all that must be done. There must be a regular amount of money which can be expected and planned for.

We think that the Federation's proposal for 40 million acres and $500 million with a two percent overriding royalty is a reasonable and just solution to our land claims. This combination of ownership in land and settlement money will allow the native people to promote and guide development of the land. This proposal will allow us to meet the demands of the future.

We believe that our Eskimo lands were illegally sold without our knowledge or consent by a country which had not conquered or lived on those lands. We also believe that our lands were sold by Russia to the United States when neither country had true knowledge of their use, occupation or ownership. We believe we are justly entitled to payments for non-renewable resources which were removed without benefit to our people and for the lands which are now occupied by the descendants of others.

We have here in Alaska native bank officers, commercial airline pilots, commercial boat and barge operators, airline managers, and other executives, air station managers, military officers, and school teachers. We have members of our people in other states who occupy a wide range of occupation. We have some native corporations.

The money received in the final settlement will provide the capital to enable us to obtain education, advice, and technical assistance for ourselves and our children. It will provide money for building safe, sanitary and adequate housing for our people. It will provide the foundation and support for private ownership of property and business. It will equip us to compete for jobs and to obtain funds for major construction in our communities, and give us the freedom to make our own choices and mistakes and to profit from them.

We are proud of our citizenship but not the limits that are placed upon it. We are proud of our willingness and ability to serve in our nation's defense. We now wish to contribute to its economy by becoming self-sufficient and independent people. We expect to use the money to which we are justly entitled to prepare our coming generation to take advantage of the opportunities and the choices which this nation can offer to them. We want our children and our children's children to be proud of their past and their heritage as American Eskimos, American Aleuts or American Alaskan Indians.

Thank you.

# SENATE—*Monday, October 27, 1969*

The Senate met at 12 o'clock meridian and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

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

O God and Father of all mankind, whose promise is to bless that nation whose people strive to do Thy will, make known to us the way we should think and work and live to fulfill the divine intention. Let Thy greatness overrule our mistakes and strengthen our weakness. Hasten the day when Thy purposes are fulfilled, not only in the hearts of a few wise and brave men but throughout the whole Nation, in Congress and court, in workshop and office, in field and forest, in city and in country. Draw us together in this Senate in unity of spirit and in the bonds of peace that the words of our mouths and the work of our minds may be acceptable in Thy sight, O Lord, our strength and our Redeemer. Amen.

## DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will read a communication to the Senate.

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., October 27, 1969.*

*To the Senate:*

Being temporarily absent from the Senate, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
*President pro tempore.*

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

## THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, October 23, 1969, be dispensed with.

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

## MESSAGES FROM THE PRESIDENT

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

## REPORT ON U.S. PARTICIPATION IN THE UNITED NATIONS—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Foreign Relations:

*To the Congress of the United States:*

In accordance with the provisions of the United Nations Participation Act of 1945, I am transmitting the 23d annual report, covering the calendar year 1968, on United States participation in the United Nations.

The large number of topics covered, the number of U.N. agencies involved, and the increasing contributions of the United States to U.N. programs all show how important the United Nations has become to the peace, security, and welfare of the world. In the United States, support of the United Nations and participation in its many activities have always been nonpartisan.

I therefore take pleasure in transmitting to the Congress this report of the President on our participation in the United Nations.

RICHARD NIXON.

THE WHITE HOUSE, *October 27, 1969.*

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to sundry 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, notified the Senate that Mr. WINN, of Kansas, had been appointed as a manager on the part of the House at the conference on the bill (S. 1857) to authorize appropriations for activities of the National Science Foundation, pursuant to Public Law 81-507, as amended, vice Mr. BELL, of California, excused.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1689) to amend the Federal Hazardous Substances Act to protect children from toys and other articles intended for use by children which are hazardous due to the presence of electrical, mechanical, or thermal hazards, and for other purposes.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 9946) to authorize and direct the Secretary of Agriculture to quitclaim retained rights in certain tracts of land to the board of education of Lee County, S.C.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 13763) making appropriations for the legislative branch for the fiscal year ending June 30, 1970, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. ANDREWS of Alabama, Mr. STEED, Mr. KIRWAN, Mr. YATES, Mr. CASEY, Mr. MAHON, Mr. ANDREWS of North Dakota, Mr. LANGEN, Mr. REIFEL, Mr. WYMAN, and Mr. BOW were appointed managers on the part of the House at the conference.

The message also announced that the House had passed a bill (H.R. 14020) to amend the Second Liberty Bond Act to increase the maximum interest rate permitted on U.S. savings bonds, in which it requested the concurrence of the Senate.

## HOUSE BILL REFERRED

The bill (H.R. 14020) to amend the Second Liberty Bond Act to increase the maximum interest rate permitted on U.S. savings bonds, was read twice by its title and referred to the Committee on Finance.

## WAIVER OF CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

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

## ORDER FOR ADJOURNMENT

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

## EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Secretary's desk.

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

The ACTING PRESIDENT pro tempore. The nominations will be stated.

## NOMINATIONS PLACED ON THE SECRETARY'S DESK—MARINE CORPS

The bill clerk proceeded to read sundry nominations in the Marine Corps which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

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

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

## LEGISLATIVE SESSION

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

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

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

## THE COST CRISIS IN MEDICARE

Mr. AIKEN. Mr. President, The October 13 issue of American Medical News, a weekly newspaper published by the American Medical Association, contains a front page story as well as an editorial on the subject of the costs crisis in medicare.

Both story and editorial are based upon a sobering statement of facts made by the chairman of the Committee on Finance, Senator LONG. In his disclosures, Senator LONG makes crystal clear the overwhelming dimensions of the problems confronting Congress with respect to medicare's skyrocketing costs and the need for heavily increased taxes if the program is to be brought into actuarial balance. But, it is also made equally crystal clear that the Finance Committee—indeed, the entire Senate—is going to thoroughly explore means and mechanisms to bring the runaway medicare program under control.

I want to say that I share Senator LONG'S concern over the careening course taken by medicare thus far. I agree with him that we cannot simply rubberstamp a "yes" vote on the request for an additional $126 billion tax increase to meet medicare's anticipated deficit over the next 25 years. A long, hard look by Congress is in order before the Nation's taxpayers are saddled with any new burden of that dimension.

The fact that the American Medical Association gave such prominent attention to Senator LONG'S statement indicates a sharