the same size as the U.S. market today. Total East-West trade in 1967 with the West was over $15 billion. In 1966, the United States had 4 percent of this market; in 1967 the U.S. share of the market decreased to between 2.5 and 3 percent of total East-West trade. Three Western countries in 1967 did five times as much trade with the Soviets and five others did three times as much as the United States in the Eastern European market. The United States trails behind Sweden and Austria, accounts for less than one-half the volume of Italy and of France, less than one-third the volume of Japan and of Britain, and less than one-sixth the volume of West Germany. The trend continued downward in 1968, and the Export Control quarterly report for the first quarter of 1969 showed that in addition to lagging proportionately as the market increases, U.S. exports to Eastern Europe actually decreased:

> U.S. exports to the U.S.S.R. and the other countries of Eastern Europe during the first quarter 1969 totaled $39.3 million. This was a decrease from exports of . . . $55.2 million in the first quarter 1968.

The report goes on to say that during the second quarter 1969 "license applications for commodities valued at $70 million were denied for export to Eastern Europe."

I must add that American corporations are trading a great deal more with Eastern Europe than official figures show. This trade, which may run as high as $300 or $400 million a year, is carried on through American subsidiaries in Western Europe.

The language of the present Export Control Act conveys the attitude that trade with Eastern European countries is against the best interests of the United States, regardless of the nature of the goods involved. The realities of our improving relationships with the Soviet Union and Eastern Europe and of our poor showing in a promising trade market signal the need for a change in legislative emphasis. Section 4(a) of the new bill directs the Department of Commerce to promote East-West trade in peaceful goods as an indication that such trade is not against the best interests of the United States and as a tool in securing additional markets for American products. The section also directs the Secretary of Commerce to review the present commodity control lists and make the changes which would further trade in peaceful goods.

Ninth, establishes an Export Expansion Commission to study ways of expanding peace trade and report back to Congress within a year.

There are a number of factors in addition to U.S. export control legislation which limit U.S. participation in East-West trade. Although Eastern Europeans complain that U.S. export control legislation is an important inhibiting factor in our trade, it is probably more the uncertainty and delay in receiving licenses than the actual restrictions which make this a significant factor in trade relations.

Since 1964 the Export-Import Bank has been prohibited from lending its own funds for the financing of American exports to any Communist country, and since February 1968, the Bank has been prohibited from guaranteeing or insuring loans extended by private lenders to finance American exports to Communist countries. Before the Eximbank credits to Communist countries were cut off, Russia and Eastern European countries had to prove their credit worthiness to a greater extent than was required of other nations although there has never been a default on a Western transaction with any Eastern European nation.

With the exceptions of Yugoslavia and Poland, Eastern European nations pay the prohibitively high Smoot-Hawley rates for their products. The lack of most-favored-nation treatment, a routine concession to most nations of the world, is a serious barrier to U.S. participation in East-West trade. The most-favored-nation clause has been gradually extended to most of the Eastern countries by a very large number of Western countries. Refusal to apply it may be regarded as an exception except in the case of the United States.

If Eastern European countries are to participate in greater trade with the United States, they will have to pay for their imports with increased exports since credit is difficult to obtain. To export, the products must be competitive with highly sophisticated Western products and sold with techniques which will meet Western consumer demands. A dialog to help the Eastern Europeans find markets is engaged in everywhere except the United States.

Section 10 of the new bill is an attempt to meet some of the basic difficulties in East-West trade. It proposes a Commission composed of 15 members appointed by the President to study ways in which exports can be increased, particularly to Eastern Europe, without jeopardizing the national security. The Commission is to coordinate its activities with the National Export Expansion Council and report to Congress within 1 year.

Tenth, retains short supply controls and the antiboycott provisions of present legislation.

Section 4 contains two provisions carried over from the present Export Control Act. One allows export controls to be exercised to protect the domestic economy from the excessive drain of scarce materials. The other implements the language in section 3(6) in opposing restrictive trade practices or boycotts

fostered or imposed by foreign countries against other countries friendly to the United States; that is, the Arab boycott against Israel.

Eleventh, retains the violations provisions of present legislation with the addition that a violation of the act be a knowing one.

Section 6 provides court-imposed fines of imprisonment for willful or knowing violations of the act. In addition, the Government agency involved may impose a civil penalty. The amount of punishment authorized is the same as in present legislation. I believe that both the history of export control and the testimony of businessmen before the Subcommittee on International Finance justify the proposed legislative changes.

The Export Control Act was first adopted in 1949 when the dangers of the cold war were most immediate. Europe, still weak from World War II, appeared a ready target for a Communist takeover led by Joseph Stalin. America's economic strength, unscarred by the war, was our best weapon for strengthening Europe. At that time, to deny Russia—also ravaged by World War II—the benefits of American trade and technology was a logical cold war tactic. Today, 20 years later, both the economic and foreign policy justifications for the old act are gone.

Western Europe, Eastern Europe and Russia have recovered their economic health.

I am convinced that the days of Joseph Stalin have ended. I am not endorsing everything I see in Eastern Europe, but I do see many developments there that are quite encouraging. I see trade as an indispensable part of the process in developing stable countries in charge of their own affairs, and in the movement toward economic independence in Eastern Europe.

And I see trade as an indispensable opportunity for broadening understanding between our people and theirs. Through trade we can increase Eastern contacts with American businessmen. Through trade we can increase Eastern participation in international institutions and responsibilities. Through trade we can increase the stakes of both East and West in peaceful relations.

But what about the war in Vietnam? Is this a wise time to talk about increasing trade with Communist countries?

The type of trade we would allow has no material relationship to what is going on in Vietnam. This legislation continues the prohibition on U.S. trade with North Vietnam. Most of the Eastern European countries trade only to a very limited, pro forma extent with North Vietnam; our exports to them are primarily agricultural commodities. And neither our present level of trade with the Soviet Union nor any foreseeable growth could have an effect on military goods supplied to Vietnam. The Soviet Union is self-sufficient in arms production and is a major supplier of weapons outside its borders to such places as the Middle East and Nigeria.

Recognizing that times have changed and that the United States cannot influence its allies to suspend trade with the Chinese, let alone the Soviet Union, a more realistic approach to war and the trade question is to use trade as an "offensive weapon," designed to influence the attitudes of those in Communist countries.

At a time when we worry whether our "national interests" should allow us to trade with Russia, the Russians continue to supply us with platinum for our basic military and space industries and chrome ore which we must have to meet our needs in Vietnam. One of our traditional sources of chrome ore, Rhodesia, is subject to trade sanctions, so we are relying more heavily than ever on the Russians for chrome ore.

Ideally, trade should be neutral, regulated only by the marketplace, and until World War II, the U.S. Government restricted exports only in time of war or special emergency. When the war ended, trade restrictions continued—but the enemy changed: it became any nation under the control of a Communist government. The Export Control Act of 1949 declares:

> It is the policy of the United States to use its economic resources and advantages in trade with Communist-dominated nations to further the national security and foreign policy objectives of the United States.

The policy has been implemented by complicated administrative export controls giving Department of Commerce officials control over more than $30 billion worth of exports per year to all countries of the world. No specific Government authority is necessary for American businesses to participate in international trade, but each shipment out of the United States is subject to some sort of control.

The first step for an exporter is to determine whether his product may be shipped under a general license or whether it requires an individually validated license. A validated license application, accompanied by a "firm order" from the importer for the item, takes on the average 4 weeks to be processed through the Office of Export Control. The processing may include review by an interdepartmental committee consisting of representatives from the Departments of Commerce, State, Defense, Treasury, and sometimes from the Departments of Agriculture, Interior, the Atomic Energy Commission, the National Aeronautics and Space Agency, and the Federal Aviation Agency.

The exporter's problems increase if it is his American subsidiary in Western Europe that wishes to obtain a license. The subsidiary, and even Western European importers with no connection with the United States, must sign a form promising no transshipment of the goods without U.S. approval. If a manufacturer in a Western European country wishes to purchase a component part for a larger item, he is better off purchasing the component from a non-American source so he can avoid the necessity of obtaining U.S. permission to ship the larger item out of his own country.

American businessmen complain that licensing delays, the requirement that a "firm order" accompany each license application, the refusal to give advisory opinions on the probability of license approval, and redtape all lose sales in Eastern Europe and probably, more often than not, prevent American businesses from trying to develop the market. Of more importance than the licenses denied are the applications not received—deterred by the maze of paperwork and bureaucracy.

Most businessmen engaged in East-West trade will complain in private about the complicated applications, the long delays, and the barriers associated with export licenses. A number of important American businesses described the problems they have encountered before the Subcommittee on International Finance.

For example, Bendix International received a $400,000 order for precision measuring and gaging equipment for production-line gaging of auto parts for truck engine production at the Lihachev Moscow Auto Works. After more than 4 months delay, the Office of Export Control denied the license. The Soviets promptly purchased the same equipment from a Bendix affiliate in England. The American Bendix Corp. estimates that the business they lost had a total potential of several million dollars over the next 2 or 3 years.

The same company estimates that it is losing an annual potential sales volume of $1 million for mass spectrometers, semiconductors, and process gas chromatographs to be sold in the Soviet Union and Eastern European countries. The business currently goes to competitors in Germany, England, Italy, and the Netherlands.

A letter from David Packard, then president of Hewlett-Packard, one of the largest electronics firms in the country, described the impact of the high level of unilateral U.S. controls on the Hewlett-Packard product line:

> These controls, which are not duplicated by the other COCOM countries, affect 6% of our sales to friendly Western countries and a huge 53% when we deal with the USSR and other Eastern European countries excluding Poland and Romania. In fact, in this latter category, we are able to sell only $3 out of every $100—mainly medical equipment such as electrocardiographs—without restriction under General License. In contrast, West European and Japanese competitors with similar product mixes can sell $56 out of every $100 to Eastern Europe without restriction. In every instance we have investigated we have found similar items to be available from non-U.S. sources.

Hewlett-Packard presented more statistics before the subcommittee. Between January 1, 1968, and March 31, 1969, the company received decisions on 104 license applications, and the median time required to process the applications was 4 weeks. Adding an estimated 2½ weeks preparation time to this figure gives a median total delay of about 7 weeks. Only 2 percent of the applications were rejected.

Their specific problems with licensing include the loss of an order from a Russian purchasing organization for 10 9100A calculators, valued at $55,000, to West European suppliers because the American calculators required licensing and thus could not be sold "off the floor" during a recent exhibition. The second case involves the loss of a considerable number of orders for digital voltmeters

throughout Eastern Europe. U.S. export license applications for these products have been consistently denied, although comparable digital voltmeters are made by a number of West European suppliers who are only too happy to supply them to the East European market.

The Electronic Industries Association provided further examples of licensing difficulties resulting in lost business for American companies. In October 1968 a large American manufacturer received an inquiry from a licensee in Italy who had a prospective customer in Rumania for three 200,000 kilowatt turbine generators costing more than $2 million each. In early December the manufacturer filed a license application with the Office of Export Control. On January 30, 1969, with no information or decision yet from the Office of Export Control, the manufacturer received a letter from the licensee advising that the prospective customer had decided to order the equipment from another source.

Beginning in 1967, a manufacturer of electronic components received orders from Poland for tantalum capacitors. Export applications were denied, and subsequently the manufacturer learned that the same parts were obtained from a number of sources in France and Italy. The estimated business lost was between $50,000 and $100,000 per year. Another manufacturer estimates that orders totaling $3,600,000 for semiconductors from customers in Czechoslovakia, Romania, and Bulgaria were lost during 1968 because of export controls.

In 1965 crucial decisions were made about the type of color TV system which would be used in Europe. Americans hoped that a single system of color TV, the tested American NTSC, would be adopted, both for the business which would come to American suppliers and in the interests of international standardization of communications systems. However for Europe to adopt the American system, the United States had to give assurances that the components would be available throughout Europe, including Eastern Europe and the Soviet Union. After extended negotiations, the Department of Commerce indicated that approval would be given for the necessary export licenses, but the grant was qualified to such an extent that the decision was neither timely nor helpful. Europe eventually adopted not NTSC, but two other color systems, and the loss to American business has been conservatively estimated at tens of millions of dollars.

The Foxboro Co. pays a penalty for late shipment from a European plant because the total order includes a few parts, instruments for measuring acidity, alkalinity, or turbidity, subject to U.S. export controls. Licensing delays normally run from 4 to 8 weeks, thus delaying the entire shipment. The company reports two or three situations of this type a year which result in losses of goodwill and cash.

General Radio Co. received an order in November 1967, through their Zurich office from a customer in Czechoslovakia for a digital frequency meter. In February, 3½ months later, their export application was rejected. In October 1968, after a number of efforts to obtain a review of the decision the Department of Commerce suggested that General Radio resubmit the application, but by then the customer had purchased a similar product elsewhere.

In 1963, National Research Corp. applied for an export license to ship a small vacuum pump and baffle to a customer in Hungary. The license was denied, the firm appealed and 7 months later, the license was granted. The customer refused to accept the product 7 months late.

The Minnesota Mining & Manufacturing Co., the developer of magnetic tape, now finds itself competing with qualified manufacturers of video and computer tape: two firms from the United Kingdom, two from France, one in Belgium, a German firm, and four Japanese companies. Foreign buyers are switching from wire to magnetic tape for almost all communications purposes, but American sellers are not sharing this market as fully as they should because magnetic tape is on the U.S. export control list and subject to licensing delays.

For example, Minnesota Mining received the following letter from a Swiss firm to which they had made a bid for the sale of video tape:

> We have come to the conclusion it would be too long to supply you with all the information you require in order to get approval of the Department of Commerce in Washington and much to our regret we will for the time being have to use other products.

Another letter to Minnesota Mining reads:

> Your statement regarding the long delivery time due to the procurement of the export license surprises us greatly. For comparison we might quote we recently purchased these magnetic tapes via the suppliers of the computers, for example, the British ICT, and we have gotten the merchandise always promptly, in many cases even within one week.

A third letter to Minnesota Mining:

> Due to your letter dated April 26, 1968, we have contacted V/O Sojuzchimexport, Moscow, concerning the information requested by the Department of Commerce . . . Now, we have been informed by V/O Sojuzchimexport that by the delayed handling of this matter they have covered meanwhile their requirements through other channels.

Control Data Corp. submitted a proposal to Industrialimport, an agency of the Rumanian Government, for the licensing of one of their computer systems. Control Data began negotiations with the Office of Export Control in August 1968, to obtain the necessary licenses; the situation became academic in December when the Rumanian Government signed a licensing agreement with Plan Calcul in France, a company known as CII. In addition to the delay, Control Data was hampered by the fact that the Rumanian Government obtained three contracts from West European computer manufacturers for third generation computers which contain IC circuitry; Control Data was able to propose only a second generation computer because of U.S. export controls. The loss of the contract was a loss of several million dollars for U.S. trade statistics.

Yugoslavia is treated under the Commodity Export Act as a Western European nation in most instances. A validated export license had been granted Control Data to ship a computer to a Yugoslav electronics firm. The dedication of the system, involving a number of local dignitaries, was scheduled for October 1968, during the annual trade fair. At the last moment, spare parts were needed to replace some parts damaged in shipping the computer to Yugoslavia. Control Data had the spare parts in its Frankfurt, Germany, supply depot. But Yugoslavia, treated as a Western nation for purposes of export, is not with regard to spare parts. Therefore, Control Data had to ship the spare parts from the United States under separate export license; they did not arrive in time for the dedication.

While Control Data has waited up to a year and a half for the Office of Export Control to act on a license, the British competing firm, International Computers Limited has opened an Office in Moscow. Two British computers have been delivered to China, and two more are on order from a firm that is 10 percent owned by the British Government.

International Telephone & Telegraph lost more than $10 million in an order for a switching system and radio equipment for the Post Telephone and Telegraph Administration in Hungary. The switching system could be exported without a license, but the radio equipment connected with it was subject to export control. ITT negotiators, unable to obtain advice from the Department of Commerce, lost the order to a competitor who did not have to comply with export restrictions.

In 1967, ITT delivered a navigational system under U.S. license to an Eastern European Country. In 1968, an order for spare parts was received involving $124 worth of U.S. components. The export license application, submitted on December 4, 1968, was approved on April 24, 1969.

Another ITT customer had purchased a number of maritime radios which could be shipped without obtaining a validated license. However when the customer decided to manufacture the radio himself under a licensing agreement with ITT, the Office of Export Control refused except on a case-by-case basis to authorize ITT to ship the supporting U.S. components so the customer could manufacture the marine equipment.

SATRA Corporation, a trade organization, applied for an export license to ship spectroscopes to the Soviet Union. After 4 or 5 months an approval was granted, but in the meantime the Soviets had purchased the items from Holland. In 1962, a SATRA license to ship $20 million worth of stainless steel tubes to the Soviet Union was denied; the order was promptly filled by companies in Great Britain, West Germany, and Australia.

In 1968 and the beginning of 1969 at least 10 license applications were denied U.S. companies for shipments to Russia. The applications covered potential sales of $30 million, and all of those sales have gone to Western European or Japanese companies. The products involved: precision pulse generators, logging perforating units, strobocons, hydrocracking plants and catalyst production technol-

ogy, a vacuum electric furnace for thermal treating of balls for ballpoint pens, photoplates and developers, film plants, and complete equipment for the production of magnetic disk memory tape.

Another trade consultant described the potential sale of a plant and the technical know-how to produce certain chemicals for insecticides in Russia. Several months elapsed before the export license was approved. When it was, a Japanese company had already sold a readily available similar facility to the Russians at a competitive price.

Often the Office of Export Control suggests that the quantities indicated on a license application be reduced even though there is no objection to the item itself. The larger amounts might give rise to criticism from opponents of East-West trade simply due to the size of the transaction. A series of smaller amounts with successive applications for licensing does not appeal to the buyer who will order elsewhere rather than waiting for the full amount.

More hurtful than the actual delays and denials are implied denials. One witness estimated that millions of dollars in sales are lost each year to the Soviet Union alone because an exporter "feels" that his license application will be denied, and, wanting to keep a good record with the Department of Commerce, fails to make such an application. That witness cited his company's decision not to apply for licensing for a substantial order of wigs for the Soviet Union on the determination that the license would be denied.

All of the evidence the subcommittee received indicates that the present Export Control Act hurts no one but ourselves. The Communist countries of Eastern Europe are not hurt; they can obtain what they need from other free world countries. Western Europe and Japan are not hurt; indeed their businessmen have received a windfall by virtue of U.S. default. Only the American businessman and the U.S. balance of payments are substantially hurt. Basically we deny ourselves the right to compete.

One witness compared U.S. export control legislation to the ancient Chinese method of avenging oneself against one's enemy—by committing suicide on his doorstep.

The Export Expansion and Regulation Act of 1969 is intended to change the direction of export control by reducing the complexities, delays and uncertainties in the administration of export controls without sacrificing the objective of controlling the export of strategic goods.

The Banking and Currency Committee believes that this bill will be conducive to an appropriate expansion of U.S. trade and an improvement in relationships between the United States and other nations, while at the same time restricting the sale to Communist nations of goods of military significance.

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

Mr. MONDALE. I am delighted to yield to the Senator from North Dakota.

Mr. BURDICK. I have been listening to the able Senator's presentation with a great deal of interest, and have wondered whether he intends to discuss the exportation of agricultural products, for example, North Dakota wheat. We will have, in my opinion, after this crop comes in, about a billion bushels of surplus or carryover wheat. The logical solution for handling this problem is to have markets—and markets outside the United States, because the United States can eat only so much wheat.

My question is, How does the measure the Senator is discussing here today fit into the problem of disposing of our surplus wheat?

Suppose that Russia or an Eastern European country would say, "We want 1 million tons of wheat. We have hard dollars with which to pay for it." In that event, how would the pending legislation enable us to make such a sale?

Mr. MONDALE. The committee, in the report but not in the statute, attempted to deal with this matter. We had originally considered a provision in the pending legislation to prohibit the use of the Export Control Act to impose a cargo preference on commercial sales of grains to Eastern Europe.

Mr. BURDICK. I am talking about commercial sales.

Mr. MONDALE. The Senator is correct. I am glad the Senator points that out. There has been some confusion about this matter. Many of us who supported the Food for Peace measure have consistently supported a Federal subsidy for the maritime industry to haul such items. So, in effect, the present 50-percent restriction on the commercial sale of grains and wheat to Eastern Europe has taken us out of the market. Wherever that restriction applies, it raises the cost of wheat by 10, 11, or 12 cents a bushel on the world markets.

Last year we had hoped to prohibit that situation by legislation. However, as the committee began its deliberations, it became clear that it was felt for other reasons that it would not be wise to try to include this issue as part of the broader export control provision.

We therefore included strong language in the report, directed at the executive branch, pointing out first of all that this was not a statutory restriction, but an Executive order issued several years ago, and that since it was an executive action, there ought to be an executive department correction of this matter.

We urged the President to immediately review and remove this restriction and to report to us at the earliest possible time on this matter.

We do not know if the President will act. We hope that he will.

Mr. BURDICK. Mr. President, how does the cargo preference law impede the sale of wheat?

Mr. MONDALE. The Cargo Preference Act itself does not do so. An Executive order prohibits an export license on the sale of wheat to Eastern Europe for commercial purposes.

It is sometimes confused with the Cargo Preference Act. However, it is an Executive order on the Export Control Act that we are getting at here. It provides that half of the wheat sold to Russia must be carried in U.S. bottoms even though the sale is strictly commercial. As a result of that we are out of the market and have been for several years.

Mr. BURDICK. Is that restriction made against free world countries?

Mr. MONDALE. Other products can be sold and hauled in foreign bottoms. However, if we want to sell one or two shiploads of wheat, half of it has to be hauled in a U.S. ship. That drives up the cost of the wheat to the point where we are not competitive in the world market.

We point out in our report that some who argue for this restriction say that there has been no demand in Eastern Europe for U.S. wheat. However, during the fiscal years 1965 to 1968, the United States shipped 2.5 million bushels of wheat to these Eastern European countries.

Mr. BURDICK. Was that wheat paid for in hard dollars?

Mr. MONDALE. The problem gets very detailed. Some of the countries in Eastern Europe are able to ship in foreign bottoms if they make a stop in Eastern European ports, but not the Soviet Union. It is a very complicated formula. However, as a result, we shipped 2.5 million bushels of wheat during the fiscal years 1965 to 1968. During that same period of time, Canada shipped 551 million bushels, Australia shipped 53 million bushels, Argentina shipped 86 million bushels, and France shipped 102 million bushels to these same countries.

Wheat shipments to Poland and Yugoslavia are not affected by the shipping restriction. And what happened where we could freely compete? During the fiscal years 1965 through 1968, the United States shipped a total of 138 million bushels of wheat to Poland and Yugoslavia, compared with less than 2.5 million bushels shipped to all the other countries because of the restriction.

I think that dramatically shows how we are able to compete where we do not have a restriction.

Mr. BURDICK. Were those sales paid for in hard dollars?

Mr. MONDALE. The Senator is correct. I think that occasionally there is some limited credit arrangement. However, for all practical purposes, the Senator is correct.

Mr. BURDICK. Is it the contention of the Senator that as long as the Cargo Preference Act applies, we will not be able to compete for sales in Eastern Europe and Russia?

Mr. MONDALE. I not only state that is correct, but I also point out that the record is abundantly clear on the matter.

The production of wheat in Russia has been erratic. Sometimes they have good crops, and at other times they have poor crops. When they have good crops, there is not much of a market. When they have poor crops, we find that we cannot compete at all because of the restriction while Canada, Argentina, and other countries make fantastic sales of wheat to these communities.

Mr. BURDICK. I understand that the report attached to the bill calls on the Executive to lift the restriction.

Mr. MONDALE. The Senator is correct. And we certainly hope that he will do so.

Mr. BURDICK. Mr. President, I com-

pliment the Senator from Minnesota for his presentation today. I hope that legislation of this kind will help to bring about a sale of some of our surplus wheat. And I am talking about a sale for American hard dollars.

Mr. MONDALE. Mr. President, I thank the Senator and I appreciate his support in our effort.

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

Mr. MONDALE. I yield the floor.

Mr. MUSKIE. Mr. President, as chairman of the Subcommittee on International Finance which reported the bill and which originally considered the pending legislation, I am happy to support S. 2696, of which I am a cosponsor, which has been explained in detail by the distinguished Senator from Minnesota (Mr. MONDALE).

At this time, I pay tribute to the distinguished Senator for his outstanding initiative and leadership in the development of the pending legislation.

Well over 2 years ago the distinguished Senator from Minnesota arranged, with the permission of the subcommittee and the chairman of the full committee, the Senator from Alabama (Mr. SPARKMAN), an extensive tour through Europe during the senatorial recess to explore the question of trade with the Eastern European countries.

In the process of that tour and as a result of his studies since that time and the hearings which he has conducted on the pending legislation in the subcommittee, the Senator has developed considerable background, and from my point of view he has become an expert in this field.

I am grateful to the Senator from Minnesota for his help and cooperation and for his willingness to take the leadership in this field.

Mr. MONDALE. Mr. President, I thank the Senator for his very kind comments. However, were it not for the interest and the concern shown by the chairman of the International Finance Subcommittee, the Senator from Maine (Mr. MUSKIE), the pending legislation would not be before us in its present form.

The Senator from Maine presided over and participated in most of the hearings. At all times the Senator has shown a special interest in trying to modernize and create an act to protect the national security interests of this country, but, where our national security interests were not involved, the Senator made certain that the American businessmen could freely and fully compete in nonstrategic items in Eastern Europe. I am proud of this measure, and I think a good deal of credit must be given to the distinguished chairman of the subcommittee.

Mr. MUSKIE. I thank the able Senator. I have already said that he has explained the bill in detail. I would like to put it in the broad context in which I understand it, the broad perspective in which I think it has significance, for the benefit of my colleagues and for the purpose of establishing the reasons for my support.

Well over a year ago, at my request, Senator MONDALE conducted extensive hearings on East-West trade. The hearings brought out the deep interest many American businessmen have in expanding peaceful trading opportunities with Eastern Europe and the Soviet Union. The hearings highlighted the difficulties and redtape they encountered in dealing with present export control procedures. The information developed in Senator MONDALE's hearings convinced him and other members of the subcommittee, including Senators BROOKE, WILLIAMS, PERCY, and myself, and Senator PACKWOOD of the full committee of the importance of revising and updating the Export Control Act of 1949.

Mr. President, in considering the legislation before us today it is necessary for us to recall the international climate which prevailed in 1949, when the Export Control Act was enacted. The United States was engaged in a deepening cold war with the Soviet Union. The economies of Western and Eastern European nations, including Russia, were still staggering under the effects of a devastating world war. Among all the major trading nations of the world, the United States alone had an economy strong enough and sophisticated enough effectively to deny items of trade which could have proved advantageous to the military or economic potential of those nations with which we were at odds.

The Export Control Act was passed to implement a policy of denying strategic items to the Soviet Union. As other nations of Eastern Europe entered the Soviet bloc, the restrictive trade policies were applied to them. At the same time, the United States was undertaking a massive program of economic assistance to Western Europe under the Marshall plan.

The success of our efforts in helping Britain, France, Germany, Italy, and other Western European nations to recover from the ravages of World War II needs no documentation here. What does need emphasis is the fact that the Soviet Union and its Eastern bloc allies also demonstrated a remarkable economic recovery from the war. During the last 25 years the industrial capabilities of the Soviet Union have far surpassed their pre-World War II level. The Soviet Union now has a gross national product which is roughly one-half that of the United States, and its military capabilities rival our own. Furthermore, its economy is less dependent on imports than any other major nation in the world.

The world situation in 1969 has changed substantially since the early days of the cold war. Confronted by the hard realities of a nuclear age, both the United States and the Soviet Union have taken a number of steps to avoid military confrontaiton. The nations of Eastern Europe, once apparently bound to the Soviet Union by monolithic ties, have demonstrated increasing signs of new independence and a desire to seek new avenues of communication with the West. The economies of our allies in Western Europe and Japan have expanded to the point where they are now engaged in significant trade with Russia and Eastern Europe. Concurrently, the U.S. balance-of-payments situation has undergone a drastic, unfavorable change.

Existing export control policies do not reflect these changes. The hearings before the Subcommittee on International Finance last year and this year provided ample, often startling, evidence of instances where American businesses have lost millions of dollars of sales because of excessive delays in export licensing procedures. Businessmen gave evidence that in many cases these lost sales opportunities have gone to our allies in Western Europe and Japan, which do not have the same cumbersome red tape or lengthy licensing regulations as the United States. In addition the United States unilaterally controls some 1,300 export items, 1,100 of which are freely available elsewhere to the Soviet Union and Eastern Europe.

Mr. President, such an export control policy is close to self-defeating. It has not prevented Russia and her allies from developing strong, sophisticated economies, and it has not helped the U.S. position in world trade. A recent New York Times survey estimates that the total U.S. share of world trade actually decreased by 5 percent between 1962 and 1967. In fact, as the economies of our allies in Western Europe and Japan have recovered and expanded during the past two decades, they have become increasingly strong and aggressive competitors for international markets, which once were thought to be the exclusive property of U.S. business.

Mr. President, I think the time has come for the Congress to reexamine our national policy with respect to East-West trade and to bring it into line with the present-day realities of world politics and international trade. The President has stated that he is seeking new opportunities to improve our relations with the nations of Eastern Europe. Leaders of the Democratic Party have expressed similar views. It seems to me that the chance for expanded trade in nonmilitary, noncontroversial areas is a vital first step toward implementing this goal.

This is what the proposed export expansion and regulation act seeks to do. It would declare a new national policy "to encourage the expansion of trade with all countries with which we have diplomatic or trade relations, except those countries with which such trade has been determined by the President to be against the national interest." At the present time, this would specifically exclude trade with Mainland China, Cuba, North Korea, North Vietnam, Southern Rhodesia, or any other nation specifically named by the President.

The bill would also "restrict the export of goods and technology which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States."

These two provisions, Mr. President, give the President ample flexibility to control exports for reasons of national security. At the same time they reflect our desire to expand trade in peaceful goods and technology.

Two other provisions of S. 2696 which merit special attention are the elimination of the "economic potential" test as a measure of whether goods may be exported and the establishment of an "availability elsewhere" test in consider-

ing export control license applications. Practically any item which is not designed for personal consumption contributes to the "economic potential" of an Eastern bloc nation or the Soviet Union. Furthermore, our ability to influence economic growth in the Soviet bloc is limited to the degree that export items are not readily available from other nations. The provisions in the bill before us reflect those facts, answer specific and well-justified criticisms of present export control policy, and attempt to make this policy more rational and consistent with present-day situations.

Opponents of this bill argue against it for several reasons:

First, that the policy of the bill is uncertain;

Second, that few export control licenses have been denied over the years;

Third, that the trade potential of East-West trade is small, anyway;

Fourth, that factors which made the Export Control Act necessary in 1949 have not changed substantially since then; and

Fifth, that the present act is a better approach to export control policy.

Mr. President, I contend that world conditions have changed since 1949 and that the export control policy contained in that act is an outmoded approach in 1969. I contend that the record of hearings on East-West trade has amply demonstrated that an overwhelming segment of American business opposes present-day export control policies, not because they want to materially aid the enemy, but because the Export Control Act has stalled and frustrated their legitimate attempts to engage in peaceful, nonmilitary trade.

These same businessmen overwhelmingly support the approach taken in the Export Expansion and Regulation Act of 1969. In addition, several former Government officials have expressed strong support for S. 2696, including such distinguished Americans as Averell Harriman, a former Secretary of Commerce and Ambassador to the Soviet Union, Nicholas deB. Katzenbach, former Attorney General and Undersecretary of State, John T. Connor, former Secretary of Commerce, and Theodore C. Sorensen, former counsel to Presidents Kennedy and Johnson. It was the considered judgment of these gentlemen, who have had first-hand experience with the administration of the Export Control Act, that the time has come for a change in that policy.

None of us who support S. 2696 argue that its enactment will automatically increase East-West trade or that the potential markets in Eastern Europe and the Soviet Union will ever amount to a large proportion of the total U.S. export market.

What we do argue, most emphatically, is that the time has come for us to take a positive approach to East-West trade. We believe that the thrust of our present policies is negative and that the administration of them will not change substantially without a new mandate from the Congress. It is not our intention to open the doors for trade which will in any way harm the national security of the United States. We believe, however, that the proposed Export Expansion and Regulation Act will be a positive declaration of this Nation's willingness to engage in peaceful, nonmilitary trade at the same time that it will continue to give the President all the authority he presently has to control exports which could prove harmful to the national security. Our declaration of policy is clear; the authority it confers is precise.

Mr. President, President Nixon has suggested that we move from an era of confrontation to one of negotiation. In the legislation before us we are arguing that expanded trade contacts can encourage negotiations in a relatively noncontroversial area, and that as we succeed in this area, we can improve the prospect for negotiations in more controversial areas.

The Export Expansion and Regulation Act of 1969 is one chance of doing this.

I urge my colleagues to support this bill.

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

Mr. MUSKIE. I am happy to yield.

Mr. FULBRIGHT. My understanding is that this bill was not reported unanimously. There is dissent about the bill. Is that correct?

Mr. MUSKIE. There is dissent.

Mr. FULBRIGHT. What was the vote in the committee on this bill?

Mr. MUSKIE. There was not a rollcall vote. To the best of my recollection, two members actively opposed the bill. Perhaps the Senator from Utah can correct me on that. I think that is accurate.

I understand that Senators BROOKE, PERCY, PACKWOOD, and GOODELL supported this bill in the committee, and, I understand, will do so on the floor.

Mr. FULBRIGHT. Is it clear what the basis for this objection is? Do they wish no bill at all?

Mr. MUSKIE. The Senator from Utah, of course, will express his views himself.

The administration told us, in effect, that its objective would be to facilitate trade between the United States and Eastern bloc countries, that it would attempt to facilitate the operation of the procedures which make that trade open to American businessmen, but that it was not prepared to endorse this bill.

So the objective of the administration and the sponsors of this bill appears to be similar, but we got bogged down, apparently, on details.

Mr. FULBRIGHT. Is there anything in this bill that affects the most-favored-nation treatment of the countries of Eastern Europe?

Mr. MUSKIE. Mr. President, this bill would do nothing with respect to favored-nations treatment. That is a responsibility of the Committee on Commerce. This bill simply deals with the control of export items. Right after World War II there was concern that we not export to the Soviet Union or its allies strategic items, which at that time included not only military items but, I gather, items that might be useful to the economic development of the Soviet Union.

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

Mr. MUSKIE. I yield.

Mr. BENNETT. This bill calls for equal treatment for all countries, as a matter of definite policy. To that extent it affects the most-favored-nation proposition.

Mr. MUSKIE. It is not my impression that this bill legislatively has the effect of modifying our most-favored-nation policies which are governed by other and broader trade policies and legislation. These are export controls and do not affect imports. The bill states the policy cannot be fully implemented by this legislation, but it is the effort of the committee to implement, so far as we could reach an agreement in committee, with respect to export items.

Mr. FULBRIGHT. It is only in exports that we would be given equal treatment and not in imports. Is that right?

Mr. MUSKIE. The Senator is correct.

Mr. FULBRIGHT. Does this bill have anything to do with the requirement of shipping exports in U.S. bottoms?

Mr. MUSKIE. This bill does not. That policy was established under Executive order, the Senator will recall, in connection with wheat sales to the Soviet Union.

Mr. FULBRIGHT. The Senator is correct. Is that still in effect?

Mr. MUSKIE. It is in effect. An effort was made in this bill to modify that policy. After full consideration and another day of hearings the committee decided that, rather than try to amend the bill, it would include in the committee report an expression to the executive urging reconsideration of that policy and a modification of it. But we were not able to agree on an amendment in this bill to cover that policy.

Mr. FULBRIGHT. Does that not effectively prevent any sales to Eastern European countries, or Russia, or China?

Mr. MUSKIE. It deals only with wheat.

Mr. FULBRIGHT. Only wheat.

Mr. MUSKIE. I agree with the Senator completely. I think the effect of this is to take us out of the international market on wheat.

The distinguished Senator from Minnesota (Mr. MONDALE) I think, has a special interest on this point.

Mr. FULBRIGHT. I saw in the newspapers the other day that the Canadians have negotiated sales of wheat in the amount of $150 million, I think, with China.

Mr. MUSKIE. The Canadians have been doing that regularly.

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

Mr. MUSKIE. I yield.

Mr. MONDALE. The committee report sets forth the self-defeating nature of the 50-percent bottom requirement on commercial sales of grain to Russia. The figures show that during fiscal years 1965 through 1968, when the restriction existed, the United States shipped just under 2.5 million bushels of wheat to Russia and East European countries. In the meantime, Canada shipped 551 million bushels, Australia shipped 53 million bushels, Argentina shipped 86 million bushels, and France shipped 102 million bushels.

However, wheat shipments to Poland and Yugoslavia are not affected by the

shipping restriction. During fiscal years 1965 through 1968 the United States shipped a total of 138 million bushels of wheat to Poland and Yugoslavia, compared with less than 2.5 million bushels shipped to the countries affected by the restriction.

Mr. FULBRIGHT. I wonder if the committee did not feel it is time for us to open up our trade a little more in view of the imbalance in our international payments.

Mr. MUSKIE. This is one of the considerations that bore heavily on our decision to report this bill.

Mr. FULBRIGHT. Is the Senator informed of the estimates for this year's deficit in our international payments? Is it not quite large?

Mr. MUSKIE. I think there was an improvement in the last quarter for which we had figures. I shall put the figures in the RECORD as soon as I can get them.

Mr. FULBRIGHT. I think it would be interesting to see how that is affected.

My impression is that there were few items in this bill that are not provided in the market by England, France, Italy, and others. We are not really depriving the Russians of anything.

Mr. MUSKIE. This is a very sore point with our businessmen. There are 1,300 items on our control list. Of those, 1,100 items are freely available from our Western European allies or the Japanese to Eastern bloc countries.

Mr. FULBRIGHT. Even with respect to the 200 items not on the list, those 200 items are restricted only to Russia and these countries but they are not restricted for us to sell those items to purchasers in Germany, France, or England, are they?

Mr. MUSKIE. No.

Mr. FULBRIGHT. Therefore, all they need to do is buy them through a third country. Is that right?

Mr. MUSKIE. The Senator is correct.

Mr. FULBRIGHT. Unless there is a high degree of cooperation in the third country. In the early stages of the cold war these countries did cooperate in enforcement of the regulation.

Mr. MUSKIE. They still do on items that are strategic.

Mr. FULBRIGHT. The Senator is talking about commerce now?

Mr. MUSKIE. The original concept appears to have been that we were concerned about exports to Eastern European countries, those which affect the economic potential of those countries, as well. With this policy we have not been able to control the economic growth of the Soviet Union and the Eastern European countries, so it has been a self-defeating policy and it did not work.

Western European countries have been much more realistic about this matter, and so they opened up trade with Eastern bloc countries, realizing it holds benefits for them and it does not hurt them.

Mr. FULBRIGHT. Does the Senator have the testimony on how much trade West Germany has with Russia?

Mr. MUSKIE. Yes.

Mr. FULBRIGHT. Is it substantial?

Mr. MUSKIE. Yes.

Mr. FULBRIGHT. It seems to me it would be interesting to highlight what the West Germans and Japanese do. Do the Japanese trade with Russia?

Mr. MUSKIE. Yes, and they trade with the mainland Chinese and Cuba, as well. I shall get the figures for the RECORD.

Mr. FULBRIGHT. I think it is interesting to show the contrast between West Germany and the Japanese, those countries being great industrial nations, and have trade with Russians.

Mr. MUSKIE. While we are looking for the other figures, I will give the latest figures on U.S. trade with Eastern European countries in 1963. Our exports to Eastern Europe were $166.8 million.

Mr. FULBRIGHT. Does that include Yugoslavia?

Mr. MUSKIE. Yes. The next year was the year for the wheat sales. It climbed to $339 million. In 1965 it fell back to $140 million. In 1966 it climbed up to $197 million. In 1967, the last year for which we have figures, it was $195 million.

The interesting thing is that in the first quarter of this year, 1969, our exports to the Soviet Union and other countries of Eastern Europe, were $39 million. This was a decrease of $62 million from the previous quarter and $55 million in the first quarter of 1968.

So notwithstanding an announced policy of the administration to facilitate the export of goods to Eastern European countries, we have dropped in our export sales to those countries.

I wish to ask the Senator from Minnesota if he has the figures on trade between West Germany and other Western European countries.

Mr. MONDALE. I do not have the figure here. I think West Germany is the big trading partner in Eastern Europe today. Those figures are in the RECORD. I will check them now.

Mr. FULBRIGHT. I do not want to delay the Senator's speech, but I thought it would be interesting to show the difference. When we look at our condition today as to interest rates, our balance of payments, and the severe economic strain we are going through, it does seem shortsighted that we turn this kind of trade in large amounts over to countries like Germany and Japan, or to any of the other friends of ours and say, "You take this trade, we just default." It seems to me to be unjust to our own businessmen. We have an Export-Import Bank trying to foster exports to other countries, and we pay a subsidy to give them a low interest; but not to Eastern European countries. Unless there is some overriding security matter, it seems to me to be a foolish policy for us to follow. If it is a security matter, I should like to know what it is. Has there been any testimony on it before the committee?

Mr. MUSKIE. To the best of my knowledge, and I have listened to the testimony, and have read the testimony, the argument against this bill and its objectives is not any specific security risk. It is not argued that it would open the door to the sale of items that have a clear military value. It is argued that to open up trade with Eastern European countries would add to their economic strength, and therefore we should not do that. That seems to me to be the basis of the argument.

Mr. FULBRIGHT. It seems like a case of the "Mad Hatter" all over again. Even in the military, we were told by spokesmen for the administration not too long ago, or more specifically, the Pentagon, that the Russians have a weapon such as the SS–9. I do not believe it, but at least they said it is one which threatens to be much more effective than the one we have. If it is as good as we were told it is, during the debate on the ABM, I do not know why we are so careful about shipping them anything we have, because if we believe what the spokesmen in the Pentagon have said, that weapon is extremely efficient and sophisticated. That is why they ask for so much money from us.

Mr. MUSKIE. It is clearly the intention of the Russians to develop self-sufficiency.

Mr. FULBRIGHT. I do not think what they say is true. I thought it was hogwash, but anyway, that is what they said. How they reconcile that with the arguments they made against the bill is strange to me.

Mr. MUSKIE. It is clear from the picture of the Russian economy I have that Russia does not depend upon imports to build its economic strength. It depends upon imports to a lesser extent than any other major trading nation in the world today. It has built its economy by internal development, not by trade.

Mr. FULBRIGHT. They have been forced to do that by just such acts as this. Being as large as it is, with its total resources, it is true what has developed, but I am not at all sure it has been to our interests. I am inclined to think that it has been against our interests. Russia just wants to become as self-sufficient as possible. If we had traded with her, I believe there would have been less disposition to enter into pacts with other countries and to continue the cold war.

Mr. MONDALE. Mr. President, if the Senator will yield, we have found the figures—we shall have some later ones which we are now trying to uncover—which show commercial trade between West Germany and eastern Europe in the years 1964, 1965, and 1966.

In 1964, $839 million for eastern Europe.

In 1965, $889 million.

In 1966, $1,102 million.

I think they are substantially higher than that now.

In 1966, we had $197 million.

The standard American share of world trade is about 16 percent.

In Eastern Europe, we are less than 2 percent.

Based on the first quarter, we are one-half of 1 percent, largely because of the self-defeating restrictions on commerce in our strategic trade which does not deny Eastern Europe anything but gives preference to France, Germany, Italy, Great Britain, and Japan.

Mr. FULBRIGHT. It would be interesting to have the Japanese figures, too. We do everything we can to help them. We have armed forces in there to protect them. I do not know how many billions of dollars we spend in protecting Japan, and Germany as well, with our military

men. We have thousands of military men in Japan and yet we pass a bill like this, and Japan is one of our largest traders.

Mr. MONDALE. In that same period, 1966, that we had $197 million with all of Eastern Europe, Japan had $273 million.

Mr. MURPHY. Mr. President, will the Senator from Maine yield?

Mr. MUSKIE. I yield.

Mr. MURPHY. Is there any question of price differential? Is this broken down so that we can tell whether this is because of inability to compete, because of prices?

Mr. MONDALE. These are strictly dollar volume figures. They do not reflect in the tables themselves the question of a price differential. All the testimony the subcommittee took with different problems, it all boiled down to seeking or gaining trade, which of course goes into a great deal of detail, but these figures by themselves do not reflect that.

Mr. MURPHY. We see instances of great problems now because of their ability in the labor market to produce quality based on what they have learned from us, at sometimes as low as half the price.

Mr. MUSKIE. What is involved here is not that question at all.

Mr. MURPHY. Yes.

Mr. MUSKIE. These four volumes of hearings cover 2 years in the field with stories and complaints of American businessmen, all of whom could sell more goods in these countries but for our policies and restrictions. They can compete. They want to compete. They are denied the markets, however. That is the problem.

Thus, these figures do not indicate any inhibitions. On the contrary, if we were able to relax our policies in accordance with the judgment of American businessmen, who tell us they can increase sales, it will not be an astronomical program, but they would be able to compete in the items they discussed with us.

Mr. MURPHY. I thank the Senator. That answers my question.

Mr. MUSKIE. Mr. President, I am going to close my formal remarks with perhaps 3 or 4 more minutes of observations so that we may proceed with debate.

The committee was motivated by the conviction—that is a majority of the committee—that in light of the changes which have taken place on both sides of the Iron Curtain since the original Export Control Act was enacted in 1949, the time has come for Congress to reexamine national policy with respect to East-West trade and bring it into line with present-day realities, world politics, and international trade.

The President has said that he is seeking new opportunities to improve our relations with the nations of Eastern Europe and to enter into an age of negotiations.

Leaders of the Democratic Party have expressed similar views. It seems to me that the chance for expanded trade in nonmilitary, noncontroversial areas is a vital first step toward implementing this goal. This is the modest nature of what the bill before the Senate undertakes to do.

It does not open wide any doors that should be closed. It merely undertakes, in a very modest way, which still leaves full control to the President in a way that I shall describe, the opportunities for peaceful trade with Eastern bloc countries. This trade is urgently desired by American businessmen, as they have testified in testimony covered in the four volumes which we have here in the Chamber at the present moment.

Now let me indicate to the Senate the control that the bill before us would give to the President. It would declare a new national policy "to encourage the expansion of trade with all countries with which we have diplomatic or trade relations, except those countries with which such trade has been determined by the President to be against the national interest."

At the present time this would specifically exclude trade with mainland China, Cuba, North Korea, North Vietnam, Southern Rhodesia or any other nation specifically named by the President.

In addition, the bill would "restrict the export of goods and technology which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States."

These two provisions, Mr. President, give the President ample flexibility to control exports for reasons of national security, and at the same time they would reflect our desire to expand trade in peaceful goods and technology.

Mr. President, if what we like to describe as the world's most powerful nation could not operate, within the limits of this modest kind of policy, to protect its own security while it expanded trade, then there is something wrong with the patriotism, ingenuity, and commonsense of the American businessman who would be implementing this policy.

I think we are playing a game of blind man's buff in the business of world trade or our own trade with Eastern Europe. All our allies, all our friends, all our Western trading partners are doing business with these European countries, and all that our own American businessmen are asking is an opportunity to do business with the same people on the same basis.

Are we so fearful of our ability to do so and protect our security that we must deprive ourselves—this great commercial country—of an opportunity which is so freely seized by countries less powerful, more closely located to the Eastern European countries?

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

Mr. MUSKIE. I yield.

Mr. FULBRIGHT. Does this act affect a subsidiary of an American company that is operating in Germany, for example? Opel belongs to General Motors, as I understand it. Does this act affect Opel in Germany in selling anywhere? Does the Senator know whether it would?

Mr. MUSKIE. I understand the Treasury Department has some control over this kind of relation, by controlling part of the assets of the American corporation.

Mr. FULBRIGHT. If it did, it would run afoul of the German Government.

Mr. MUSKIE. It is a difficulty, and we do run into difficulties.

Mr. FULBRIGHT. I would think it would create a bad feeling between countries that think they are independent if we, through subsidiaries, tried to control sales, because they were sales of a subsidiary of a U.S. company. This is a German company. The greatest benefit occurs to the Germans, because they employ German workingmen and they pay German taxes. If the United States thinks it can, in this fashion, control the trade of a country like Germany or Japan, I think it is going to run into serious troubles.

Mr. MUSKIE. There is no trouble with them as a result of our policies with respect to trade with Eastern Europe. These countries laugh at us.

Mr. FULBRIGHT. That is with respect to our own companies. They like the idea of a German company trading with Eastern Europe because it brings in substantial funds to them. What they laugh at and what they like is for us not to trade directly with those countries.

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

Mr. MUSKIE. I yield.

Mr. MONDALE. We estimated that there are about 1,100 major items freely available to them from Western countries, not controlled by COCOM, which we unilaterally prevent our own businessmen from selling to them. I have seen pages of specific items which came out in testimony by businessman after businessman. They had been bargaining for contracts of nonstrategic, nonmilitary items, and the export license office would not give them a license. The deal fell through, and the British, or the Germans, or the French got it. The balance of payments went to them. We lost the contract. We did not gain a thing. It is a self-defeating, Joe Stalin hangover.

Mr. FULBRIGHT. It strikes me that way.

Mr. MUSKIE. May I quote the testimony of Secretary Ball on the very point the Senator has raised. I think the Senator might be interested in his testimony, which relates to the problem of extraterritoriality. He said:

> A more significant problem is that of extraterritoriality, which I hope will be addressed by the Congress. This is a problem that most often arises under the Trading With the Enemy Act, where the United States attempts to impose on the subsidiary of any American company doing business in a foreign country a policy which is not accepted by the government of the country in which the subsidiary is doing business.
>
> Now we had a number of examples of this and they have been extremely abrasive. One or more have concerned our relations with Canada, where our government's actions have been deeply resented by the Canadians. I recall a case of some wheat loading machinery that was in possession of a company or two in Canada—I think all of the companies that happened to have this particular kind of wheat loading machinery were subsidiaries of American companies. And we said, "You can't use this machinery to load

the wheat to go to China." It was a machine put on the ship and I think it went along and unloaded it at the other end.

The Canadians were quite naturally upset. They said:

"You are telling a Canadian company doing business in Canada it can't use a particular piece of equipment for handling the wheat in connection with a sale which the Canadian Government has made."

Now, this is only an illustration of the point. We have had some other situations in France. Sometimes the subsidiary company is not even wholly owned by the American parent, but there is a substantial minority interest and this aggravates it, because the minority interest, living in the foreign country, says, "What does the U.S. Government have to do with us? Why can't we run our business, as long as we comply with the laws of the country where we are situated? Why can't we run our business as we wish to?"

The Senator is quite right. Secretary Ball went on to discuss other instances.

Mr. FULBRIGHT. The Canadians rejected the protest, did they not? They did not abide by it?

Mr. MUSKIE. They found a way around it.

Mr. FULBRIGHT. For the self-respect of the country, I would think they would.

What does this bill do about it? Does the bill remove the 1,100 items from the requirement of having to have an export license?

Mr. MUSKIE. No.

Mr. FULBRIGHT. Why does it not?

Mr. MUSKIE. Because we have the best bill we could get through the committee. It is a very modest bill. The Senator from Minnesota, who authored the bill, and who has pushed it this far, will correct me if I am wrong. My impression is that the bill in the present form does nothing more than indicate that it is the desire of Congress that the President, by the exercise of his discretion and by the use of the executive machinery—to which we have made additions—will undertake to break down these barriers and to eliminate the red tape and loosen up the licensing procedures so American businessmen will be encouraged to come in and ask permission to sell.

Mr. FULBRIGHT. In what way does the bill improve the existing law? Is it not just an extension of the law?

Mr. MONDALE. Mr. President, if the Senator will permit me, one principle we had to accept—and I would have preferred not to have it—was that it was strongly felt by a minority in the committee that we could not do anything to deny the President the power to restrict an item if he decided to have it restricted. I would have preferred, as in my original draft, that the President would not have been able to deny the export of an item if it were available elsewhere. It is patent that it does not achieve anything except to provide a foreign competitor the ability to get our business.

In any event, we felt we had to accept that principle, and we were willing to go along.

In the first place, the present law says that wherever there is an economic or military significance in an item to be exported to Eastern Europe, it must be prohibited. Any conservative administrator could conclude that almost any item was of economic significance, or the country would not have desired to purchase it. We knocked the word "economic" out and applied only "military," which liberalizes the standard.

Second—and I think this is very important—we have a complicated, although not decisive, rule that, when the item is available elsewhere, is not exclusively available from us today, and is not a military item, no license should be required unless the President affirmatively states that he wants it licensed nevertheless, and sends us a report giving us the reasons why.

Furthermore, and this is very important: One of the big problems with the Export Control Act is that the businessmen who deal with it are left completely in the dark, once they apply; they do not know whether they are being turned down, or why their applications are delayed, and we have several safeguards, not to restrict the President's power but to permit the American businessman to have his side of the case heard, and to insure that the applicant be told the reason for whatever action is taken.

In other words, we have tried to create an adversary proceeding, so that the whole story may be told. This is not a perfect answer, but we think it goes a long way toward creating a balanced approach to the problem.

Today the Export Control Office, in my opinion, acts very much like the security officers in Joe McCarthy's day. In other words, the easiest thing for them to do is turn everything down, because then they will never be personally criticized by anyone. It tends to make them extremely conservative in their judgments. This bill tries, as best it can, to leave the President with all the power he needs to do anything he wants, but at the same time to eliminate the inherent excessive conservatism and fear of the administrator.

Mr. FULBRIGHT. Who will actually administer this act? Who is likely to make the decision, what officer?

Mr. MONDALE. It will continue to be the Export Control Office in the Department of Commerce.

Mr. FULBRIGHT. Who is the head of that office now?

Mr. MONDALE. It is under Assistant Secretary Davis. The actual Administrator is Rauer Meyer.

Mr. FULBRIGHT. I thank the Senator.

Mr. MUSKIE. Mr. President, the colloquy between the distinguished Senator from Arkansas and the distinguished Senator from Minnesota emphasizes, I think, the essential modesty and conservatism of this bill as a change in our export control policy. I do not think that, by anything further I might say, I can add to the picture, and I am happy to yield the floor so that the other side may present its case.

Mr. BENNETT. Mr. President, I send to the desk an amendment in the nature of a substitute, cosponsored by the Senator from Texas (Mr. TOWER) and the Senator from Colorado (Mr. DOMINICK), and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be started.

The assistant legislative clerk proceeded to read the amendment.

Mr. BENNETT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT's amendment is as follows:

SECTION 1. Section 12 of the Export Control Act of 1949 (50 U.S.C. App. 2032) is amended to read as follows:

"TERMINATION DATE

"SEC. 12. The authority granted in this Act terminates on June 30, 1971, or on any prior date which the Congress by concurrent resolution or the President may designate."

SEC. 2. Section 1(b) of the Export Control Act of 1949 (50 U.S.C. App. 2021(b)) is amended to read as follows:

"(b) The unrestricted export of certain materials, information, and technology may adversely affect the national security of the United States."

SEC. 3. The third sentence of section 3(a) of the Export Control Act of 1949 (50 U.S.C. App. 2023(a)) is amended by changing "shall determine that such export makes a significant contribution to the military or economic potential of such nation or nations which" to read "determines, taking into consideration its availability from other nations with which the United States has defense treaty commitments, that such export".

SEC. 4. Section 6 of the Export Control Act of 1949 (50 U.S.C. App. 2026) is amended by adding at the end thereof the following new subsection:

"(d) In the administration of this Act, reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology. A detailed statement with respect to any action taken in compliance with this subsection shall be included in the first quarterly report made pursuant to section 8 after such action is taken."

Mr. BENNETT. Mr. President, the amendment I have sent to the desk is the text of the House bill, which passed last Thursday in the other body by a vote of 272 to 7, and which we shall face in conference if the bill as now supported and discussed by my friends on the other side of the aisle should pass.

The House bill is, in effect, an extension of the present Export Control Act, with three amendments.

The House bill, as this bill does, strikes out the requirement for consideration of the economic potential, leaving only consideration of the military potential.

Second, it says that the President must take into account the question of general availability, but it does not automatically reverse the process, and force him to remove everything from the list that is available elsewhere unless he makes a personal decision and notifies Congress.

The House of Representatives bill has other requirements which would reduce the paperwork involved in the obtaining of an export control permit.

We, of course, act entirely independently of the other body, but it is gratifying to know that on this important issue, they supported the President's position that the flexibility which he needs to carry out a responsible export program be retained.

As originally introduced, the bill almost stripped the President of his authority to deal with trade with Communist countries; but it has been greatly modified as a result of the hearings and discussions by the committee.

As reported by the committee, it contained much of the authority provided in the present Export Control Act, but, as a new feature, it combines the concept of trade expansion to Eastern European countries with control authority over exports. Other legislation before other committees, covering tariffs, export credit, and trade promotion is, I think, much more appropriate for dealing with trade expansion. In attempting to have this bill provide for control while also urging trade expansion, what has resulted is a misleading bill from its title throughout most of the new provisions covering export control policies and procedures, and would result in a divided responsibility.

The bill interposes a number of requirements in the administrative area which I believe to be unnecessary, burdensome, and costly for the Government; and apparently the President shares that view. These requirements include organizational and procedural changes by the Secretary of Commerce and extensive review of the complete export control list by the Department of Commerce, frequent notification and detailed explanation to the Congress of routine exceptions authorized by the bill, a continuing review of reporting and documentation requirements together with detailed statements to the Congress of action taken, and a burdensome requirement that extensive information be provided to exporters throughout the Department's consideration of licensing applications. In addition, the bill establishes a new Presidential Commission on Export Expansion which would, to a considerable extent, duplicate work already being carried on by established organizations and would thereby confuse rather than assist the export expansion program.

The bill requires the President to include a detailed statement of his action, if he restricts exports without making the determination, that comparable goods are not available elsewhere or that the exports would make a significant contribution to the military potential, which would prove detrimental to the national security of the United States. Even though as an exception, the President is granted the authority to restrict in the interest of national security, any commodity or technology as long as he reports such action to the Congress, the effectiveness of those administering the act is bound to be inhibited by these changes. Exporters and representatives of other governments will read a significant change into the language of the bill and bring additional pressure to bear for reduction in controls on critical items and for approval of questionable export applications.

At best, the bill will be confusing to exporters, cause significant difficulties in administration, and stimulate troublesome court challenges. Further, it will give an unwarranted signal to the Soviet Union that we intend to make our advanced industrial goods more readily available now, even though they have demonstrated no real desire for improved relations between East and West. In fact, last year's Czechoslovakian invasion stands as strong evidence against any such interest.

The bill could result in undue weakening of export controls with attendant risk to our national security.

The proposal which would replace the present Export Control Act is based on the assertion that factors which brought about the enactment of the Export Control Act no longer exist.

It is suggested that we are now living in an era in which the Soviet Union presents a reduced threat to the security of the United States. The fact is that the Soviet Union is a much greater threat to the security of the United States than it was when the Export Control Act of 1949 was passed. The Soviet economy then was undergoing a real struggle to provide the barest necessities for their own people because of the ravages of war when the Export Control Act was enacted in 1949. The Soviet Union has now become one of the world's greatest industrial powers. To conclude that such an economy provides less of a potential threat to this Nation than one which had a real struggle to provide the barest of necessities is absurd. Relative military capabilities of the United States and the Soviet Union in 1949 as compared with the present inevitably lead to the same conclusion.

Many of the provisions of the bill contradict each other. The present Export Control Act establishes a forthright policy of restricting exports on the basis of possible contributions to economic potential or military potential. Its language allows restrictions of exports whenever it is determined by the President that they make a significant contribution to the military or economic potential of a nation or nations, which would prove detrimental to the national security and welfare of the United States. The committee bill has eliminated the criteria of "economic potential" and retained only the "military potential" criteria.

In a modern industrial nation, economic potential and military potential are virtually synonymous.

Mr. President, it is ironic that the proposed bill in section 2(4) says that the Congress finds that "the uncertainty of Government policy toward certain categories of exports has curtailed the efforts of American business, yet this bill is sure to increase uncertainty. The whole announced purpose of the bill is to encourage the expansion of trade with all countries with which we have diplomatic or trading relations. This is stated in sections 3(1)(A), section 3(3), and section 4(a)(1). It is interesting to note, however, that in every case where this "change of policy" is stated, it is always followed by an exception which allows the President to make export determinations on the basis of national security, foreign policy of the United States, or the need to protect the domestic economy. Those are the criteria which are used in the present Export Control Act. Thus the bill appears to encourage the expansion of trade on the one hand, while on the other hand it provides for essentially the same restrictions which presently exist.

Moreover, on the one hand the bill holds out the policy of equal treatment for all countries. Yet section 3(5) of the bill states that it is the policy of the United States to use its economic resources of trade potential to further its foreign policy objectives. This latter policy is the one under which the United States has been operating for many years and obviously nullifies the "equal treatment change." The form without substance becomes even more apparent when it is known that the President of the United States, the one who holds the authority, opposes a change in policy at this time. Administration spokesmen have made it very clear that the President feels he should be free to seek a more appropriate time for liberalizing trade with the Communist countries. Yet the Congress, if it should pass this bill, would give an overt indication of the change of policy or attitude of this country. I believe that the President should have this constitutional latitude to relate liberalization in the trade area to broader foreign policy considerations. This bill, in my view, is an attempt to preempt the President's judgment on timing and force him into a policy of liberalization, while still holding him responsible to determine specific export policy.

It has been represented—and a great deal has been made of this today—that the nations of Eastern Europe and the Soviet Union are currently trading with our Western allies to a much greater degree than they are with the United States "because of the unilateral restrictive policies of the United States." This is far too simplistic to be accurate. The items under export control represent only a tiny fraction of the goods generally exchanged in international trade. Western Europe does much more business with Eastern Europe than we do for many reasons, primarily because of geographical proximity and the ready availability of these products and the opportunity to get them shipped at a lower cost. And whether we would like to forget it or not, the two countries, West Germany and Japan, which have been offered here today as examples of countries that are taking advantage of an opportunity on which we have shut our doors, have costs very much lower than ours. And while it is pleasant to say that our businessmen can compete, we have only to realize, for instance, that most of our radios and many of the televisions we can buy today under American labels are made either completely in Japan or are assembled here with component parts that are manufactured in Japan.

They can undersell us in our own market. So it is obvious that they can undersell us in the Eastern European market. The great bulk of this trade between Eastern and Western Europe is in products which our companies are also free to export, if they can obtain orders and get the price.

The Department of Commerce testified that less than 2 percent of the export

license applications received for Eastern Europe are denied. Supporters of this bill claim that is true because American exporters just do not try to export to Eastern Europe or the Soviet Union in items on the control list in any degree because they know that they will be turned down. I do not know how exporters know they will be turned down if they do not apply, particularly if 98 percent of the applications are not turned down.

Exporters do not know they will be turned down because all but a small percentage of requests are granted. In the last quarterly report dealing with export control, I find that approvals were given for exports to East European countries and the Soviet Union for such items as harvesting machines, tractors, electronic digital computers, metal-working machinery, metal treating and metal powder molding machines, rubber processing and rubber products manufacturing machines and parts, nuclear radiation detecting and measuring instruments, synthetic rubber, metal-cutting milling machines, gear-cutting machines, well-drilling machinery, metal-processing and heat-treating furnaces, telecommunications apparatus, and many other similar exports.

I could continue with a much longer list. We have already become very liberal in our concept of the materials that can be exported on the theory that they do not increase their military potential. With approvals on such a broad group of industrial products, not to mention the many agricultural and less sophisticated product approvals, how would an exporter come to the conclusion that his application would automatically be turned down?

I am particularly disturbed by repeated statements by the bill's proponents that its intent is to increase trade in "peaceful goods." Yet most of the industry witnesses represented companies with highly advanced technological products such as electronic control equipment, computers, and machine tools. Enactment of this bill following our hearings could well lead to a conclusion that the intent of Congress is to consider the bulk of our advanced technological products as "peaceful goods" to be freed for unrestricted sale to Eastern Europe. The result could be serious misunderstandings among business, foreign governments, and those in charge of administering export controls. It is not simple to separate "peaceful" from "nonpeaceful" goods and referring to "wigs" or "needles" or "buttons" as is done by proponents of this legislation in their attempt to bring about relaxed control is just begging the issue.

Our vast experience in East-West trade should remind us that our friends in the Eastern bloc are not interested in setting up a continuing supply of American goods of this type. They want to get one as a prototype which they can copy. And this is the problem that I think the President should be free to face.

I have yet to hear a definition of "peaceful" goods that would apply in a workable manner to decisions on the export of computers, silicon transistors, hydraulic presses, high-precision antifriction bearings, special alloys or numerical control machines without considering each transaction. Not one witness before our committee suggested that their products now being required to have an export license should be removed from the controlled list. Not one of them testified that their products could only be used for "peaceful" purposes.

Why? Because all of them knew that their products do have military potential and that they do not have the information necessary to make a determination as to whether their use could be detrimental to the security of the United States.

The Export Control Act has not had a major detrimental effect on our trade balance and relaxing its provisions would not significantly improve our trade surplus despite contrary allegations. The dwindling of our trade surplus from over $7 billion 5 years ago to an approximate balance is the result of basic economic factors, largely price factors, brought about by the unwise economic decisions of the past two administrations.

Most knowledgeable estimates indicate that trade with Eastern Europe, even under most favorable conditions, can grow only very modestly, and is unlikely in the foreseeable future to reach as much as 1 percent of our total exports.

Eastern European countries have, in general, carefully controlled bilateral trade with free world countries. They do not have free world currencies with which to pay for their purchases. And this fact probably controls much of their purchasing decisions.

For political as well as economic reasons, these countries try to maintain balanced trade with Western nations. For the years 1966, 1967, and 1968, U.S. exports to and U.S. imports from Eastern Europe were virtually in balance.

Shortage of foreign convertible exchange is a continuing fact of life for the Eastern European countries with the possible exception of the U.S.S.R., which has gold reserves. Even in the case of the U.S.S.R., however, there appears to have been a great reluctance to convert its gold reserves for foreign trade purposes. An exception occurred in 1963–64 when there was a grain disaster in the U.S.S.R. Late in the fall of 1963, the U.S.S.R. negotiated with the United States and purchased $140 million worth of wheat—which was delivered in 1964. During this period the Soviet Union also purchased considerable amounts of grain from Canada, Australia, and Argentina. From time to time there are reports that the U.S.S.R. is selling gold in the English or Swiss financial markets.

The problem of payments for export by Eastern European countries is further complicated because of the lack of multilateral convertibility resulting from trade between the free world and the Soviet bloc countries. Export surpluses that may result from intrabloc trade cannot be used in trade with free world countries because of the lack of convertibility.

I believe a relaxation of U.S. export controls would at best provide a very marginal improvement in our balance-of-payments position with Eastern European countries. The level of the trade between the United States and Eastern Europe in the last 3 years has averaged approximately $200 million each way with a very slight export surplus in our favor.

East-West trade must be a two-way street. Because Eastern Europe has limited convertivle currency, it must sell us about as much as it buys. However, Eastern Europe has few products which we need, and thus there is a limited basis for significant continuing two-way trade. The Soviet Union and Eastern Europe today are greatly interested in our advanced products and technology, many of which have both civilian and military significance, to expand their industrial capacity. Many of these transactions become one-shot deals with little or no follow-on sales prospects.

Mr. President, I find a further contradiction in the committee's action on the proposed bill. Section 7(c) provides that—

> No department, agency, or official exercising any functions under this act shall publish or disclose information obtained hereunder which is deemed confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, unless the head of such department or agency determines that the withholding thereof is contrary to the national interest.

Section 9 of the bill requires the agencies, departments, and officials responsible for implementing the rules and regulations authorized under this act to inform exporters of considerations which may cause a denial of license request so long as the information does not jeopardize the national security and effective administration of this act. The Department of Commerce, in its attempt to clarify the bill, recommended that a provision be included in this new section providing for confidentiality of business information. That request was turned down. We now have one section, section 7, requiring confidentiality, while the other section does not provide for confidential treatment of business information. I find this inconsistency in the bill unexplainable.

The penalties for violating the act have been changed from those presently contained in the Export Control Act. Despite the fact that the present penalties have been used primarily as a deterrent, the committee decided to do away with a possible 1-year jail sentence for a violation unless it could be proved that the violator did so knowingly. During our hearings and discussions of the committee, there was no indication that the present penalty provisions had been misused or abused. It is interesting that the change is justified on the basis of "concern over the constitutional question of a severe jail sentence and fine for unknowing violations." The present provisions authorizing up to 1-year imprisonment for a violation has been part of the act for 20 years, and nobody has been disturbed about it.

It seems to me that the proponents of the bill should either decide whether they want to have equal treatment between Communist and non-Communist countries except for specific Presidential determinations or whether they want some

differentiation retained as in the present Export Control Act. Section 3(3) of the bill states:

> It is the policy of the United States that any export controls found necessary should be applied uniformly to all nations with which the United States engages in trade * * *.

If, indeed, it is the intent of the bill to have equal treatment between Communist and non-Communist nations, why are unequal penalty provisions retained? Much harsher penalties are authorized in the event of exports contrary to the act with knowledge that such export will be used for the benefit of any Communist-dominated nation. The committee report properly states that this subsection is identical to one now contained in the Export Control Act. What it does not say is that the Export Control Act—the present one—differentiates between Communist and non-Communist nations, whereas this bill makes no such differentiation and in no other place in the bill is the term "Communist-dominated nation" used.

During our hearings, representatives of the Department of Commerce explained their desire to assist American business with its exports. That is one of the major purposes of the Department of Commerce. The Department of Commerce has major programs underway for the expansion of U.S. exports to meet the challenges posed by the unfavorable changes in this country's balance-of-payments position and the substantial drop recently in our normally favorable balance of trade.

Included among such programs are overseas trade fairs and exhibits, permanent trade center operations in a number of key cities in various areas of the world, governmental trade missions, governmentally sponsored industry trade missions, various market development efforts, the organization and partial financing of joint export associations, and a wide variety of commercial publications and information services.

Some of these are expansions of long-standing Commerce activities in this field, while others are recent additions. In addition, Commerce strongly represents the export trade promotional element within the executive branch on both policies and programs, including such matters as adequate export financing, export incentives and general reductions in tariff and non-tariff restrictions. Commerce is also actively engaged in reducing export documentation requirements and has recently taken several major steps to reduce the requirements for shipper's export declarations which should result in considerable savings to the trading community and increased efficiency in their export operations. All of these efforts are currently addressed primarily toward improvement of this country's trade balance and balance-of-payments position. They are pointed, more specifically, to achievement of a $50 billion export goal by 1973.

In further explicit support of both this goal and general export expansion, Commerce supplements its normal complement of contact with the international trading community through its National Export Expansion Council and the numerous Regional Export Councils which draw upon representative businessmen to advise the Department on export policies and programs and to assist in carrying them out. In addition, there is the Cabinet Committee on Export Expansion, chaired by the Secretary of Commerce, and its several subgroups whose main purpose is to achieve high-level policy coordination in interagency efforts to attain the $50 billion export goal and continuing export growth. In recent years, Commerce has shown itself increasingly to be imaginative, constructive, and forceful in the promotion of our international trade and in the development of meaningful techniques to accomplish this end. Even greater efforts are now being addressed to this end.

The preceding comments relate primarily to export trade with free world countries. The majority report on S. 2696 indicated that the emphasis of the proposed Export Expansion Commission would be on trade with Eastern European countries. In this regard, the record of the Department of Commerce, as well as that of other executive branch agencies directly involved in the field of international trade, has been consistent with both executive branch policies toward this area and the realities of the trading situations and potential between the United States and Eastern European countries. Trade in peaceful goods and technical data has generally been favored and facilitated as executive branch policy permitted. From time to time there have been exchanges of trade missions in various technically oriented groups. There has been participation in some trade fairs in Eastern Europe and reasonable relaxation in U.S. export control has occurred. Most experts in East-West trade that have appeared before our committee and other congressional bodies on this matter seem to agree that the problem of increasing U.S. trade with Eastern Europe rests primarily on matters such as availability of export financing and of most-favored-nation treatment, the ability of Eastern European countries to export on a competitive basis to the United States goods that meet our market requirements and the general limitation on the ability of Eastern European countries to pay for increased exports from the United States. The problem is thus not primarily one of lack of U.S. export promotion activity regarding U.S. trade with these countries. However, there appears to be no justification for further unilateral initiatives by the United States in the field of East-West trade.

I would like to discuss further the Commerce Department's activities reducing required paperwork for exporters. On May 28, 1969, Kenneth N. Davis, Jr., Assistant Secretary for Domestic and International Business of the Department of Commerce, testified before our committee as follows:

> The Department is aware that recent developments in documentation, computerization, containerization of merchandise, and continuous movement of goods require revision and up-dating of our techniques for obtaining compliance with export control regulations and for collecting export statistics. We have already made some progress in this field of modernization. For example, we have introduced and are expanding the utilization of procedures for clearance of the export cargo at inland ports of origin—17 new ports were announced within the last 30 days. We also found it possible to remove the requirement for the vast majority of export declarations valued at under $100.
>
> "Beyond this, we are going forward with experiments to test the feasibility of consolidated monthly reports by shippers and carriers, in summary form, or on computer tape or punch cards in lieu of declarations covering individual shipments. If this is successful, we should be able in time to effect a radical reduction in the use of export declarations. We expect shortly to begin an experiment designed to test the feasibility of having some of the declarations submitted by shippers directly to carriers, with some of the necessary checking being done by carriers and the remainder by the Census Bureau and the Office of Export Control after the shipment has left the country.

The Department has made good on this statement, despite suggestions by members of the committee that legislation would be necessary to bring about progress in the reduction of paperwork.

Perhaps members were basing their statements on policies followed during the previous administration.

I do not feel any responsibility to defend those whom they criticized. I do feel, however, that this administration in a relatively short period has taken action to reduce paperwork and save American exporters millions of dollars without jeopardizing the security of the United States.

On September 17, 1969, Secretary of Commerce Stans announced the changes:

> Effective October 1, exporters will not be required to file shipper's export declarations for general-license shipments to Free World countries when the shipments are valued at $100 through $250. At present, export declarations are not required for such shipments to Free World countries when the shipments are valued at less than $100. This change alone could eliminate 1½ million documents a year, or almost 20 percent of the total now required. At the same time, it would affect statistically only about 1 percent of the dollar value of U.S. exports.
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> General license shipments are those not requiring a validated export license from the Department's Office of Export Control.
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> Effective November 1 high volume exporters meeting requirements established by the Office of Export Control and Bureau of the Census have the option of filing monthly export declarations instead of a declaration for each export shipment to Free World countries of goods under Department of Commerce jurisdiction. Reports may be filed in specified written summary form or provided appropriately on computer tape or punched cards that are compatible with systems used by the Bureau of the Census.
>
> This change will reduce paper work on export shipments as the number of qualified exporters availing themselves of this option increases.
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> Under a proposed rule change, exporters no longer will be required to submit export declarations to the Bureau of Customs for authentication before loading merchandise moving under Department of Commerce general licenses to Free World countries by air or sea. Instead, they may submit the documents directly to carriers that agree to review the declarations for acceptability before loading and to forward them subsequently to Customs.
>
> This proposed change could affect between 85 and 90 percent of all declarations cover-

ing shipments to foreign countries other than Canada, which already is exempt from the pre-authentication rule. The effect could be to reduce the expense of documentation processing and runner time, reduce storage and demurrage costs caused by delays in paper work, and speed export shipments.

These changes are the result of the Commerce Department's continuing effort, in cooperation with industry and other Government agencies to streamline export procedures that in some instances have their origins back in the 19th century. While further improvement in documentation required by the Government is needed, most of the documents for export transactions stem from commercial practices that only industry can change.

I do not know, nor is it possible to accurately estimate, the full dollar savings the new procedures will achieve for U.S. exporters. However, recent testimony by an industry spokesman before our committee estimated the annual costs to American exporters to be $100 million for filling out, filing, and processing the shipper's export declaration. Based upon this and other estimates, the new procedures should lead to very substantial savings for U.S. exporters.

There is still much to be done, and the Department of Commerce, under its present capable leadership, intends to do it.

We have been assured that for years it has been the Department's policy—limited only by budgetary restrictions—to maintain continual review of items requiring export licenses—adding to or deleting from the list whenever conditions warranted. I have confidence that the present administration intends to implement that policy and think they should be given an opportunity to prove themselves, just as they have proved themselves by reducing paperwork.

The committee hearings and in particular the information provided by the administration have demonstrated that no sharp reduction in regulatory authority is needed or warranted. The existing Export Control Act has been shown to have ample flexibility to accomplish everything that could be accomplished through this new proposal.

The Export Expansion and Regulation Act of 1969 as proposed in S. 1940 has been modified to substantially restore the authority it at first had sought to weaken. We now have a bill which retains parts of the original proposal, parts of the present Export Control Act, and some provisions which are inconsistent with both. Proponents of the bill apparently feel that significant changes have been made from the present Export Control Act, but the actual substance of these is far less than would appear. It must be recognized that the bill will be interpreted as a liberalization signal if nothing else. There is no evidence of the Soviet Union's readiness to move toward closer relations with the West which would warrant overriding the President's judgment that this is not the time to signal a change in relations with a new export control policy.

The President and the Department of Commerce strongly oppose the added features of the bill for the reasons I have given.

I, therefore, urge an extension of the Export Control Act of 1949 with the moderate amendments approved by the other body last Thursday. For that purpose I have offered the pending amendment which simply would provide for extension of the present law plus the heretofore referred to amendments. My amendment would strike out all after the enacting clause and substitute language passed last Thursday in the other body by a vote of 272 to 7.

Mr. TOWER. Mr. President, will the Senator from Utah yield to me without losing his right to the floor?

Mr. BENNETT. I yield to the Senator from Texas without losing my right to the floor.

The PRESIDING OFFICER (Mr. MURPHY in the chair). The Senator from Texas is recognized.

Mr. TOWER. Mr. President, I should like to associate myself with the remarks made earlier by the distinguished Senator from Utah (Mr. BENNETT). Those of us who serve on the Committee on Banking and Currency are well aware of the great knowledge and effective advocacy of the ranking minority member on the committee. Consequently it comes as no surprise to note that he has done an excellent job of presenting the factual practical reasons for our amendment. I would like to submit my reasons for supporting the amendment also, but I shall not take the time of this body to go over the same ground so adequately covered by the Senator from Utah.

Instead I should like to dwell on some of the philosophical reasons for supporting a straight extension of the Export Control Act of 1969. In the process of so doing, I shall try to place the Export Control Act in the context of the conflict between Soviet-Eastern bloc ideology and Western concepts of democracy.

There is a disturbing tendency on the part of those who seek broader markets for American products to forget the reason for which the Export Control Act was developed. It was primarily developed because this Nation found that it was making a direct contribution to Communist military and industrial strength. We discovered that the superior products developed by advanced American technology were being used by Soviet bloc countries to increase their capability to make partial or total war against the free world.

This reason is as relevant today as it was when the Export Control Act was first passed by Congress and signed into law. Unless we are willing to accept some very strange logic, we must concede that the Soviet Union and her satellite appendages are supplying the Communists who are fighting Americans in Vietnam with the wherewithal to continue doing so. Russian and Eastern European cargo vessels unloading in Haiphong harbor offer irrefutable proof of this, and it would take an ostrich-like approach to viewing reality to contend that the Communist nations would not make use of American-made machines and American-developed technology to streamline their war supply efforts if they were available to them. In short, there is very good reason for continuing this Nation's effort to restrict the flow of strategic goods to the Soviet Union and her Eastern European allies.

I do not argue, however, that this should be a fixed, permanent, and unyielding American policy. The Export Control Act vests the President with discretionary power to vary the degree to which we limit the flow of American goods to Communist nations. This is only proper. We all look forward to the day when the Communists will show some indication that they are no longer interested in forcefully expanding their philosophy throughout the world.

The President is and should be free to encourage such a change of posture on the part of the Communists. He may well decide at some future time that a relaxation of the restrictions on the flow of strategic goods to the Communists would encourage them to adopt a more responsive attitude at the Paris peace table or a less expansionist approach to the Middle East. On the other hand, he may decide that the world situation dictates that Soviet Union and/or the East European nations be denied the fruits and benefits of American enterprise. If this is necessary, and I hope it will not be, the President should be able to act in an appropriate manner.

Just as the United States should not have an unyielding irreversible policy of "no trade" with Soviet bloc nations, it should not have a similarly overly rigid policy of unrestricted trade. There is every bit as much unreasonable rigidity in a policy of allowing our enemies unrestricted access to our technology and productivity as there is in denying them any access whatsoever to the products of our free enterprise economy.

I think then that we must be careful when we seek to broaden trade with Communist nations. We must realistically examine the uses to which American products and know-how are put by them. If they use them to provide consumer goods for their people, or if they demonstrate that they use them to "build bridges" to the West, then I say, "fine," let them have access to our goods. But, if they use them to make war on Americans or to impose communism on free men, then I say, "no"; this Nation will not contribute its technology, its machinery and its enterprise to such endeavors.

We must also examine just what we expect to gain from trading with Communist nations. Trade implies a two-way operation. They obviously want what we produce. What do they produce that this Nation wants or needs? I fear that the answer is "very little." I fear that this is so because the Communist countries are more concerned with applying their industrial might and technological know-how to devising methods for conquering individuals instead of satisfying their needs.

In conclusion, Mr. President, I should like to deal with one additional point. Opponents of a straight extension of the Export Control Act have argued that the present act places an intolerable burden on American firms seeking to expand their markets. Along with my colleagues on the committee, I have listened to the testimony of representatives of many large firms testify-

ing as to the difficulties they have encountered in securing export licenses.

I sympathize with those businesses. They have a legitimate reason to desire more efficient administration of the act. But I think it important that they heed the pledge of the representatives of the Commerce Department to streamline the administrative procedures involved in obtaining an export license. Furthermore, I think that they should note the announced intention of the President of the United States to follow a policy of trade expansion whenever it is consistent with the national well-being of the United States. I am satisfied by the pledges of the administration officials and of the President speaking through them. I certainly do not think that the Senate should force the President's hand in this matter.

Let me say, however, that there will be some hardship to businesses desiring to do business with Eastern bloc nations as a result of a simple extension of this act. I feel that the vast majority of businesses in this country are willing to make this sacrifice if it is in the interest of national security. This country has a tradition of businesses rising above short term self-interest in order to secure the best long-term interests of this Nation. Because I believe that the price is small in relation to the benefit gained, I feel that our Government can fairly ask that it be paid.

Mr. President, I urge that the Senate agree to the amendment offered by the Senator from Utah.

Mr. BENNETT. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. BYRD of Virginia. Mr. President, will the Senator from Utah yield?

Mr. BENNETT. I am happy to yield.

Mr. BYRD of Virginia. Mr. President, I favor an extension of the existing Export Control Act.

I feel the existing act provides the necessary machinery and flexibility to adjust the controls on our exports to meet a changing world situation and enable our export policy to continue to further the foreign policy of the United States.

My colleagues who support substantial changes in the Export Control legislation, seem to feel that the world situation has changed substantially in the 20 years since the original Export Control Act was enacted.

They would use a liberalization of the Export Control Act to expand trade with the Eastern European countries. They seem to feel that the situation between our country and the Communist bloc countries has improved to the point where the Congress should relax export controls.

Both the President and the Department of Commerce have evidenced a desire to adapt the current export control regulations to aid American business wherever they feel it is justified. There is flexibility in the present law.

But, I do not feel that our relationship with the Soviet Union today warrants passage of a bill that would announce a sense of the Congress that trade should be used to build diplomatic bridges with the Communist countries.

I, for one, do not trust the Soviet Union. I have only to look to Cuba in 1962 and, more recently, the invasion of Czechoslovakia as evidence of the true nature of Russian policy.

But we have an even more urgent reason not to relax our trade policy with the Soviet Union—that is Vietnam.

It is inconceivable to me that we can relax our export policy with the Russians while they provide the bulk of the war materials to the North Vietnamese war efforts.

Contrary to what many people are starting to think, I do not see an early end to the Vietnam conflict.

We continue to suffer casualties and we continue to find Russian-built tanks and helicopters on the battlefield.

So long as we have any troops committed in South Vietnam, we do them a disservice by increasing the Communist war-making potential.

In short, I do not feel that there is any evidence that the Soviet threat to the United States has become so minimal that this body should announce its intent that our export policy be relaxed. In fact, the Soviets have become a stronger nation.

I do not feel that the Export Control Act should be weakened at this time. The act must continue to be administered in such a way as to insure that equipment and technology going to the Soviet Union and other Communist countries are not capable of being utilized to the detriment of the United States.

Mr. President, I shall support the amendment of the distinguished senior Senator from Utah.

Mr. PERCY. Mr. President, will the Senator from Minnesota yield?

Mr. MONDALE. I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I would not want to leave the impression that the minority side of the aisle does not have an opposing view to that expressed by the distinguished ranking member of the Committee on Banking and Currency. I support the bill and oppose the present amendment. I have done so after very long thought and deep consideration of this very important matter.

It is for both sound commercial and political reasons that I rise in support of the bill. As business witnesses testified before the Committee on Banking and Currency a market exists in eastern Europe for nonstrategic peaceful goods which the United States has now cut-off, for all practical purposes. Germany, Italy, France, Britain, Japan, and other developed countries on the other hand are busy making export sales to Eastern Europe and, thus, are strengthening their trade balance and their balance of payments.

Mr. President, within recent months I have visited every one of those Western European countries and have talked with government officials, as well as businessmen. They feel it is incredible that we are letting them get all this business, but they are happy to have it.

The United States is desperately in need of improving its balance of payments, in fact more desperately in need than any single Western European country I have mentioned. They are doing a land office business with Eastern Europe.

For the first half of this year, our balance of payments shows a $10.7 billion deficit on an annual basis for 1969. The third-quarter figure from preliminary indications shows no reason for encouragement. The U.S. trade balance which has traditionally been a heavy surplus enabling us to support further overseas commitments has been wiped out in 1969. In many cases Eastern European countries have turned first to the United States for various peaceful goods and when denied them by us, they have then turned to the Western European countries which are more than happy to get the export orders.

Mr. President, let me report as vividly as I can on the relationships which exists between our balance-of-payments deficit, the security of the United States, and particularly the security of Europe.

I have just today returned to the Senate from NATO. We know that the troop forces we have in the NATO countries are threatened by the ability of the United States to be able to support them as we have, as we have a $1.5 billion deficit in our balance of payments to support our NATO troops.

We have with the NATO countries alone a $15 billion budgetary item for our costs in NATO. I think it is in the interests of this country to maintain our present NATO commitment and I believe that the administration firmly supports maintaining our present troop level in Europe but that level will be gravely endangered if we cannot find the dollars to support our troops over there.

The bill does not seek to allow the export of items which would be of military potential to Eastern European countries. It merely seeks to smooth the path for the export of peaceful nonstrategic items which are currently not allowed to be exported, or which require a great deal of paperwork in order to be exported. The problem with these denials, as mentioned before, is that the Eastern European country can buy these items from other Western countries. Moreover, the real safety valve as written into the bill is that the President is empowered to forbid the export of any item to any country if he deems that export to be against the national interest.

We have taken fully into account in the bill the fact that the President can, at any time he wants, forbid the export of any item he feels is contrary to the national interest by adding to the military potential of Eastern Europe or any Communist nation.

The commercial problems of the current Export Control Act were well summed up last year by Mr. David Packard, who was then the chairman of Hewlett-Packard and is now Under Secretary of Defense.

Let me emphasize that he gave this letter to the Senate and the Committee on Banking and Currency at the time he was in civilian life, that he was speaking then as a citizen and as a businessman.

He was speaking with great knowledge in this field.

Here is what he had to say at that time:

> The high level of unilateral U.S. controls makes our marketing task much more difficult. We must contend with the time and added expense required to make formal license application, the long delays encountered in obtaining decisions, and the fact that our East European customers and our East European sales force are never quite sure whether a substantial portion of our product line can be sold or not. Since most of the material over which the United States exercises unilateral export controls is readily available elsewhere, it seems to us that the high level of these controls merely serves to deny business to U.S. firms. The controls, in effect, serve to push East European purchasers into the hands of our West European and Japanese competitors who are only too willing to sell their products.

Mr. President, beyond strictly commercial interests, I think a political point can be raised. To alleviate tensions among the various countries, one of the most important policies that can be followed is to have continuing contacts. Trade relations are one such contact. The normal flow of trade and business can only help provide those contacts. If we cut ourselves off from the normal everyday flow of trade, how can we expect to normalize political and diplomatic relations when we will not trade?

How many times must we try the litmus test of a nation's real intentions? This is a phrase that Khrushchev himself used when I met with him in 1959, at the request of President Eisenhower, along with 30 other businessmen and political leaders, including Henry Cabot Lodge. He merely said, "You do not intend to trade; therefore, it is incredible to us that you intend to try to have any kind of peaceful relationship."

Mr. President, I am not naive enough to believe that Eastern European countries would not try to take every conceivable advantage of us that they could. Of course, they want to buy strategic materials. Of course, they want to know all our computer technology. Of course, they want to have full knowledge of our chemical plants. But if it is strategic we will not sell it to them. But on peaceful non-strategic goods, if they cannot get them from us, they will get identical goods from Western Europe, and as long as they can get identical goods from Japan, they will do so.

It is not so much the trading balance we need, but international liquidity that trade brings, the very thing that they are able to provide and do provide.

The assumption is made that, somehow or other, American businessmen are naive, that when they go into these relationships, they get skinned, and that, somehow, the other side ends up with the best of the bargain.

Mr. President, if there is any one field in this world where we are preeminent, where we are looked up to and highly regarded by every nation on earth, it is in our ability to produce high-quality goods at low cost.

I would say that when we trade with these countries we take back certain things we need. Certainly we need gold, as we all know, right now, even if they have a total need for our particular product. If we sell to them, they have to pay for the products they buy and we need foreign exchange.

Mr. President, we should try to perforate the Iron Curtain. They put it up. We have been trying to perforate it and to drag it down every place we can.

In every eastern country I have visited, Rumania, Czechoslovakia, Yugoslavia, they frankly said, "Please, keep up these contacts with us. We need a yardstick by which to measure productivity, because we do not even know what our costs are."

A great deal of the dissatisfaction which has occurred in Eastern European countries has come about as a result of comparing themselves adversely with the standards established in the Western European countries. They know about these standards through trade.

We should encourage, not just facilitate, trade. This is the great debate that we had in the Committee on Banking and Currency, as to whether we should change one word—as to whether it is the purpose or intent of the United States and its government to "facilitate" trade, which is in the current law, or to "encourage" trade. That one word says to the American business community, "You are not disloyal when you deal in peaceful, nonstrategic goods. We encourage you to go ahead and trade, as long as Western European countries are going to get the business anyway."

In the last few days, NATO itself has adopted an East-West trading relationship resolution. NATO has set up an East-West Relations Committee, and U.S. delegates participated actively. They feel it is in the defense interests of all of us to see whether or not, in those areas where we are preeminent, we should maintain contact. It is for those reasons that I feel very strongly that this modest, small start toward getting into business, and doing business with Eastern Europe and perforating and continuing to take down the iron curtain of the Eastern European countries is in the national interest. It strengthens us, not weakens us. We strengthen ourselves by trading. We weaken ourselves when we give up and let the Germans, the Japanese, and everybody else do business that we simply turn down. We should be accepting the business and doing it so long as it is in the national interest, so long as it is in peaceful nonstrategic goods, and so long as we have the language written into the bill that is on the floor today, that the President has the authority "to restrict the export of goods and technology which would make a significant contribution to the military potential of any other nation or nations which would prove detrimental to the national security of the United States."

That would seem to me to be adequate protection for the interests of the United States.

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

Mr. PERCY. I yield.

Mr. MAGNUSON. Mr. President, I want to associate myself wholeheartedly with what the Senator from Illinois has said. As he knows, I have long been an advocate of a move in this direction. Over and beyond, he stressed the economic value of this bill; but if I know of one thing that is a tool for world understanding and peace, it is trade in nonstrategic items. It is a great bridge for relieving tensions in the world.

Will the Senator agree with me?

Mr. PERCY. I agree with the Senator. There is no question that this is the kind of step we can take, with adequate security, toward peace and improving our balance of payments. We seem incredible to the countries of Western Europe. I go there to argue that our balance of payments is in trouble and that we need offsetting payments for troop costs, and yet at the same time I see us turn down millions and millions of dollars worth of business that the Western European countries do with Eastern European countries. Western Europeans think we are really naive.

Mr. MONDALE. Mr. President, we are ready for a vote.

Mr. DOMINICK. Mr. President, I just wanted to take the floor to say that I certainly do not agree with the Senator from Illinois in the position he has taken. I have been opposed to this line of discussion and talk for a number of years. I made a statement on it before the Foreign Relations Committee, and I have made three or four speeches on it. I am not going to take a long time now, because I know we are all anxious to get to a vote.

I am in support of the amendment of the Senator from Utah (Mr. BENNETT) and am opposed to expanding trade with Communist-controlled countries. One of my major reasons for doing so—and I just want to get it in the record while the Senator from Illinois is present—is the fact that we do not trade with individuals in those countries. All we trade with is a government-controlled corporation representing the government. It does not go to individuals or privately owned companies. It does not aid in the relationship of individuals. We simply sell to a Communist-controlled agency. It goes to the agent for each one of the Communist countries of Eastern Europe, and the Soviet Union besides.

I cannot conceive of why we should put ourselves in the position of strengthening the economies of Communist-controlled corporations at the very time when we have to expand our budget for military purposes in order to protect us from dangers posed by those very countries. It seems to me idiotic.

Mr. President, after reading the committee report on this bill, I must take exception to the conclusion which the majority report reaches, as stated in the last paragraph on page four of the report. This paragraph reads as follows:

> The committee believes that virtually every major factor giving rise to the enactment of the Export Control Act has undergone a material change in the past 20 years. Under this circumstance, the committee believes, that it would be unwise to extend, without amendment, the existing law.

Where have these major changes occurred? Was it to show their dedication to peace that prompted the Soviet military action against Czechoslovakia? Does the continuing Soviet resupply of arms to the Arab commandos show that

the Soviet Union and her satellites want to help relieve the tensions in the Middle East? And what is there to indicate that the Soviet bloc has changed its position on the war in Vietnam? The evidence is much to the contrary. Eighty-five percent, or more, of the military and economic materials that go to the North Vietnamese are being supplied by the same countries to whom we are now being urged to grant more extensive trade privileges.

Most of the factors which prompted the enactment of the Export Control Act in 1949 and the amendments thereto in 1962 are still with us. We must not lose sight of the fact that the dominant reason for this act is to help protect the national security of the United States.

Why is the Soviet bloc interested in expanding trade? They produce very little that the West wants or needs, but they are very interested in having access to our technological advancements. The Russians, in particular, are interested in obtaining complete production units, designed and built by us and delivered to them ready to begin operation. This frees Soviet engineers and scientists to devote their energies to missiles and the building of larger and larger rocket motors and more sophisticated weapons. This is a major reason why we should be very cautious about giving the Soviet bloc greater access to strategic materials and equipment.

The present Export Control Act has not been a complete barrier to trade with the Soviet bloc. The present law is very flexible. At times I have felt it to be too flexible. It allows the President to vary the nature and extent of export controls from time to time, country to country, and commodity to commodity, depending on the international problem that in his judgment calls for the application of such controls. Thus, the President has under the present law the authority, in times of improved international conditions, to relax the administration of the law, and to tighten it in times of international tension.

In recent years, export licenses have been granted to ship substantial quantities of equipment and material to Soviet bloc countries, much of it having both civilian and military applications, for example: Since 1966, we have exported the following items to the following Soviet bloc countries:

Bulgaria: Polymerization plastic materials, electronic navigation aids.

Czechoslovakia: Synthetic rubber; molybdenum ores and concentrates; electronic computers; parts for electronic data processing machines; metalworking rolling mills; metalworking machinery; industrial trucks and similar handling equipment; nuclear radiation detecting and measuring instruments; power cranes and shovels, wheel or truck mounted.

East Germany: Synthetic rubber; copper and copper allows; electronic computers; parts for electronic data processing machines; tire and rubber processing machinery; X-ray and radiological apparatus; nuclear radiation detecting and measuring instruments.

Hungary: Synthetic rubber; electronic computers; parts for electronic data processing machines; metalworking milling machines; telecommunications apparatus; scientific, measuring, and controlling instruments.

Poland: Synthetic rubber; elasticizers; glycerine; iron and steel hoop or strip; cobalt and cobalt alloys; gear cutting machines; metalworking lathes; rolling mills and parts; rubber extruding, tire, and rubber processing machinery.

Rumania: Synthetic rubber; natural phosphates; benzene; rubber compounding chemicals; polymerization plastic materials; iron or steel plates or sheets; oil pipe of iron or steel; iron or steel pipes and tubes other than oil pipe; iron and steel structures and finished parts; electronic computers; internal combustion engines; metalworking presses; high frequency transceivers; electronic navigational aids; electronic search and detection apparatus, including radar; scientific, measuring, and controlling instruments.

U.S.S.R.: Coal tar and other cyclic intermediates; rubber compounding chemicals; alcohols and polyhydric alcohols; organic acids and chemicals; oxides and hydroxides of strontium, barium, or magnesium; aluminum oxide; polymerization plastic materials; reagents for concentration of ores, metals, or minerals; iron or steel plates and sheets; oil pipe of iron or steel; iron and steel structures and finished parts; internal combustion engines—not for aircraft; electronic computers; gear cutting machines; metalworking grinding and polishing machines; metalworking presses; converters, molds, and casting machines; metal processing furnaces and ovens; rubber extruding, tire, and rubber processing machinery; electronic navigational aids; telecommunications apparatus; parts and accessories for tractors and motor vehicles.

These are just a few in the long list of exports to the Soviet bloc. I feel that the Senate bill will not bring about an improvement, but would actually weaken our control over exports of strategic materials. For that reason I urge that we adopt this amendment and vote to extend the existing Export Control Act.

Mr. BROOKE. Mr. President, the bill which we are considering today is of very special significance. For the first time in over 20 years, Congress is focusing on export expansion as distinct from simple export control. The title of the legislation itself carries the message very clearly: in place of the old Export Control Act, we have proposed the Export Expansion and Control Act of 1969.

This is more than a change in emphasis; the new regulations and reviews required by the committee bill will have a significant impact on our overall balance of payments, the health of our domestic industry, employment and our gross national product.

As the committee report makes clear, the original Export Control Act was passed in 1949, at a time of heightening international tension and steady dependence upon the United States as a source of supply for a wide variety of industrial products. But that was 20 years ago. Since then, the nations of Europe have recovered and indeed surpassed their previous industrial strength. Japan has become the third largest trading nation in the world. The vast majority of industrial and chemical products of which the United States was the sole source in 1949, are now readily available from a variety of sources both in the Western and the Eastern worlds.

In 1949, it made sense for the Congress to require a strict supervision over exports from the standpoint of national security, foreign policy interests, and protection of the domestic economy from excessive drain of scarce materials. In 1949, there were easily 1,300 products of military or industrial significance which could be obtained in sufficient quantity nowhere but in this country. It was in our national interest to prevent these chemicals and industrial products and alloys from becoming available to the Communist states of Eastern Europe, for at that time we did not know what their plans for military expansion and conquest might be. As the sole source for many of these goods, it was essential that we first protect our own markets and make these scarce resources available to our own manufacturers.

All of these considerations are still valid. There are probably many hundreds of products which we make in better quality than the other nations of the world; there is no doubt but that we are still the sole source of some of them. And there are some goods which are of military or strategic value and which we would not want to sell to Communist states under any circumstances. But I submit that disinfectants, cement, vaccines, yellow corn, textile finishing agents and fabrics, and herbicides and insecticides—to name but a few products for which export licenses are now required—are not likely to be among them. These products are available from a multitude of sources including the Soviet Union and Eastern Europe as well as a number of the developing nations of the world. To continue to require licenses for their export to Eastern Europe, with its inherent implication that such sales are somehow questionable if not downright unpatriotic, is of dubious economic or strategic value.

From the point of view of foreign policy, also, an exclusive emphasis on export control does not seem to be in our national interest. In 1949, the Soviet Union had just devoured the states of Eastern Europe. Any product which was sold to them would be of direct benefit to our former ally turned enemy. A strengthened Communist monolith in Europe could only threaten the security and well-being of the nations of Western Europe which were still trying to dig out from the ravages of a dreadful war. This is not the situation today. Our Western Allies are stronger than ever, and are trading in increasing amounts with their neighbors to the East. The Eastern states themselves have shown an unexpected degree of independence from the Soviet Union, refusing to be fully integrated into the economic grid, seeking trading partners and tourists from the West, and emphasizing national development rather than Communist ideology. It is now in our national interest to encourage such

trends. By selling our goods to the Eastern European states, we can help to insure that they will develop national industries and thereby decrease their dependence upon the bloc as a whole.

Finally, from the point of view of protecting scarce resources, I seriously doubt that control is as essential as it once was. To be sure, there are some products which are still in short supply and which the United States must preserve for domestic use. But world trade has expanded considerably since 1949. New sources of supply have been found on literally every continent. Vast supplies of copper and nickel, of oil and industrial diamonds, have been found in hitherto unsuspected regions of Africa. The Soviet Union has explored its own hinterland and discovered domestic sources of virtually every chemical and metal known to man. Products which once were in short supply are now available, and are obtained, from regions no one had even heard of 20 years ago. Thus the "short supply" justification for stringent export controls is also due for a thorough investigation.

Export expansion is in our national interest. We now have an unfavorable balance of payments. Higher wages and production costs necessarily drive up the cost of our products, and make them less competitive on the world market. Yet, because of the quality of certain goods we are able to sell our products, and should be able to sell more of them, to our trading partners. Increased sales abroad mean increased job opportunities, and more wages with which to purchase other products. An expansion of our exports thus benefits all sectors of the American economy, as well as restoring a favorable balance of payments and a greater confidence in the American dollar abroad.

The committee found that while the United States accounts for 16 percent of total free world exports, it has only 2 percent of total free world exports to Russia and Eastern Europe. A review of our export control policy and an expansion of our exports to these few nations may not provide the whole answer to our economic problems, but by creating a healthier atmosphere within which to work, and a healthier world trade pattern, it will alleviate one barrier to economic progress which is not only unnecessary but actually harmful to American business and industry.

The Committee on Banking and Currency held extensive hearings on our export policies. Its findings are worthy of reiteration for the balanced perspective and constructive suggestions which they embody. Very briefly, the committee found that the quantity and composition of U.S. exports has a very definite bearing upon the welfare of our domestic economy and upon the fulfillment of our foreign policy objectives. It found that totally unrestricted export of materials without regard to their military potential may adversely affect our national security and that of our allies. But the committee also found that unwarranted restriction of U.S. exports has a serious adverse effect upon the stability of our currency, and therefore upon our domestic economy. And we found that the uncertainty and ambiguity embodied in present Government policy has had the effect of curtailing American exports to the detriment of our balance of trade.

For this reason, we have chosen to emphasize that it is the policy of our Government to encourage the expansion of trade with all countries with which we have diplomatic or trading relations, imposing only certain carefully defined national security limits. Only those goods which, in the decade of the 1970's, would make a significant contribution to the military potential of an unfriendly state, or which must be conserved in order to protect domestic industry, would be placed on the restricted list.

In order to carry out this policy, the Secretary of Commerce is instructed by the committee to conduct a thorough review of the present commodity control lists with a view to making whatever changes are necessary in the list in order to further the policy and provisions of the act. And the Secretary is specifically instructed to take all steps necessary to encourage the development and promotion of trade with the Soviet Union and the nations of Eastern Europe.

On one point in particular I believe the RECORD should be clear. The bill does not in any way diminish the President's authority to protect the national security of the United States. Indeed, I would assert that it provides him additional avenues through which to do so. We should have learned by now that positive inducements to economic and other cooperation may well be the sturdiest barriers against hostile acts. The bill affords the President greater flexibility than in the past to seek out opportunities for erecting some positive structures of peace.

In doing so, however, the legislation leaves to the President ample discretion to determine whether, in particular circumstances, the national security is better served by restrictive or expansionist policies on trade with other nations. To be sure the bill creates a new philosophical context in which the President will be exercising his authority. It indicates a clear congressional preference for efforts to expand trade, where it is safe, profitable, and prudent to do so. But the language of the bill clearly reserves to the President the determination in specific cases. It may be that the Chief Executive will find that little or no immediate change in U.S. export controls over trade with Soviet bloc countries should be attempted.

The central point is that, if the opportunity does arise for the President to establish more fruitful trading relationships with one or more members of the Soviet bloc, the bill will enable the United States to do so. That is an authority which, I believe, a President as sensitive and concerned about international problems as Mr. Nixon is will find exceedingly valuable.

I was pleased and honored to work with the Senator from Maine (Mr. MUSKIE), the Senator from Minnesota (Mr. MONDALE), the Senator from Illinois (Mr. PERCY), and my other colleagues on the committee in forging this bipartisan proposal. I consider this new emphasis in U.S. policy a wise and well-designed initiative. I believe it will enjoy the support of the majority of Americans. I judge it to be the most sensible approach to the altered circumstances of international relations in the 1970's.

Mr. President, I urge the Senate to pass the bill in full realization that it will provide the United States with an enlightened and promising new direction for the fateful decade ahead.

Mr. MONDALE. Mr. President, the committee opposes the amendment.

Mr. BENNETT. Mr. President, I ask for a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah, in the nature of a substitute. On this question the yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Tennessee (Mr. GORE), the Senator from Indiana (Mr. HARTKE), and the Senator from Minnesota (Mr. MCCARTHY) are necessarily absent.

I also announce that the Senator from Nevada (Mr. BIBLE), the Senator from Missouri (Mr. EAGLETON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are absent on official business.

I also announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. GOODELL), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. JORDAN), the Senator from South Dakota (Mr. MUNDT), the Senator from Ohio (Mr. SAXBE), the Senator from Illinois (Mr. SMITH) and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The Senator from New York (Mr. JAVITS) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting the Senators from New York (Mr. JAVITS and Mr. GOODELL), and the Senator from Oregon (Mr. HATFIELD) would each vote "nay."

The result was announced—yeas 34, nays 44, as follows:

[No. 131 Leg.]

YEAS—34

Allen	Dominick	Pearson
Allott	Fannin	Prouty
Bellmon	Fong	Russell
Bennett	Griffin	Smith, Maine
Boggs	Gurney	Spong
Byrd, Va.	Hansen	Stennis
Cook	Holland	Talmadge
Cooper	Hruska	Thurmond
Cotton	Jordan, N.C.	Tower
Curtis	McClellan	Williams, Del.
Dodd	Miller	
Dole	Murphy	

NAYS—44

Aiken	Cranston	Hughes
Anderson	Ellender	Inouye
Bayh	Fulbright	Jackson
Brooke	Gravel	Long
Burdick	Harris	Magnuson
Byrd, W. Va.	Hart	Mansfield
Case	Hollings	Mathias

McGee	Nelson	Scott
McGovern	Packwood	Symington
McIntyre	Pastore	Tydings
Metcalf	Percy	Williams, N.J.
Mondale	Proxmire	Yarborough
Montoya	Randolph	Young, N. Dak.
Moss	Ribicoff	Young, Ohio
Muskie	Schweiker	

NOT VOTING—22

Baker	Goodell	Mundt
Bible	Gore	Pell
Cannon	Hartke	Saxbe
Church	Hatfield	Smith, Ill.
Eagleton	Javits	Sparkman
Eastland	Jordan, Idaho	Stevens
Ervin	Kennedy	
Goldwater	McCarthy	

So Mr. BENNETT'S amendment in the nature of a substitute was rejected.

Mr. MONDALE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MUSKIE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2696) was ordered to be engrossed for a third reading and was read the third time.

Mr. MONDALE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4293, the companion bill.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 4293) to provide for continuation of authority for regulation of exports.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota.

Mr. COTTON. Mr. President, reserving the right to object, if the House bill is substituted, there will be no opportunity for a record vote on the passage of the Senate bill. I therefore object to the substitution.

Mr. President, I ask for the yeas and nays on the passage of the Senate bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

Mr. MILLER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll.

The bill clerk resumed the call of the roll.

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

The PRESIDING OFFICER. Without objection, is is so ordered.

Mr. MONDALE. Mr. President, I understand that we have had third reading of the Senate bill and that amendments are therefore not in order.

The PRESIDING OFFICER. I am advised by the Parliamentarian that third reading has been had on the Senate bill and that amendments are not in order on the Senate bill. When the House bill becomes the order of business, amendments can be offered at that time.

Is there objection to the present consideration of the House bill?

Mr. COTTON. Mr. President, reserving the right to object, I want to make perfectly sure that we understand what is being done. If the unanimous-consent request is agreed to, the House bill will be before the Senate.

The PRESIDING OFFICER. The Senator is correct.

Mr. COTTON. Then I must object. I do not desire an opportunity to have a record vote against the House bill, but I do desire an opportunity for a record vote, so that I can vote "nay" on the Senate bill, which I consider to be a monstrosity.

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

Mr. COTTON. I yield.

Mr. MONDALE. The modified measure is the Senate version against which the Senator from New Hampshire may vote, if he desires.

The PRESIDING OFFICER. If the Chair correctly understands, the Senator from New Hampshire does not want to vote objection to the House bill even as amended. Is that correct?

Mr. COTTON. It is not clear to the Senator from New Hampshire. Is this unanimous-consent request a request that the House bill be substituted for the Senate bill?

The PRESIDING OFFICER. Not yet, no.

Mr. COTTON. If it is granted, it will be.

The PRESIDING OFFICER. It is desired to get the House bill before the Senate; and before the Senate language can be added to the House bill, it will have to be offered as an amendment. In other words, the House bill will be before the Senate, and the language of the Senate bill will be offered as an amendment to the House bill.

Mr. COTTON. So that a rollcall vote on the amendment, which adds or substitutes the Senate language to the House bill, will be the same as a rollcall vote on the final passage of the Senate bill had it been left intact.

The PRESIDING OFFICER. The Senator is correct.

Mr. COTTON. Then, I withdraw my objection.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the House bill.

The bill is open to amendment.

SEVERAL SENATORS. Third reading.

Mr. MONDALE. Mr. President, I move that the language of S. 2696 be substituted for the text of the House bill.

Mr. COTTON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MILLER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MILLER. Is it in order now for me to offer an amendment to the pending substitute?

The PRESIDING OFFICER. It is in order.

Mr. MILLER. I send to the desk an amendment to the present substitute and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 3, line 4, after the word "extent", strike out "absolutely".

Mr. MILLER. Mr. President, the purpose of the amendment is to make this part of the bill read exactly the same as the succeeding two sentences, where they refer only to the extent necessary, rather than to the extent absolutely necessary. My amendment would strike out the word "absolutely." I have discussed this with the manager of the bill. I understand that he is amenable to accepting it.

Mr. MONDALE. The committee has no objection and will be glad to take the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute for the House bill, as amended. The yeas and nays have been ordered.

Mr. BYRD of West Virginia. Mr. President, may we have order, and would the Chair please restate what we are about to vote upon?

The PRESIDING OFFICER. The question is on agreeing to the language of S. 2696, as amended, as a substitute for the House bill.

Mr. BYRD of West Virginia. I thank the Presiding Officer.

The PRESIDING OFFICER. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia (after having voted in the affirmative). Mr. President, I have already recorded my vote as "yea" on this question. I have a live pair with the able majority leader, the Senator from Montana (Mr. MANSFIELD). If he were present, he would vote "yea." If I were permitted to vote I would vote "nay." Therefore, I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Tennessee (Mr. GORE), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Georgia (Mr. RUSSELL), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from Nevada (Mr. BIBLE), the Senator from Missouri (Mr. EAGLETON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MANSFIELD), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are absent on official business.

I further announce that, if present and voting, the Senator from Georgia (Mr. RUSSELL) would vote "nay."

I also announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. JORDAN), the Senator from South Dakota (Mr. MUNDT), the Senator from Ohio (Mr. SAXBE), the Senator from Illinois (Mr. SMITH), the Senator from Texas (Mr. TOWER), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The Senator from New York (Mr. JAVITS) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

On this vote, the Senator from New York (Mr. JAVITS) is paired with the Senator from Texas (Mr. TOWER). If present and voting, the Senator from New York would vote "yea" and the Senator from Texas would vote "nay."

The result was announced—yeas 46, nays 27, as follows:

[No. 132 Leg.]

YEAS—46

Aiken	Inouye	Pastore
Anderson	Jackson	Percy
Bayh	Jordan, N.C.	Prouty
Brooke	Long	Proxmire
Burdick	Magnuson	Randolph
Case	Mathias	Ribicoff
Cranston	McGee	Schweiker
Ellender	McGovern	Smith, Maine
Fong	McIntyre	Symington
Fulbright	Metcalf	Tydings
Goodell	Mondale	Williams, N.J.
Gravel	Montoya	Yarborough
Harris	Moss	Young, N. Dak.
Hart	Muskie	Young, Ohio
Hollings	Nelson	
Hughes	Packwood	

NAYS—27

Allen	Curtis	Hruska
Allott	Dodd	Miller
Bellmon	Dole	Murphy
Bennett	Dominick	Pearson
Boggs	Fannin	Scott
Byrd, Va.	Griffin	Spong
Cook	Gurney	Stennis
Cooper	Hansen	Thurmond
Cotton	Holland	Williams, Del.

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Byrd of West Virginia, against.

NOT VOTING—26

Baker	Hartke	Pell
Bible	Hatfield	Russell
Cannon	Javits	Saxbe
Church	Jordan, Idaho	Smith, Ill.
Eagleton	Kennedy	Sparkman
Eastland	Mansfield	Stevens
Ervin	McCarthy	Talmadge
Goldwater	McClellan	Tower
Gore	Mundt	

So Mr. MONDALE's amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER (Mr. HUGHES in the chair). The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. COTTON. Mr. President, it is very rare that the Senator from New Hampshire ever takes any action in the Senate that is in any way an inconvenience or that works a hardship on Members of the Senate. But this bill in its present form, is, in my opinion, not only a menace to our national security but an unwarranted affront to the President of the United States.

Therefore, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

LEGISLATIVE PROGRAM

Mr. GRIFFIN. Mr. President, while a number of Senators are in the Chamber, I wish to ask the acting majority leader to indicate what he expects will transpire for the remainder of the day and the remainder of the week, if possible.

Mr. BYRD of West Virginia. Mr. President, after the disposition of the measure before us, it is the intention of the leadership to lay before the Senate for consideration tomorrow H.R. 11959, the bill dealing with veterans' education and training assistance. It is the intention of the leadership to have the Senate adjourn until 12 noon tomorrow, without any further votes today, following disposition of the pending measure; and if we are able to complete action on the veterans bill tomorrow, it is the intention of the leadership to go over until Monday next.

Mr. GRIFFIN. I thank the distinguished Senator.

HEARING ON INDEPENDENCE NATIONAL HISTORIC PARK

Mr. ALLOTT. Mr. President, as a result of my conversation with the Senator from Nevada (Mr. BIBLE), chairman of the Subcommittee on Parks and Recreation of the Committee on the Interior, hearings will be scheduled on S. 2940 as soon after Senator BIBLE returns to Washington as is practicable.

I wish to thank Senator BIBLE for his cooperation and for agreeing to setting hearings on this matter, because the situation is somewhat urgent. The Independence National Park contains some inholdings, which are planned to be acquired by the Park Service, upon which an option for purchase expired October 21, 1969. I understand, however, that the owners of this property are willing to extend the option providing the Senate committee will agree to hold hearings. Therefore, this action is significant.

It should be made clear that the agreement to schedule hearings by the subcommittee chairman in no way commits him on the merits of the measure, and I would not want any of my comments construed to indicate otherwise. Further, I wish to make it clear that this Senator reserves all of his rights, and is not committed either way on the merits of the bill.

Mr. SCOTT. Mr. President, will the Senator from Colorado yield?

Mr. ALLOTT. I yield.

Mr. SCOTT. I want to thank the Senator very much, on behalf of both Senators from Pennsylvania, for arranging the hearings on this urgent matter where the people involved would have to take certain action, adverse, in our opinion, to the park, unless it could be stayed by at least the opportunity to have the hearings.

I appreciate very much what the Senator has done.

Mr. ALLOTT. I thank the Senator from Pennsylvania.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House insisted upon its amendments to the bill (S. 1857) to authorize appropriations for activities of the National Science Foundation pursuant to Public Law 81–507, as amended, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MILLER of California, Mr. DADDARIO, Mr. DAVIS of Georgia, Mr. BROWN of California, Mr. FULTON of Pennsylvania, Mr. BELL, and Mr. MOSHER were appointed managers on the part of the House at the conference.

The message also announced that the House disagreed to the amendment of the Senate to the bill (H.R. 474) to establish a Commission on Government Procurement; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. HOLIFIELD, Mr. ST GERMAIN, and Mr. HORTON were appointed managers on the part of the House at the conference.

EXPORT EXPANSION AND REGULATION ACT OF 1969

The Senate resumed the consideration of the bill H.R. 4293 to provide for continuation of authority for regulation of exports.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia (after having voted in the affirmative.) On this vote I have a pair with the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD). If he were present and voting, he would vote "yea;" if I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Tennessee (Mr. GORE), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Georgia (Mr. RUSSELL), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I also announce that the Senator from Nevada (Mr. BIBLE), the Senator from Missouri (Mr. EAGLETON), the Senator from Massachusetts (Mr. KENNEDY), the

Senator from Montana (Mr. MANSFIELD), the Senator from Rhode Island (Mr. PELL) and the Senator from Alabama (Mr. SPARKMAN) are absent on official business.

I further announce that, if present and voting, the Senator from Georgia (Mr. RUSSELL), would vote "nay."

I also announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. JORDAN), the Senator from South Dakota (Mr. MUNDT), the Senator from Ohio (Mr. SAXBE), the Senator from Illinois (Mr. SMITH), the Senator from Texas (Mr. TOWER) and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The Senator from New York (Mr. JAVITS) is absent on official business.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business. If present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

On this vote, the Senator from New York (Mr. JAVITS) is paired with the Senator from Texas (Mr. TOWER). If present and voting, the Senator from New York would vote "yea" and the Senator from Texas would vote "nay."

The result was announced—yeas 49, nays 24, as follows:

[No. 133 Leg.]

YEAS—49

Aiken	Hughes	Pastore
Anderson	Inouye	Percy
Bayh	Jackson	Prouty
Boggs	Long	Proxmire
Brooke	Magnuson	Randolph
Burdick	Mathias	Ribicoff
Case	McGee	Schweiker
Cooper	McGovern	Scott
Cranston	McIntyre	Smith, Maine
Ellender	Metcalf	Symington
Fong	Miller	Tydings
Fulbright	Mondale	Williams, N.J.
Goodell	Montoya	Yarborough
Gravel	Moss	Young, N. Dak.
Harris	Muskie	Young, Ohio
Hart	Nelson	
Hollings	Packwood	

NAYS—24

Allen	Dodd	Hruska
Allott	Dole	Jordan, N.C.
Bellmon	Dominick	Murphy
Bennett	Fannin	Pearson
Byrd, Va.	Griffin	Spong
Cook	Gurney	Stennis
Cotton	Hansen	Thurmond
Curtis	Holland	Williams, Del.

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mr. Byrd of West Virginia, against.

NOT VOTING—26

Baker	Hartke	Pell
Bible	Hatfield	Russell
Cannon	Javits	Saxbe
Church	Jordan, Idaho	Smith, Ill.
Eagleton	Kennedy	Sparkman
Eastland	Mansfield	Stevens
Ervin	McCarthy	Talmadge
Goldwater	McClellan	Tower
Gore	Mundt	

So the bill H.R. 4293 was passed.

Mr. MONDALE. Mr. President, I move that Senate bill 2696 be indefinitely postponed.

The motion was agreed to.

Mr. MUSKIE. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. BYRD of West Virginia. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. What is the will of the Senate?

ORDER FOR ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS EDUCATION AND TRAINING ASSISTANCE AMENDMENTS ACT OF 1969

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 484.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill—H.R. 11959—to amend chapters 31, 34, and 35 of title 38, United States Code, in order to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons under such chapters.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Veterans Education and Training Assistance Amendments Act of 1969".

TITLE I—INCREASE IN ALLOWANCES FOR EDUCATION AND TRAINING PROGRAMS; AMENDMENTS TO FLIGHT TRAINING AND FARM COOPERATIVE PROGRAMS

SEC. 101. Section 1504(b) of title 38, United States Code, is amended to read as follows:

"(b) The subsistence allowance of a veteran-trainee is to be determined in accordance with the following table, and shall be the monthly amount shown in column II, III, or IV (whichever is applicable as determined by the veteran's dependency status) opposite the appropriate type of training as specified in column I:

"Column I	Column II	Column III	Column IV
Type of training	No dependents	One dependent	Two or more dependents
Institutional:			
Full-time	$160	$219	$255
Three-quarter-time	116	160	189
Half-time	80	109	124
Institutional on-farm, apprentice, or other on-job training: Full-time	138	182	219

Where any full-time trainee has more than two dependents and is not eligible to receive additional compensation as provided by section 315 or section 335 (whichever is applicable) of this title, the subsistence allowance prescribed in column IV of the foregoing table shall be increased by an additional $7.30 per month for each dependent in excess of two."

SEC. 102. (a) Subsection (a) of section 1677 of title 38, United States Code, is amended by striking out the material preceding clause (1), and inserting in lieu thereof the following:

"(a) The Administrator may approve the pursuit by an eligible veteran of flight training where such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation or where generally recognized as ancillary to the pursuit of a vocational endeavor other than aviation, subject to the following conditions:".

(b) The last sentence of subsection (b) of section 1677 of such title is amended by striking out "$130" and inserting in lieu thereof "$190".

(c) Section 1677 of such title is further amended by adding at the end thereof a new subsection as follows:

"(c)(1) In any case in which a veteran wishes to pursue a course in flight training under this section but does not possess a valid private pilot's license and has not satisfactorily completed the number of hours of flight instruction required for a private pilot's license, the Administrator is authorized to make a direct loan to such veteran to pursue the flight training required for a private pilot's license.

"(2) Loans made under this subsection may be made in any amount not exceeding $1,000 or 90 per centum of the established charges for tuition and fees which similarly circumstanced nonveterans enrolled in the same flight-training course are required to pay, whichever amount is less; and such loans shall bear interest at a rate determined by the Administrator, but not to exceed 6 per centum per annum.

"(3) Loans made under this section shall be repayable in equal monthly installments over a period of time not to exceed three years commencing (A) upon the failure of the eligible veteran to enter upon a course of training under subsection (a) of this section within one year after obtaining a private pilot's license, or (B) upon failure to satisfactorily complete such a course of training within one year after enrollment in a course of training under subsection (a) of this section.

"(4) Loans made under this section shall be made upon such other terms and conditions as may be prescribed by the Administrator."

SEC. 103. (a) The table (prescribing educational assistance allowance rates for eligible veterans pursuing educational programs on half-time or more basis) contained in paragraph (1) of section 1682(a) of title 38, United States Code, is amended to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$190	$218	$240	$15
Three-quarter-time	140	162	184	10
Half-time	90	107	119	7
Cooperative	155	177	199	10".

(b) Section 1682(b) of such title is amended by striking out "$130" and inserting in lieu thereof "$190".

(c) Section 1682(c)(2) of such title is amended by striking out "$130" and inserting in lieu thereof "$190".

(d) Section 1682(d) of such title is amended to read as follows:

"(d)(1) An eligible veteran who is enrolled in a 'farm cooperative' training program which provides for institutional and on-farm training and which has been approved by the appropriate State approving agency in accordance with the provisions of paragraph (2) of this subsection shall be eligible to receive an educational assistance allowance as follows: $153 per month, if he has no dependents; $182 per month, if he has one dependent; $211 per month, if he has two dependents; and $10 per month, for each dependent in excess of two.

"(2) The State approving agency may approve a farm cooperative training course when it satisfies the following requirements:

"(A) The course combines organized group instruction in agricultural and related subjects of at least two hundred hours per year (and of at least eight hours each month) at an educational institution, with supervised work experience on a farm or other agricultural establishment; and the course provides for not less than one hundred hours of individual instruction per year, at least fifty hours of which shall be on a farm or other agricultural establishment (with at least two visits by the instructor to such farm or establishment each month). Such individual instruction shall be given by the instructor responsible for the veteran's institutional instruction and shall include instruction and home-study assignments in the preparation of budgets, inventories, and statements showing the production, use on the farm, and sale of crops, livestock, and livestock products.

"(B) The course is developed with due consideration to the size and character of the farm or other agricultural establishment on which the eligible veteran will receive his supervised work experience and to the need of such eligible veteran, in the type of farming for which he is training, for proficiency in planning, producing, marketing, farm mechanics, conservation of resources, food conservation, farm financing, farming management, and the keeping of farm and home accounts.

"(C) The farm or other agricultural establishment on which the veteran is to receive his supervised work experience shall be of a size and character which will permit instruction in all aspects of the management of the farm or other agricultural establishment of the type for which the eligible veteran is being trained, and will provide the eligible veteran an opportunity to apply the major portion of the farm practices taught in the group instruction part of the course.

"(D) Provision shall be made for certification by the institution and the veteran that the training offered does not repeat or duplicate training previously received by the veteran.

"(E) The institutional on-farm training meets such other fair and reasonable standards as may be established by the State approving agency."

(e) The table (prescribing educational assistance allowance rates for eligible veterans pursuing an apprenticeship or other on-job training) contained in section 1683(b) of such title is amended to read as follows:

"Periods of training	No dependents	One dependent	Two or more dependents
First 6 months	$116	$131	$146
Second 6 months	87	102	116
Third 6 months	58	73	87
Fourth and any succeeding 6-month periods	29	43	58".

SEC. 104. (a) Section 1732(a) of title 38, United States Code, is amended to read as follows:

"(a) The educational assistance allowance on behalf of an eligible person who is pursuing a program of education consisting of institutional courses shall be computed at the rate of (1) $190 per month if pursued on a full-time basis, (2) $140 per month if pursued on a three-quarter-time basis, and (3) $90 per month if pursued on a half-time basis."

(b) Section 1732(b) of such title is amended by striking out "$105" and inserting in lieu thereof "$155".

(c) Section 1742(a) of such title is amended to read as follows:

"(a) While the eligible person is enrolled in and pursuing a full-time course of special restorative training, the parent or guardian shall be entitled to receive on his behalf a special training allowance computed at the basic rate of $190 per month. If the charges for tuition and fees applicable to any such course are more than $59 per calendar month the basic monthly allowance may be increased by the amount that such charges exceed $59 a month, upon election by the parent or guardian of the eligible person to have such person's period of entitlement reduced by one day for each $6.20 that the special training allowance paid exceeds the basic monthly allowance."

SEC. 105. (a) Except as provided in subsections (b) and (c) of this section, the amendments made by this title shall become effective on the first day of the second calendar month which begins after the date of the enactment of this Act.

(b) Section 101, section 102(b), section 103, except subsection (d) thereof, and section 104 of this title shall become effective as of September 1, 1969.

(c) Any veteran enrolled in a farm cooperative course under section 1682(d) of title 38, United States Code, prior to the effective date prescribed in subsection (a) of this section may continue in such course to the end of the current academic year under the same terms and conditions that were in effect prior to such effective date.

TITLE II—SPECIAL ASSISTANCE FOR EDUCATIONALLY DISADVANTAGED VETERANS; PREDISCHARGE EDUCATION PROGRAM; VETERANS' OUTREACH SERVICES PROGRAM; MISCELLANEOUS AMENDMENTS TO VETERANS' AND DEPENDENTS' EDUCATION PROGRAMS

SEC. 201. (a) Subsection (b) of section 1652 of title 38, United States Code, is amended by adding at the end thereof a new sentence as follows: "Such term also means any curriculum of unit courses or subjects pursued at an educational institution which fulfill requirements for the attainment of more than one predetermined and identified educational, professional, or vocational objective if all the objectives pursued are generally recognized as being reasonably related to a single career field."

(b) Subsection (c) of section 1652 of such title is amended to read as follows:

"(c) The term 'educational institution' means any public or private elementary school, secondary school, vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution, or other institution furnishing education for adults."

SEC. 202. (a) Chapter 34 of title 38, United States Code, is amended by—

(1) striking out "section 1678 of this title" in section 1661(c) and inserting "subchapters V and VI of this chapter";

(2) striking out section 1678; and

(3) adding at the end of chapter 34 the following new subchapters:

"SUBCHAPTER V—SPECIAL ASSISTANCE FOR THE EDUCATIONALLY DISADVANTAGED

"§ 1690. Purpose

"It is the purpose of this subchapter (1) to encourage and assist veterans who have academic deficiencies to attain a high school education or its equivalent and to qualify for and pursue courses of higher education, (2) to encourage and assist institutions of higher education and other educational institutions in the development of programs which provide special instruction, counseling, tutorial, and other educational and supplementary assistance to such veterans, and (3) to encourage and assist institutions of higher education and other educational institutions in the development of special educational programs and projects for such veterans.

"§ 1691. Elementary and secondary education and preparatory educational assistance

"(a) In the case of any eligible veteran who—

"(1) has not received a secondary school diploma (or an equivalency certificate) at the time of his discharge or release from active duty, or

"(2) in order to pursue a program of education for which he would othewise be eligible, needs refresher courses, deficiency courses, or other preparatory or special educational assistance to qualify for admission to an appropriate educational institution,

the Administrator may, without regard to so much of the provisions of section 1671 as prohibit the enrollment of an eligible veteran in a program of education in which he is already qualified, approve the enrollment of such veteran in an appropriate course or courses or other special educational assistance program.

"(b) The Administrator shall pay to an eligible veteran pursuing a course or courses or program, pursuant to subsection (a) of this section, an educational assistance allowance as provided in sections 1681 and 1682 of this title; except that (1) no enrollment in adult evening secondary school courses shall be approved in excess of half-time training as defined pursuant to section 1684 of this title; and (2) whenever enrollment in a special educational assistance program cannot feasibly be measured under section 1684, such a program shall be considered full-time training for purposes of this chapter, when a minimum of twenty-five net clock hours per week of instruction or other supervised program work is required, and the Administrator shall prescribe the instruction or other work requirements for part-time training for any special educational assistance program.

"§ 1692. Special supplementary assistance

"In the case of any eligible veteran who is enrolled in and pursuing a course of education at an educational institution and who, because of a deficiency in his education or training, needs one or more refresher courses, counseling, tutorial, or remedial assistance, or some other form of special supplementary assistance in order to successfully pursue such course, the Administrator shall, on behalf of the veteran, reimburse the educational institution concerned the reasonable cost of providing such veteran with such special supplementary assistance. The amounts which shall be paid on behalf of an eligible veteran to any educational institution for special supplementary assistance provided him under this subchapter and the terms and conditions under which such assistance shall be provided shall be prescribed in regulations issued by the Administrator after consultation with the Commissioner of Education, but in no event shall the amounts exceed $100 per month on behalf of an eligible veteran.

"§ 1693. Grants and contracts

"(a) To carry out the purposes of this subchapter, the Administrator is authorized, in accordance with regulations issued by him after consultation wtih the Commissioner of Education, to make grants to and enter into contracts with institutions of higher education and other educational institutions to encourage and assist such institutions to—

"(1) plan and develop programs or projects in connection with the special educational and supplementary assistance programs authorized to be provided to eligible veterans by sections 1691 and 1962 of this title; and

"(2) plan, develop, strengthen, or conduct other special educational programs or projects for eligible veterans, including, but not limited to—

"(A) accelerated and concentrated educational programs;

"(B) educational programs extending beyond the usual period for completion of the course of study at an educational institution; and

"(C) encouraging and training such veterans to pursue public service occupations to meet community needs.

"(b) To carry out the purposes of this subchapter and those of subchapter IV of chapter 3 of this title, the Administrator is authorized, in accordance with regulations issued by him after consultation with appropriate departments and agencies of the Government referred to in section 242(6) of this title, to make grants to and enter into contracts with public and private non-profit organizations for the purpose of providing the outreach services specified in that subchapter to educationally disadvantaged eligible veterans.

"(c) There are authorized to be appropriated to carry out this section $15,000,000 for the fiscal year ending June 30, 1970, and $30,000,000 for the fiscal year ending June 30, 1971.

"§ 1694. Effect on other benefits and on approval requirements

"(a) The benefits received by or on behalf of any veteran under this subchapter shall be paid without charge to any period of entitlement the veteran may have earned pursuant to section 1661(a) of this title and shall in no way affect his eligibility or qualification for benefits under other provisions of this title or under other provisions of law.

"(b) The provisions of sections 1673(d) and 1675 of this title shall not apply in the case of programs provided under sections 1691(a)(2), 1692, and 1693 of this title.

"SUBCHAPTER VI—PREDISCHARGE EDUCATION PROGRAM

"§ 1695. Purpose; definition

"(a) The purpose of this subchapter is to encourage and assist veterans in preparing for their future education, training, or vocation by providing them with an opportunity to enroll in and pursue a program of education or training prior to their discharge or release from active duty with the Armed Forces. The program provided for under this subchapter shall be known as the Predischarge Education Program (PREP).

"(b) For the purposes of this subchapter, the term 'eligible person' means any person serving on active duty with the Armed Forces who (1) has served on active duty not less than twelve consecutive months, and (2) has twelve months or less active duty service remaining prior to the time he is expected to be discharged or released from active duty, as certified to the Administrator by the Secretary concerned.

"§ 1696. Payment of training and education expenses

"(a) The Administrator shall, under such regulations as he shall prescribe jointly with the Secretary of Defense and the Commissioner of Education, pay the education and training expenses for any eligible person who enrolls in and pursues a course of education or training offered by an educational institution if such course of education or training is required for or preparatory to any program of education or training or any vocation such eligible person intends to pursue after his discharge or release from active duty with the Armed Forces.

"(b) The education and training expenses which the Administrator shall pay under this subchapter on behalf of any eligible person shall include the cost of determining suitability for enrollment, job placement, and career guidance, and books and supplies furnished to the eligible person by the institution. In no event shall the Administrator pay more than $150 per month for any course of education or training pursued by any eligible person.

"(c) The cost of any education or training course paid for by the Administrator under this subchapter shall be paid directly to the educational institution furnishing such course.

"(d) In no event shall education or training expenses be paid on behalf of any eligible person for any period in excess of twelve months.

"§ 1697. Approved education or training courses and institutions

"The Administrator shall pay the expenses of a course of education or training pursued by an eligible person under this subchapter only if such course and the educational institution providing such course have been approved, without regard to sections 1673(d) and 1675 of this title, by the Administrator in accordance with regulations issued jointly by the Administrator, the Secretary of Defense, and the Commissioner of Education.

"§ 1698. Educational and vocational guidance

"The Administrator shall be responsible for arranging for and coordinating educational and vocational guidance and job placement assistance to persons eligible for education and training under this subchapter.

"§ 1699. Effect on educational entitlement and benefits

"(a) Education and training expenses under this subchapter shall be paid without charge to any period of entitlement an eligible person may earn pursuant to section 1661(a) of this title.

"(b) No person shall be eligible to receive educational benefits under this subchapter for any period for which he is receiving an educational assistance allowance under subchapter IV of this chapter."

(b) The table of sections at the beginning of chapter 34 of title 38, United States Code, is amended by striking out

"1678. Special training for the educationally disadvantaged.";

and by adding at the end thereof the following:

"SUBCHAPTER V—SPECIAL ASSISTANCE FOR THE EDUCATIONALLY DISADVANTAGED

"1690. Purpose.
"1691. Elementary and secondary education and preparatory educational assistance.
"1692. Special supplementary assistance.
"1693. Grants and contracts.
"1694. Effect on other benefits and on approval requirements.

"SUBCHAPTER VI—PREDISCHARGE EDUCATION PROGRAM

"1695. Purpose; definition.
"1696. Payment of training and education expenses.
"1697. Approved education or training courses and institutions.
"1698. Educational and vocational guidance.
"1699. Effect on educational entitlement and benefits."

(c) Section 1681(a) of such title is amended by inserting ", except subchapter VI," immediately after "this chapter".

SEC. 203. (a) Section 1684(a) of title 38, United States Code, is amended by—

(1) striking out "and" after the semicolon in clause (2); and

(2) striking out clause (3) and inserting in lieu thereof the following:

"(3) an academic high school course requiring sixteen units for a full course shall be considered a full-time course when a minimum of four units per year is required. For the purpose of this paragraph, a unit is defined to be not less than one hundred and twenty sixty-minute hours or their equivalent of study in any subject in one academic year; and

"(4) an institutional undergraduate course offered by a college or university on a quarter- or semester-hour basis for which credit is granted toward a standard college degree shall be considered a full-time course when a minimum of fourteen semester hours or its equivalent is required; except that where such college or university certifies, upon the request of the Administrator, that (A) full-time tuition is charged to all undergraduate students carrying a minimum of less than fourteen semester hours or the equivalent thereof, or (B) all undergraduate students carrying a minimum of less than fourteen semester hours or the equivalent thereof are considered to be pursuing a full-time course for other administrative purposes, then such an institutional undergraduate course offered by such college or university with such minimum number of semester hours, for which credit is granted toward a standard college degree, shall be considered a full-time course, but in the event such minimum number of semester hours under (B) is less than twelve hours or the equivalent thereof, then twelve semester hours or the equivalent thereof shall be considered a full-time course.

Notwithstanding the provisions of clause (4), a veteran shall be considered to be pursuing a full-time course at a junior college, college, or university if (A) he is carrying a number of semester hours, or the equivalent thereof, necessary to be considered a full-time course under clause (3), (B) credit is granted toward a standard college degree for not less than half the number of those hours, and (C) he is carrying one or more courses not paid for under section 1692 of this title and for which no credit is granted toward such a degree but which he is required to take because of a deficiency in his education."

(b) Section 1733(a)(3) of such title is amended to read as follows: "(3) an institutional undergraduate course offered by a college or university on a quarter- or semester-hour basis for which credit is granted toward a standard college degree shall be considered a full-time course when a minimum of fourteen semester hours or its equivalent is required; except that where such college or university certifies, upon the request of the Administrator, that (A) full-time tuition is charged to all undergraduate students carrying a minimum of less than fourteen semester hours or the equivalent thereof, or (B) all undergraduate students carrying a minimum of less than fourteen semester hours or the equivalent thereof are considered to be pursuing a full-time course for other administrative purposes, then such an institutional undergraduate course offered by such a college or university with such minimum number of semester hours, for which credit is granted toward a standard college degree, shall be considered a full-time course, but in the event such minimum number of semester hours under clause (B) is less than twelve hours or the equivalent thereof, then twelve semester hours or the equivalent thereof shall be considered a full-time course."

SEC. 204. (a) Chapter 3 of title 38, United States Code, is amended by adding at the end thereof a new subchapter:

"SUBCHAPTER IV—VETERANS OUTREACH SERVICES PROGRAM

"§ 240. Purpose; definition

"(a) The Congress declares that the outreach services program authorized by this subchapter is for the purpose of insuring that all veterans, especially those who have been recently discharged or released from active military, naval, or air service and those who are eligible for readjustment or other benefits and services under laws administered by the Veterans' Administration and other governmental programs, receive personalized educational, vocational, social services, and job placement assistance in order to aid them in applying for and obtaining such benefits and services, in achieving a rapid social and economic readjustment to civilian life, and in obtaining a higher standard of living for themselves and their dependents. The Congress further declares that the outreach services program authorized by this subchapter is for the purpose of charging the Veterans' Administration with the affirmative duty of seeking out eligible veterans and eligible dependents and providing them with such services through, to the maximum extent possible, one integrated Federal program which utilizes personnel who are able to communicate with and provide such assistance in the most effective and meaningful manner and which places maximum emphasis upon personal contact.

"(b) For the purposes of this subchapter (1) the term 'other governmental programs' shall include all programs under State or local laws as well as all programs under Federal law other than those authorized by this title, and (2) the term 'eligible dependent' shall mean an 'eligible person' as defined in section 1701(a)(1) of this title.

"§ 241. Veterans assistance centers and outreach services

"(a) The Administrator shall establish and maintain veterans assistance centers at such places throughout the United States, its territories, Commonwealths, and possessions, as he determines to be necessary to carry out the purposes of this subchapter, with due regard for the geographic distribution of veterans recently discharged or released from active military, naval, or air service, the special needs of educationally disadvantaged veterans, and the necessity of providing appropriate outreach services in less populated areas.

"(b) Veterans assistance centers shall seek especially to provide the outreach services provided for in this subchapter to educationally disadvantaged veterans and such centers shall, to the maximum practicable extent, be located in communities where large numbers of those veterans reside rather than in Federal or other business-district office buildings.

"(c) Special efforts shall be made to employ at veterans assistance centers veterans who themselves reside in the community served or in similar communities and, where possible, who themselves have received assistance from such centers. Personnel assigned to such centers shall be selected with major regard to their ability to communicate with and provide the outreach services authorized in this subchapter directly to educationally disadvantaged veterans in the most effective and meaningful manner.

"(d) Those outreach services that the Administrator shall provide to all eligible veterans and eligible dependents shall include, but shall not be limited to, the following:

"(1) The distribution of full information regarding all benefits and services to which they may be entitled under laws administered by the Veterans' Administration and to which they are entitled under other governmental programs, including training and manpower programs.

"(2) Arranging for and conducting, to the maximum extent possible, person-to-person interviews to explain and answer questions regarding the programs referred to in paragraph (1), and planning an individual program of education, training, or employment as may be best suited to the eligible veteran or eligible dependent concerned, and, in the case of an eligible veteran, an individual program which will also aid him in making a rapid social and economic readjustment to civilian life.

"(3) Providing job and other appropriate referrals and job placement assistance when appropriate, undertaking especially to match the particular qualifications of an eligible veteran or eligible dependent with an available job, on-job training opportunity, or apprenticeship opportunity which is commensurate with his qualifications or vocational objectives, and, if every effort to locate such an opportunity in his home area reveals no such opportunity, furnishing him with a listing of such opportunities available in other parts of the Nation.

"(4) Providing social and other special services necessary to aid them in obtaining maximum assistance from the benefits and services to which they are entitled.

"(5) Providing aid and assistance in the preparation and presentation of claims under this title and in connection with any other governmental program.

"(6) Maintaining full records of the outreach services offered and conducting periodic followup checks to determine the success of individual assistance provided and the success of the program generally.

"(e)(1) The Administrator shall pay the reasonable travel expenses, including per diem for food and necessary lodging, of any eligible dependent in connection with any interview of such veteran or dependent with an employer or training or apprenticeship director where such interview results from services provided through the outreach services program. The amount paid to any veteran or dependent under this paragraph as a per diem allowance and for travel expenses shall not exceed the amount authorized for such purposes under the Standardized Government Travel Regulations.

"(2) The Administrator shall pay a reasonable moving allowance to any eligible veteran or eligible dependent who obtains employment or is placed in a training or apprenticeship program as a result of services provided through the outreach services program, if (A) every effort made to locate suitable employment or placement in a training or apprenticeship program in the veteran's or dependent's home area has revealed no such opportunity, (B) a moving allowance or similar relocation assistance is not available under any other existing Federal program, and (C) a moving allowance is not provided as a matter of established policy by the employer or by the training or apprenticeship program in which the veteran or dependent is to participate. Such allowance may include reasonable travel expenses for the veteran or dependent and dependent members of his immediate family; reasonable expenses for moving his personal effects and household goods; and reasonable expenses for lodging for not more than a two-week period while seeking housing in the new location. In no case may the amount paid for moving the personal effects and household goods of a veteran or dependent exceed the maximum amount authorized to be paid pursuant to regulations issued by the President under section 5724 of title 5, United States Code, in connection with the transfer of an employee of the Federal Government.

"(3) The Administrator shall, after consultation with the Secretary of Labor, prescribe regulations to carry out the provisions of this subsection.

"(f) To the maximum extent possible, the Administrator shall begin providing the outreach services authorized in this subchapter to members of the Armed Forces prior to their discharge or release from active duty. Such services shall be provided such members at Army, Navy, and Air Force installations, especially those in foreign countries, pursuant to the authority of section 231 of this title.

"§ 242. Coordination with Federal and other agencies

"In carrying out the purposes of this subchapter, the Administrator shall—

"(1) utilize the facilities and services of any other Federal department or agency pursuant to proper agreement with the Federal department or agency concerned;

"(2) cooperate with and use the services of any State or local governmental agency or recognized national or other organization;

"(3) where appropriate, make referrals to any Federal department or agency or State or local governmental unit or recognized national or other organization;

"(4) at his discretion, make payment to cover the cost of services either in advance or by way of reimbursement as may be provided by agreement with any such Federal department or agency, State or local governmental unit or other organization;

"(5) at his discretion, furnish available space and office facilities for the use of authorized representatives of such governmental unit or other organization providing services under contract or agreement; and

"(6) conduct studies, in consultation and coordination with the Department of Health, Education, and Welfare, the Office of Economic Opportunity, the Department of Defense, the Department of Labor, the Department of Housing and Urban Development, and the Urban Affairs Council, to determine the most effective program design to carry out the purposes of this subchapter with respect to locating educationally disadvantaged veterans and assisting and motivating them to pursue education and training under this title.

"§ 243. Reports to Congress

"The Administrator shall submit to the Congress not later than September 1 and March 1 each year a report on the activities carried out under this subchapter, each report to include (1) an appraisal of the effectiveness of the programs authorized herein and the degree of cooperation received from other Federal departments, agencies, other governmental programs, and service organizations, with particular reference to section 241(d)(6) and 242(6) of this title, and (2) recommendations for the improvement or more effective administration of such programs."

(b) The table of sections at the beginning of chapter 3 of such title is amended by inserting immediately after

"236. Administrative settlement of tort claims arising in foreign countries."

the following:

"SUBCHAPTER IV—VETERANS OUTREACH SERVICES PROGRAM

"240. Purpose; definition.
"241. Veterans assistance centers and outreach services.
"242. Coordination with Federal and other agencies.
"243. Reports to Congress."

SEC. 205. Section 1677(a)(1) of such title is amended by deleting "or must have satisfactorily completed the number of hours of flight training instruction required for a private pilot's license,".

SEC. 206. Section 1681(d) of title 38, United States Code, is amended by inserting below clause (2) the following: "Notwithstanding the foregoing, the Administrator may pay an educational assistance allowance representing the initial payment of an enrollment period, not exceeding one full month, upon receipt of a certificate of enrollment."

SEC. 207. Section 1712 of title 38, United States Code, is amended by—

(1) deleting in subsection (a)(3) the words "first occurs" immediately preceding "(A)" and inserting in lieu thereof "last occurs"; and

(2) adding at the end thereof a new subsection as follows:

"(e) The term 'first finds' as used in this section means the effective date of the rating or date of notification to the veteran from whom eligibility is derived establishing a service-connected total disability permanent in nature, whichever is more advantageous to the eligible person."

SEC. 208. (a) Chapter 35 of title 38, United States Code, is amended by adding at the end of subchapter VI thereof a new section as follows:

"§ 1763. Notification of eligibility

"The Administrator shall notify the parent or guardian of each eligible person defined in section 1701(a)(1)(A) of this chapter of the educational assistance available to such person under this chapter. Such notification shall be provided not later than the month in which such eligible person attains his thirteenth birthday or as soon thereafter as feasible."

(b) The table of sections at the beginning of chapter 35 of such title is amended by inserting immediately below

"1762. Nonduplication of benefits."

the following:

"1763. Notification of eligibility."

SEC. 209. Chapter 36 of title 38, United States Code, is amended as follows:

(1) by inserting at the end of section 1772 thereof the following new subsection (c):

"(c) In the case of programs of apprenticeship where—

"(1) the standards have been approved by the Secretary of Labor pursuant to section 50a of title 29 as a national apprenticeship program for operation in more than one State, and

"(2) the training establishment is a carrier directly engaged in interstate commerce which provides such training in more than one State,

the Administrator shall act as a 'State approving agency as such term is used in section 1683(a)(1) of this title and shall be responsible for the approval of all such programs.";

(2) by deleting section 1781 of subchapter II in its entirety and inserting in lieu thereof the following:

"§ 1781. Limitations on educational assistance

"No educational allowance or special training allowance granted under chapter 34 or 35 of this title shall be paid to any eligible person (1) who is on active duty and is pursuing a course of education which is being paid for by the Armed Forces (or by the Department of Health, Education, and Welfare in the case of the Public Health Service); or (2) who is attending a course of education or training paid for under the Government Employees' Training Act and whose full salary is being paid to him while so training."; and

(3) by deleting in the table of sections at the beginning of such chapter the following:

"1781. Nonduplication of benefits."

and inserting in lieu thereof the following:

"1781. Limitations on educational assistance."

SEC. 210. The amendments made by this title shall become effective on the first day of the second calendar month which begins after the date of enactment of this Act, except that the amendments made by section 208 shall become effective July 1, 1970.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

ADMINISTRATION POLICY ON VIETNAM

Mr. FANNIN. Mr. President, the Senator from South Dakota (Mr. McGOVERN), certainly a well educated, cultured, and patriotic man is, nevertheless, once again attempting to put the monkey on the wrong back.

In a speech he made on the Senate floor today, he talks of secret commitments and preparations as if they were of the Vice President's and this administration's doing.

Surely he knows better. He is too simplistic. Can it be that he hopes the people do not?

This administration inherited a foreign policy filled with secret commitments and secret preparations.

And whom did they inherit from? Why, the party of the Senator from South Dakota.

Where was the Senator's righteous indignation during the Kennedy years and the Johnson years?

We have a right to have an answer to that question. It is indeed strange to watch how strongly indignation waxes when the President is a member of the other party.

Mr. HANSEN. Mr. President, the Senator from South Dakota talks today of patriotism, and nobody doubts his. His record in World War II is a distinguished one.

It is merely his judgment that is called into question by today's speech.

Though he couches it in high-flown phrases, the fact remains: the Senator from South Dakota, for whatever reason or from whatever motive, advocates surrender.

He can attack the President and the Vice President all he chooses, he can obfuscate the issue in any way he wishes, but the fact remains that the Senator from South Dakota advocates surrender and has allied himself with others of the same mind.

I for one am proud that this Nation has both a President and a Vice President who are willing to honor the commitment made by the Senator's own party. I am proud that this administration puts the long-range security of our Nation ahead of the short-range political benefits that might be gained from a move that the entire world, including most Americans, could only view as a defeat that would surely damage our country in other parts of the world as well.

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

Mr. HANSEN. I yield.

Mr. MURPHY. In the discussion of the so-called moratorium, very often we hear of its leaders. Does the Senator know who the actual leaders of the organization are? I believe some of the remarks I heard were that they demanded certain things of the President. Do we know who these people are?

Mr. HANSEN. May I say to the distinguished Senator from California that I am not certain who all the leaders are. I know of no one who has sought to incriminate all of the persons who were involved in the moratorium. I think it would be fair to say that there were people of a great number of persuasions. There were people who appeared at the moratorium for a great number of reasons.

The point that I think ought to be kept in mind is simply that there undoubtedly were, among those who were active on the day of the moratorium, some who were not seeking to serve the best interests of this country.

Insofar as the Senator from Wyoming knows, I think it would be accurate and fair to say that the huge majority of them were good, patriotic American citizens.

I think it must be observed, though, that there were some whose purposes were not designed to serve the national interest.

Mr. MURPHY. I ask the distinguished Senator another question: I am reading from a copy of the remarks made by the distinguished Senator from South Dakota (Mr. McGOVERN), in which he said:

> The youth of America are not about to swallow the old schemes of forced killing in foreign crusades.

Does he consider that this war is a scheme that was put together for the purpose of forced killing, and if so, would he accuse the former Presidents of the United States who sent the troops there of perpetrating the scheme? Would that be his intent, does the Senator think?

Mr. HANSEN. I would have to say that I do not subscribe to that statement, that this is a scheme to bring about forced killings in foreign crusades.

As a former Governor of Wyoming, it was my privilege on several occasions to support the efforts of former President Johnson as it related to Vietnam. As the Senator from California knows, I am of a different political persuasion than was he. I do not think that President Johnson had the choice of deciding whether or not we should be in the war, but I think he recognized, just as I believe President Nixon recognizes, that once this country of ours has made a commitment, it is important not only in that area of the world, but worldwide, that people know they can believe in what America says; that, having said we will do something, it is our intention to carry forward and attempt to fulfill our commitments.

I find every reason to believe that, as President Nixon is carrying on in these extremely trying circumstances today, he is trying to keep our country's commitments, and at the same time to bring this most unfortunate war to a conclusion.

His concern is that this must be done in a fashion so as not to damage us in other parts of the world, so as not to give false encouragement to other people in other places that America does not stand by her commitments, and thereby tend to undermine the impression that other people and other nations have of us.

Mr. MURPHY. I wonder if the Senator knows that yesterday I inserted in the RECORD parts of a letter provided me by a man who had served in positions of great trust in the Eisenhower administration and the administration of President John F. Kennedy. He pointed out that

when President Eisenhower and Vice President Nixon left office, we had 800 military advisers in South Vietnam and about 800 civilian advisers and when Mr. Nixon came back as President of the United States a few years later, he inherited a situation where we have 550 military in South Vietnam.

Mr. HANSEN. Does the Senator mean 550,000?

Mr. MURPHY. Five hundred and fifty thousand; I thank my distinguished colleague. But it seems that there is an attempt to imply, somehow or other, that the responsibility for this unfortunate situation rests with President Nixon. From time to time he is given an ultimatum of "get out, and get out immediately."

It is my understanding that this President has offered far more in the way of an honorable, peaceful settlement than the previous administration. Nevertheless, it is implied that he is not doing enough. He brings home 25,000 troops, and immediately the cry arises, "That is not enough." This is the first troop reduction that I know of.

Then he increases the number to 60,000, a meaningful percentage of our combat troops. Actually, it seems to be forgotten that for each fighting man in South Vietnam, we have five backup personnel. So out of every six there, one is fighting. In the Air Force the percentage is even greater—the percentage is 20 to 1.

So I wonder why people do not realize that President Nixon actually has done more in the 9 short months since he has been in office to reduce the troop levels than the two previous administrations accomplished in their entire time in office. For the first time we are decreasing these levels, decreasing them, may I say, in a thoughtful way, in a way to preserve our national security, and not by surrendering. Certainly, if the Senator from South Dakota feels that the entire intervention in Vietnam was a mistake, I think that he has waited an extremely long time to express himself.

But there is one other point, still more important: The composition of the group who organized the so-called moratorium. I am not quite sure who they are. I have inquired, and I have some names. I have the name of David Hawk. I do not know his background. I have the names of Sam Brown, Jr., David Mixner, Marge Sklencar, Mike Driva, Mike Mazoloff, and Sheridan Bailey. I have never heard of them until this particular event, moratorium.

Is it the suggestion of the distinguished Senator from South Dakota that we stop listening to the elected representatives of the people, and listen hereafter to this group, because they did not suggest, they demanded immediate withdrawal? Is it his suggestion that we also listen hereafter only to them, and that it would be proper to turn over not only this decision, but perhaps many other decisions of the Government to them; that we forget about the elected representatives and let anybody who can get a large group to march in Washington, or Detroit, or Los Angeles, or Berkeley, dictate our national policies? Is that what he suggests? And is it improper for the Vice President to disagree with that suggestion? The Vice President was also elected just as was the Senator from South Dakota.

This is part of the confusion that I do not understand. In the last sentence, the Senator from South Dakota said:

> I believe that increasing numbers of Americans, young and old, of every political persuasion, in every walk of life, are determined to have a voice in those issues that affect their lives.

I thought that was what our whole system had been about from its very beginning. We have a franchise, and all those of us who qualify to vote may go and make our wishes known, in an orderly, dignified, constructive fashion. We do not have to take to the streets in mobs, and we do not have to march in vigils. We leave the affairs of Government to those who stand for election, who expose themselves to the public with their beliefs, and their past records. Our elected officials are tested by whether they are decent or honorable, and by whether they are capable.

I submit most respectfully that there is nothing new about the people of America having a voice in these issues. I think this is what America is all about.

I know that I have spent a great deal of my time for the last 30 years urging Americans to take the time to understand the issues, to know the qualifications of the candidates, and then to go with full knowledge and exert their power at the ballot box.

I do not think it is an improvement on this system to say, "Let's get a lot of signs, and let's get some candles and march around the White House and chant some slogans."

This march, last Wednesday, of course, was very orderly. I think one of our distinguished colleagues made great mention of the fact that this was an orderly march. There was not any rioting or bad language.

I sincerely hope that if the marches continue, they will at least be conducted in this fashion.

It does not seem that there is anything particularly new involved here except that there seems to be a suggestion that perhaps we should not determine the importance of a matter by legislative debate but, rather, by the number in the picket line, by the clamor they make, by the publicity they get, and by the television coverage their demonstration attracts.

I do not think the Vice President meant that the people do not have the right of dissent. He did not imply that, at least to me. However, I do think he said that the President has the right to decide and administer policies. And I think the Vice President is correct in pointing out that perhaps some people with ulterior motives have been misleading and using some of these good, honest, independent young students by telling them only half of the story.

I continue to read comments about the South Vietnamese Government and the confusion in General Thieu's corrupt military dictatorship.

I heard about the so-called corrupt military dictatorship of China. We then turned China over to the Communists. That same so-called corrupt dictatorship went to Taiwan where they are now doing a magnificent job.

We heard about the corruption in Korea. And suddenly we find that the South Koreans are not any more or less corrupt than perhaps some of the men in the Government of the United States.

I was there as an observer when the Thieu government was elected. And I assure the distinguished Senator from Wyoming that I never saw a more determined attempt at democracy or a stronger attempt to make an election honest and fair.

Certainly there were some troublemakers that were locked up. There were one or two. I recall that the same procedure used then is taking place in many other countries.

I do not think the Thieu government does anything but represent the people.

I said yesterday that there were those who marched in the demonstration on the basis that they want to stop the killing. Lord knows, I would like to stop the killing. I wish the killing had never started. However, if they insist on our immediate withdrawal, they will see killing in South Vietnam the like of which we have not seen since we heard and watched and listened to and shuddered at the atrocities committed during World War II.

Mr. HANSEN. Mr. President, is it not true that a number of America's finest young men are being held prisoners of war in North Vietnam at the present time? So far as I know, the number has not been established. There has been no official word from North Vietnam as to the number of prisoners they hold in their country. These men have been taken from the ranks of the gallant fighting men of our country.

What about those prisoners? If we were to get out of Vietnam by boat, as some have suggested, would we not be leaving those men who are perhaps being held captives by the North Vietnamese at the present time at the mercy of a country which has no compassion, a country which has demonstrated by a great series of acts of violence that human life is of little or no consequence?

Is there any reason to believe that the North Vietnamese would be willing to turn these prisoners back to us if we were to leave there? Is this not another consideration that ought to be included among the issues that must be resolved if we seek to bring this war that has been engaged in by our country for a longer period of time than any war in our history to a conclusion?

Mr. MURPHY. Mr. President, the Senator is absolutely right. I know he is right when he says that we do not have information as to the prisoners. The Communist government in Hanoi has absolutely ignored all the rules and all the ordinary concessions made with respect to information on prisoners.

I also point out that I received figures the other day that showed that in this year, aside from the military, 22,500 South Vietnamese have been victims of unbelievable atrocities and terrorism.

My figures indicate that of the 22,500—

and these are civilians—14,000 were murdered. The fate of the rest is unknown. Some have disappeared. Some have been kidnaped. Others have been so badly treated in some cases that it might have been better if they had been killed quickly. It would have certainly been less horrible than the treatment they received. These are the conditions that exist there.

I am amazed that the people who state continually that America is in Vietnam illegally, are willing to make such a contention. It is not true.

The former President of the United States, President John F. Kennedy, decided to send American fighting men to Vietnam. Before he did so, President Eisenhower decided that it was in the best interests of the United States to send military advisers there. President Johnson continued to act in the belief that it was in the best interests of the United States to continue to fight in Vietnam.

Who are these people who were opposed to the actions of the last three Presidents of the United States and who confront the present President with the cry that he must get out and get out immediately?

I do not quite understand their sense or the logic. I do not know why these Americans suddenly feel it their duty to attack our present administration or the duly elected government in South Vietnam—perfect or not. Certainly no government is perfect. However, it was elected by the Vietnamese people.

I do not see the logic or the propriety of suddenly saying we must get out merely because of demonstrations by a group of people well organized, highly publicized, and led by I am not quite sure whom. As I have said on the floor of the Senate before, we are not sure what the result of this will be, but we are sure of one thing: they have created good international propaganda for the enemy, for the Communist enemy.

I was pleased to hear this cited very clearly the other night. The identity of the enemy is not America. We are not the aggressor. We went there to protect people who asked for our protection.

I wonder if those who complain have thought of what will happen to the 2 million people of the Catholic religion who, in objection to the Communist takeover in Hanoi, walked from the North to the South when they had the choice. What will happen to them if we pull out?

I just cannot understand the reasoning; I cannot understand the logic; I cannot understand the desire of so many people to say that we must get out immediately, to save American boys. How long do you save them, and under what conditions do you save them? And where is the next battle to take place? There is no change in the Communist program; not the slightest evidence of change. To the contrary, wherever there is a vacuum, they move in quicker than they did before. Their military strength, we know from the protracted debate in this Chamber, is greater than before.

Why are the Communists building their military strength? To have a bigger parade on May Day? I do not think so. I think they are building it for the exact purpose they stated many years ago.

I read Hitler's book, "Mein Kampf," and I said, "This man means what he says. We have to believe him." Many did not believe him, until it was almost too late.

Again, today, all the evidence would say that we had better have the best brains, we had better have the finest information, we had better have the most mature thought, and we had better have full debate before we make military decisions.

I do not think this should be left to a group, no matter how dedicated or patriotic or well-meaning, which suddenly marches and says, "We are numerically strong; therefore, Mr. President, you must accede to our demands." I think that would be dangerous, and I think that those who advocate this should take another long, hard look at the mischief and precedents they might be creating—certainly not by design, but by what might result from their unfortunate suggestions.

Mr. HANSEN. I thank my distinguished colleague for the contribution he has made.

I think it is perfectly clear that the President and the Vice President of the United States realize, as the Senator from California has so thoughtfully pointed out, that theirs is a responsibility not to any one group, not to any one movement that may be demonstrating, albeit very lawfully and peacefully.

I quite agree with the distinguished majority leader that there can be no question about the right peacefully to protest or to demonstrate, as they did, so long as they do it peacefully. That is guaranteed by the Bill of Rights. But the important thing we must keep in mind—and the distinguished senior Senator from California has it clearly in mind—is that the responsibility of the President and the Vice President goes to all Americans. Their duty is to see that they represent all Americans, all 200 million plus of them, and I think that is what they are trying to do.

I would refer once again to the distinguished majority leader in just taking note of the fact that he finds much for which to commend the President in the course of action he is now pursuing.

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

Mr. HANSEN. I yield.

Mr. MURPHY. I believe that yesterday or the day before yesterday the distinguished majority leader said something in the Senate that was extremely important. He said that he would hope there could be an association of free nations—I am paraphrasing, but this was the sense of his remarks—that would absolutely guarantee the freedom and the freedom of choice of all of Southeast Asia. I concur in that statement completely and enthusiastically. That is the only reason I know of why American troops, American advisers, and American fighting men went to Southeast Asia in the first place. Certainly, it was for no other reason of which I know.

I thank my distinguished colleague.

Mr. HANSEN. I thank the distinguished Senator.

Mr. THURMOND. Mr. President, I should like to comment briefly on a statement of the Senator from South Dakota concerning the Vice President's recent speech in New Orleans. What the Vice President counsels is patience and responsibility. What the Senator from South Dakota counsels, it seems to me, is peace at any price rather than peace on terms which consider the historic moral commitment of America in Asia.

Disengagement in Vietnam immediately and without qualification is irresponsible and those who advocate it must answer for their statements. There must be those elected leaders willing to say precisely this and risk the contempt of those who seek a settlement in Vietnam inconsistent with the American tradition.

Mr. President, I, like the Vice President, simply intend to caution the well-meaning followers against the ill-considered position of "peace at any price" advocated by far too many of the moratorium leaders. Those who choose to follow such a position may well inherit an infamous peace and the lasting scorn of a generation of Americans to follow. As a great power we must live with Asia and I, for one, intend to live honorably with Asia. This Senator has no intention of repeating for this country the dishonor of England in accepting "peace at any price" at Munich.

THE MORATORIUM

Mr. DODD. Mr. President, the Senator from South Dakota (Mr. McGOVERN) has taken exception to the comment on the Vietnam moratorium made in New Orleans over the weekend by Vice President AGNEW. He has accused the Vice President of impugning the patriotism of all those who disagree with the administration's policies in Vietnam.

Apparently, the Senator took exception to two basic statements. The first statement was that moratorium day was an unwise demonstration "encouraged by an effete corps of impudent snobs who characterize themselves as intellectuals."

The second statement by the Vice President to which he objected most strongly was his warning that "hard-core dissidents and professional anarchists" within the peace movement were planning "wilder, more violent" antiwar demonstrations on November 15.

One does not have to agree with every statement made by the Vice President or with every phrase he used in order to recognize the basic validity of his criticism of the moratorium movement and of his warning about the November 15 demonstration.

That the majority of the demonstrators were being used for purposes which they did not approve or understand was apparent from the glowing official tribute of the North Vietnamese Government.

I think it is clear from the Vice President's statement that his remarks were intended to apply not to the great mass of demonstrators who participated out of a variety of confused motivations but to the self-proclaimed leaders of the recent moratorium and to the leaders of the forthcoming march on Washington.

I have no doubt that there are some

innocents in both groups of leaders. On the other hand, there are many people whose antecedents are open to very serious question.

The principal spiritual organizer of the moratorium was the notorious Dr. Spock, who has consistently attempted to corrupt young Americans by urging them to dodge the draft.

Dr. Spock, for two decades, was the foremost apostle of the permissive upbringing of children, and the baneful influence which he had on the several generations of young American parents who read his books on child care played a major role in producing the current generation of campus extremists.

Dr. Spock was a disaster as a baby doctor. He has been an even greater disaster as a self-appointed leader of the American peace movement.

To describe him as "an effete and impudent snob" is to understate the case.

Not only has he visited Hanoi a number of times, but he has made it clear by repeated statements that he would personally prefer a Vietcong victory to an allied victory in the Vietnam war.

The ranks of the moratorium leaders also include one, David Hauk, an apt disciple of Dr. Spock, who is now on trial for draft evasion.

They included Mr. Sam Brown, who has referred to the United States as "the greatest imperialist aggressor nation in the world," and who has also made it clear that he would prefer a Vietcong victory over an allied victory.

As for the New Mobilization Committee To End the War in Vietnam, its steering committee is packed with known Communists and pro-Communists, including Arnold Johnston, the public relations director of the U.S. Communist Party.

There was some speculation that the moratorium leaders were essentially a more moderate lot than the mobilization leaders, and that they might wish to steer clear of involvement with the known Communists and Trotskyists and Maoists and assorted leftwing extremists who are organizing the November 15 march on Washington. But this morning's papers brought the news of a formal agreement between the moratorium committee and the New Mobilization. Sam Brown, the chief spokesman for the moratorium committee, told the press that there was no split between the groups. Rather, he said, "there is a difference in emphasis."

Mr. President, the time has come to stop mincing words. There should be no question in the mind of any informed person that the ranks of the organizers of the November 15 march on Washington contain numerous treasonable elements, who are committed to the overthrow of our own Government, who seek the victory of our enemies, and who are acting in collusion with and under the orders of Hanoi.

There have been numerous evidences of coordination between Hanoi and the antiwar demonstrators in the United States. For example, on April 22, 1968, at a time when Hanoi was getting ready to launch its abortive summer offensive, the Vietcong ambassador in Havana, Hoan Bich Son, broadcast the following statement to the demonstrators in this country over Radio Havana:

Your struggle against the warmongers in the Pentagon and White House is a hard blow at the heart of our common enemy, because your activities will take place precisely at the time that the South Vietnamese people, in urban areas and the countryside, have risen with tremendous strength to smash the General Headquarters of the U.S. aggressors and their puppets in all the cities of South Vietnam. This way, our struggle for liberty is entering a new phase, more favorable for the Vietnamese people.

Mr. President, many of those who participated in the moratorium or who endorsed the moratorium, unlike some of their leaders, would prefer not to see a Vietcong victory.

But I wonder if they have ever stopped to ask themselves what the outcome of World War II might have been if, a year before its conclusion, hundreds of thousands of our citizens had taken to the streets to call for immediate peace and an end to the killing.

The Vietnam Moratorium was not a victory for peace. It was, let us be blunt about it, a victory for the Vietcong.

Mr. President, I ask unanimous consent to have printed in the RECORD the following items: "The President's Case," editorial in the Wall Street Journal, October 21, 1969; "Reds in Paris Net Moratorium Profit," by Andrew Borowiec, Evening Star, October 17, 1969 and; " 'Other war' in United States Riles GI's" by Don Tate, Washington Daily News, October 14, 1969.

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

[From the Wall Street Journal, Oct. 21, 1969]

THE PRESIDENT'S CASE

We hope by the time of President Nixon's November 3 speech on Vietnam he will be ready not only for one speech but for a well-considered campaign to put his case before the public. The President has an excellent case, but somehow he must find a way to present it more persuasively than he has so far.

The President, after all, has started to bring troops home. The casualties have fallen. His policy is to end American participation in the war. His only reservation is that this be done in a way that promotes "lasting" peace.

Mr. Nixon quite cogently believes lasting peace will not result if America lurches out of Vietnam and lets the pieces fall where they may. That course would encourage instability everywhere. It would also confirm and cement the American habit of all-or-nothing foreign policy—a dangerous habit in a nuclear age. There is little excuse for mindless capitulation at the moment, when there seems to be some chance to end the American fighting on honorable terms through the policy of Vietnamization.

The most notable thing about the Vietnam Moratorium was the turnout of people who did not in fact sympathize with its ostensible purpose of immediate unilateral withdrawal. Thus its real meaning is that the President's case has not come through. We think this is primarily the fault of those who fail to understand, for the case should be clear enough to anyone who looks. But it is also true that the President has not made his arguments as forcefully as he might.

There are some excellent reasons, to be sure President Nixon came into office asking us to "lower our voices." His purpose has been to calm the passions of the nation, not a purpose served by being too aggressive in campaigning for his policies. And up until Labor Day, this low-key salesmanship proved astonishingly effective—too effective, perhaps, for its succes lulled the Administration into persisting with that rhetorical strategy when its time had passed.

The Administration has also been inhibited in defending its policies by the knee-jerk reflexes of much of the Washington press corps, which sticks so close to the President's political opponents it has picked up the unlovely attitude that it's unfair for the kicked dog to bite back. Who can deny, for example, that the outpouring of dissent makes any kind of negotiated settlement all but impossible for any practical purposes? The President did not invent that dilemma, it is a fact of life. Why do so many commentators—not to mention ostensibly objective newsmen—belittle him for stating plain fact?

By now it is pretty clear that the President's opponents have denied him the option of lowering voices. The Moratorium was, after all, a mob in the streets—with the threat of violence always implicit even if it was avoided this time. It is equally clear that the President need not worry too much about inflaming his political opponents on Capitol Hill—they can do nothing to him they are not already preparing to do. At the moment the President's option is to take the rhetorical offensive.

The last thing we mean by that is a lot of defensive talk about the need for unity or how best to promote a compromise at Paris. Such topics call for candor; that is, an admission that neither appears to be in the cards at the moment. What we do mean is that the President should hit the protesters in their weak point, which is that they have no realistic alternative to the policy the Administration has already adopted.

The President has every right and duty to ask the protesters what precisely they want him to do. How many of the common citizens who marched in the Moratorium really want an unthinking withdrawal? Have they pondered the slaughter that would probably ensue in Vietnam? Have they thought about peace a few years hence, about the encouragement of our enemies and discouragement of our friends?

Are they really ready for the possible political backlash here at home if the United States capitulates when another option still seems open? (News item: George Wallace plans to leave on an "information-gathering" trip to Vietnam November 1). If they do ponder all these things, are they not then willing to see a couple of years of gradual troop withdrawals in the name of ending the war in a thoughtful way?

The point of the Administration's rhetorical campaign—and one speech is only a beginning—should be to make the real alternatives clear to the American people. The President stands for ending the war with a considered plan. The militant protesters stand for a helter-skelter pullout. If Mr. Nixon can make that clear, we would be most surprised if he fails to win the quiet, unhappy but resigned support he needs.

[From the Washington Star, Oct. 17, 1969]

REDS IN PARIS NET MORATORIUM PROFIT

(By Andrew Borowiec)

PARIS.—The Communist side at the Vietnam peace talks has reaped considerable profit from the U.S. Moratorium Day movement.

The Hanoi and Viet Cong negotiators have become strengthened in their previously demonstrated conviction that time plays in their hands and that no compromise on their part is necessary to attain their objectives.

They demonstrated this attitude clearly during yesterday's session of the deadlocked

negotiations during which they praised "the opposition movement of the American people," heaped abuse on President Nixon and reactivated a proposal for direct and secret talks between the United States and the self-styled Viet Cong government.

The proposal appeared to be carefully timed with the Moratorium demonstrations. It had the appearance of a new initiative, but it was not. And it was aimed directly at embarrassing the United States and exposing its relations with the Saigon government to additional strain.

Committed to support the Saigon regime for better or worse, the United States is hardly in a position to bypass it in seeking a solution to the Vietnam conflict. Hence chief U.S. negotiator Henry Cabot Lodge brushed aside the Communist proposal, at the same time trying to avoid the impression of outright rejection.

(In Washington, White House Press Secretary Ronald L. Ziegler said that the United States would not meet alone with the Viet Cong. He said, however, that if the Saigon government arranged talks with the National Liberation Front, the United States would be willing to participate even if Hanoi were absent from the discussions.)

Thus, after 38 weekly sessions of the conference, it seemed on the surface that the initiative was in the hands of the Communists.

Lodge limited himself to repeating that "We are ready and willing to carry on private and direct talks in which all those represented on each side at these meetings will participate."

Neither he nor his press spokesman, Stephen Ledogar, would say flatly whether the statement represented rejection, because rejection of an "opening" at the talks at this time would mean slamming the door on peace.

The Communist "peace move" was carefully planned to get a maximum of attention and publicity at a time when newspapers and radio stations were full of U.S. Moratorium reports.

Had the Communists wanted to break the stalemate, they did not have to make any public announcement but simply use a channel opened all the time for both parties to communicate on urgent matters in secrecy.

Lodge's statement that he was "surprised" by the Communist move was in itself surprising. Newsmen in Paris had expected exactly this sort of headline-catching proposal that was bound to embarrass the allies.

And while Ledogar agreed that the Communist side attempted "to distort the Moratorium to its advantage," the South Vietnamese spokesman calmly announced that the Red proposal had nothing to do with it.

The Communist view, repeated countless times, is that the Viet Cong and its provisional government are the only legal authority in South Vietnam and if the United States wants to solve the problem, it must talk with it.

The Saigon "puppet regime" simply does not enter into the picture, according to the Communists. Having obtained the American halt of the raids over North Vietnam, having, in a way, caused the withdrawal of 60,000 U.S. troops from South Vietnam, the Communists now want the United States to disavow the regime it is helping to maintain in power.

For obvious reasons, Lodge could not answer this challenge more directly. He contented himself with a reaffirmation that the Saigon government "is a legitimate government without which nothing of importance can be done in South Vietnam."

But the seed of discord has been planted and the Communists are now waiting for more signs of protest within the United States and more cracks between the allies.

[From the Washington Daily News, Oct. 14, 1969]

"OTHER WAR" IN UNITED STATES RILES GI'S

(By Don Tate)

SAIGON, October 14.—As tomorrow's war "moratorium" will demonstrate, there are two Vietnam wars—the one Americans fight in Vietnam, and the one Americans fight in the U.S. Observers here say the decisive battleground is in the U.S.

They point out that short of a highly successful Communist offensive, which is extremely unlikely, or a dramatic allied strategy change, such as renewed bombing of North Vietnam, the killing war in South Vietnam is apt to rock along in its fight-lull-fight rhythm much as it has been, at least until many more U.S. troops are withdrawn.

Meanwhile, the war to win American public opinion and, particularly, the mind of Richard M. Nixon, is waxing hotter. What happens in the U.S. will determine what happens here. As the President warns Americans not to buckle and run, protesters prepare to hit the streets, many of them demanding immediate, unilateral withdrawal of all American troops. That translates here as "bugout."

GI DISDAIN "BUGOUT"

It is difficult to find an American soldier here who wants to leave Vietnam that way, or as one GI put it, "with our tails dragging." It is difficult to find one—even among those most disgusted with the war—who wishes simply to abandon the South Vietnamese to a Communist bloodbath.

It is difficult to find one who thinks the value of the American word would be worth a dime anywhere in the world if they did, or that a humiliating U.S. defeat by a blustering Communist midget would do anybody but the Communists any good.

These consequences are apparent to most Americans here, and they are not acceptable. It is largely a matter of national backbone. Most express hope that President Nixon sticks to seeking a reasonable solution to the war.

There are, of course, many critics of war critics here. They charge that a number of war critics in the U.S. are using the same tactics Hanoi has shown—the more you give them the more they demand, and they both demand total, immediate and unconditional everything.

In the two wars—one group of Americans is convinced of the rightness and necessity of bringing this bitter war to a conclusion by presenting a united front to Hanoi, the other protesting group is more or less convinced the only way out of Vietnam is to get out fast regardless of consequences.

MYSTERY IN VIETNAM

There is often the feeling here that the war is only a secondary feature to the show of exposed nerves going on in the U.S. What the war has done to the U.S. is the biggest mystery of all here.

"It seems like any American who ever wanted to protest anything has found his cause in the Vietnam war", one veteran analyst contends, "and yet 95 per cent of them have suffered little direct personal hardship because of the war.

"You hear so much of the war-weary American, and how exhausted he is by the war. Yet this exhaustion of the mightiest power on earth is a relative thing. It hasn't been bombed, or invaded, or lived under the Communists a single day. It's manpower loss has been a drop in the bucket compared to that of either North or South Vietnam, and its suffering has been a thousand times less. "Many Americans would hardly know the war was going on if it wasn't for newspapers and TV. Suppose Americans had to face what the South Vietnamese people have yet to face? America's exhaustion is a self-induced state of mind, composed mostly of confusion."

One rankled American, with invested years and effort in Vietnam, condemned some of the rantingest protesters as the "most confused of all."

WEARY OF "POPPING OFF"

"Soldiers do the dying," he said, "and these others do the popping off. I'm tired of hearing these so-sure people who haven't shed a nosebleed in this war scream pig this and obscene that and run around protesting for the hell of it.

"I'm tired of hearing what politicians who sound like Hanoi radio demand, what well-meaning but awfully uninformed students demand, what ivory-tower doves who wouldn't dirty their hands over here demand. I'm weary of hearing how much Sen. (J. William) Fulbright, D. Ark., wants out. We all want out. We all protest the war. We all want peace. But not by saying: 'Here Hanoi, take 17 million people. We'll pretend we were never involved. We quit.'"

Many here feel that some of the protesters would do well to focus their moral wrath less on President Nixon and more on the Communists.

It is the Communists, they stress, who are killing Americans. It is the Communists who butchered, as a matter of policy, the civilians of Hue and so many other places, and it is the Communists who will murder methodically thousands more Vietnamese if the U.S. totally, immediately and unconditionally abandons them, as many protesters advocate.

To Americans who have put in their time here, it is not good enough to dismiss blandly such realities with an: "Oh, well, it is up to the Vietnamese to work out their own problems."

Many here, eyewitnesses to the war, have become anti-war in the truest sense, but they have also become resolutely anti-bugout.

THE OIL-DEPLETION ALLOWANCE

Mr. MURPHY. Mr. President, oil has a special importance to California, and Californians have a great interest in the depletion allowance.

The citizens of my State consume more petroleum products than do the people of any other State—674 gallons annually per man, woman and child at the last count, and the amount is rising.

We produce more oil than Canada, and still it is not enough to meet our needs.

We are known as the Golden State, but finding, producing, transporting and marketing oil has earned a living for many, many more Californians than gold ever did.

In addition to being first in consumption of oil products, we are second in refining and third in producing among the 50 States of the Union.

I say all this not to boast, but to be sure that I make plain the gravity with which I contemplate the economic impact on my State—whose population comprises one out of every 10 Americans—of a substantial change in the depletion allowance, and not least of all upon the payrolls of the petroleum industry in California.

The most optimistic among those who urge cutting back the depletion allowance admit that to do so will cause unemployment among petroleum industry workers in every State, as marginal facilities are shut down, and that many installations not now considered marginal would become marginal. They know, and admit, that this would cause cutbacks in exploration, as well as the death of

producing oilfields, transportation facilities, suppliers to the industry, and perhaps some refineries.

Stripper wells constitute 66 percent of the total producing wells. There is a total of 573,159 producing wells, of which 376,851 are stripper wells. Sixteen percent of the production comes from stripper wells. A stripper well is one that produces 10 barrels or less per day.

Those who support depletion cuts apparently believe that disruption in the oil industry and consequent unemployment is acceptable, if Americans as a whole will benefit.

And how would they benefit? The assumption is that Treasury revenues would increase. That prices of oil products would fall as cheaper foreign oil took the place of marginal domestic production, and replaced oil no longer being discovered within our borders to augment our reserves.

Let us examine that argument. Instead of concerning ourselves with Californians and Texans and Oklahomans who may lose their livelihoods, let us look at what that proposal will mean to the average American, whether or not he has any direct connection with petroleum.

First of all, since the oil industry now and for many years has paid greater-than-average local taxes, citizens will soon discover that their own pocketbooks must be tapped more heavily for taxes no longer paid by domestic petroleum companies. Federal and State treasuries will also experience loss of taxes from the incomes of affected industry employees and suppliers.

The cost of gasoline will not fall. It will rise, perhaps by as much as 5 cents per gallon. Increased levies of Federal taxes will be paid by consumers.

If America's demand for gasoline greatly exceeds our supplies, you may be sure that the nations abroad, who have the oil, will soon raise the cost of that once-cheap foreign crude in order to take the fullest possible advantage of our need.

Already, a number of foreign oil-producing countries are operating in close concert principally to force higher prices on consuming nations.

Some have pointed to the new strikes on the Alaskan north slope as evidence that our oil worries are over. It is still too early to know how much oil actually will be produced there. But even if reserves on the north slope prove as large as some of the most optimistic "guesstimates," we will soon need more finds equal to it, just to stay even, due to rapidly increasing demand. And at the same time development of the north slope is beginning, excess capacity seems to be falling off in such traditional areas as Texas and Oklahoma.

Yet there is plenty of petroleum still underground. Most of the "easy oil" has been found. According to the U.S. Department of the Interior, the estimated oil originally under U.S. soil may be as much as 2,000 billion barrels. Thus far only a miniscule amount of this has been located and produced. Production up to now has been about 80 billion barrels. We will have to drill deeper, more expensive wells, and go to more remote areas, like the north slope, to find it.

Spending on exploration should be doubled. We are using petroleum so fast now that consumption will double by 1980.

Tampering with policies that encourage exploration for petroleum is playing a dangerous game.

Reserves of natural gas, even now in jeopardy, will be still more drastically affected. The same people who will not be exploring so energetically for oil any more will not be looking for natural gas, either. They will not be able to afford to. And natural gas cannot be imported cheaply from overseas.

If incentives are cut, who will want to invest hard cash in an industry that—in the best of times—finds significant deposits of oil and gas under the earth and under the seas only once out of every 48 times? So the price of natural gas must also rise, perhaps prohibitively.

Concurrent with higher prices for gasoline and natural gas will come inevitably higher costs for other petroleum products.

Consumers of these products run the complete range from very poor to very rich. I cannot imagine anyone so poor or living in such a remote location in America that he does not employ some product of the oil industry, even if it is only to burn in a kerosene lamp or to oil a squirrel rifle.

The average American uses a great many more oil industry products, from heating oil, clothing, floorwax and toothbrush handles, to airplane fuel, electric power and medicines. So an extremely broad spectrum of consumer goods and services is involved.

It follows that higher prices for petroleum-derived items will pinch those of limited incomes far more than the rich. Thus, we have an area of legitimate widespread concern.

Often, those who must use the most gasoline are the very people who can least afford a price rise. Many families of moderate incomes are forced by housing costs to live a great distance from their jobs, and have to drive to and from work. A sharp rise in gasoline prices would work a real hardship on them.

Others depend on automobile transportation because it is the only way they can do their jobs. The salesman who has to call on his prospects is one example; another is the farmer, who plows and harvests by means of a gasoline-powered tractor and hauls produce to market in his truck.

If the cost of a basic product like petroleum rises, secondary effects must also be expected. Let me carry my example of the farmer just a bit further. Besides gasoline, he makes major use of fertilizers, pesticides, insecticides, lubricants and other petroleum derivatives in order to grow and market his crops. As a Californian, I can give assurance that these elements of the farmer's costs have a direct influence on the price of canned and fresh fruits and vegetables, and grains, livestock, and cotton.

Another undesirable effect of a depletion cut is that disruption of established crude and product supply patterns is likely to make many fixed installations, such as pipelines and storage facilities, useless. Skilled workers will—eventually—be absorbed by other industries. Petroleum research and technological progress—which touches the life of the average American in countless ways—will have to slow down. Where once America led, we shall have to learn to follow.

Worse, however, than all of these negative consequences, is the fact that America would become increasingly dependent on foreign suppliers in an unstable world. Placing our national security at the mercy of these foreign suppliers is something we just should not do.

During the 1967 crisis in the Middle East, our allies in Europe were saved from the serious consequences of an oil shortage largely because of the resources and flexibility of the American oil industry.

With no strong domestic producing industries of their own to fall back upon, Western Europe's leaders faced grave political dangers, with the possibility of having to look to the Communists for their petroleum needs. Either that, and gratefully accept the oil Russia permitted them to have, or see their nation's roads empty of traffic and their industries slow down or stop.

Fortunately, American emergency surplus production, plus the worldwide transportation resources of the American petroleum industry, helped to permit a third alternative. The vital energy supply of Britain, France, Italy, Germany, the Low Countries, and Scandinavia continued without substantial interruption.

Without the support of a healthy domestic American oil industry, who can say how the course of history might have been turned?

Having looked at the potential dangers on the international scene, should depletion incentives be cut? Having visualized the likely course of domestic events, including higher prices—and perhaps higher taxes—let us look again at conditions as they are now. Let us see if we want to pay the price of making the change.

How are things today for the American who uses oil company products? He would like to pay lower taxes, that is certain. So would the oil industry, which, I reiterate, already pays a higher percent of its income to Federal, State, local, and foreign governments than most other industries.

Nevertheless, despite taxes, and ever-rising costs and wages, the oil industry has provided the consumer with many of the best bargains in the world.

If the price of gasoline has gone up at the pump, it is mostly because sales and excise taxes have gone up and up.

The oil industry says that the price of gasoline has risen—excluding taxes—from an average of 22 cents a gallon in 1926 to an average of only 24 cents a gallon last year. And the gasoline is vastly improved over 1926. I have heard no one refute those figures.

How much has the price of milk gone up in that same period? The price of rent? The price of automobiles? One can still buy a gallon of gasoline in this country for less—considerably less—than it would cost for a gallon of distilled water.

So it can be seen that the burden on the consuming public is not now a heavy

one where the price of oil products is concerned. Would the average American really consider it so much of a boon if the oil companies paid more in Federal taxes and raised the price of his gasoline a nickel a gallon? What will he say if it costs him more to heat his house?

Mr. President, I believe that the American consumer, when he discovers the alternatives, will agree with me when I say that this argument over depletion is a classic case of the wisdom of the old saw: Let well enough alone.

ORDER OF BUSINESS

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

The PRESIDING OFFICER (Mr. BYRD of West Virginia in the chair). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HANSEN in the chair). Without objection, it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, for the information of Senators, the pending business is H.R. 11959, the Veterans' Education and Training Assistance Amendments Act of 1969. This measure will become the unfinished business on tomorrow.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD of West Virginia. It is hoped that action can be completed on this meausre tomorrow, thus allowing the Senate to go over until Monday next.

ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 6 o'clock and 8 minutes p.m.) the Senate adjourned until tomorrow, Thursday, October 23, 1969, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate October 22, 1969:

FEDERAL RESERVE SYSTEM

Arthur F. Burns, of New York, to be a member of the Board of Governors of the Federal Reserve System for a term of 14 years from February 1, 1970, vice William McChesney Martin, Jr., term expiring.

DIPLOMATIC AND FOREIGN SERVICE

Lewis Hoffacker, of the District of Columbia, whom I nominated on October 13, 1969, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Cameroon, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

WITHDRAWAL

Executive nomination withdrawn from the Senate October 22, 1969:

U.S. CIRCUIT JUDGE

Charles A. Bane, of Illinois, to be U.S. circuit judge for the Seventh Circuit, Vice Elmer J. Schnackenberg, deceased, which was sent to the Senate on May 28, 1969.

HOUSE OF REPRESENTATIVES—*Wednesday, October 22, 1969*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Blessed are they who observe justice and who do righteousness at all times.—Psalm 106: 3.

We come to Thee, our Father, voicing the aspirations of our hearts in prayer, endeavoring to become aware of Thy presence, and seeking strength and wisdom for the tasks of this troubled time. During the pressure of daily duties we often forget Thee and in so doing we stifle the nobler impulses of our human nature. In this moment of prayer we would regain the feeling of our kinship with Thee. Help us to keep alive the sense of Thy spirit amid the labors of this day.

Enrich the life of our Nation with righteousness and truth. Make us equal to our high tasks, reverent in the use of freedom, just in the exercise of power, generous in the protection of weakness, and genuine in the spreading of good will: to the glory of Thy holy name. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2768. An act to amend title 38 of the United States Code in order to eliminate the 6-month limitation on the furnishing of nursing home care in the case of veterans with service-connected disabilities; and

H.R. 3130. An act to amend title 38, United States Code, to provide that the Administrator of Veterans' Affairs may furnish medical services for non-service-connected disability to any war veteran who has total disability from a service-connected disability.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 693. An act to amend title 38 of the United States Code to provide that veterans who are 72 years of age or older shall be deemed to be unable to defray the expenses of necessary hospital or domiciliary care, and for other purposes;

H.R. 9334. An act to amend title 38, United States Code, to promote the care and treatment of veterans in State veterans' homes;

H.R. 9634. An act to amend title 38 of the United States Code in order to improve and make more effective the Veterans' Administration program of sharing specialized medical resources; and

H.R. 13763. An act making appropriations for the legislative branch for the fiscal year ending June 30, 1970, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 13763) entitled "An act making appropriations for the legislative branch for the fiscal year ending June 30, 1970, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MONTOYA, Mr. PROXMIRE, Mr. YARBOROUGH, Mr. PEARSON, and Mr. COTTON to be conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1279. An act to create a rebuttable presumption that a disability of a veteran of any war or certain other military service is service connected under certain circumstances.

SPEAKER McCORMACK

(Mr. HÉBERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HÉBERT. Mr. Speaker, this is for the record. Today I received a call from a newspaperman who was writing a story about Speaker JOHN MCCORMACK. He asked me my evaluation of him. My unhesitating reply was:

If John McCormack has any fault, that fault is being a Congressman's Speaker and that is exactly what he is. I have never known a more compassionate, understanding, accommodating individual in all these years that I have been in the Congress.

It irks me no end to hear snide remarks and read comments in the news media by some not worthy to polish his boots. Undoubtedly, criticism is a part of the game, but unfair and unjust innuendo is an assassin of character. JOHN MCCORMACK has stood the test of time in public life and the white toga which drapes his shoulders is as immaculate today as the day he first wore it.

I am glad I know JOHN MCCORMACK. I am glad JOHN MCCORMACK is Speaker of this body. I am glad I can call him a friend in whose debt I am. I am proud to pay tribute to JOHN MCCORMACK and to say to him, "I salute you, sir. You are indeed a great American."

REMARKS IN TRIBUTE TO SPEAKER McCORMACK

(Mr. KLUCZYNSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLUCZYNSKI. Mr. Speaker, the author of the Book of Proverbs writes:

The just man walketh in his integrity.

I can think of no more appropriate phrase to describe the life and charac-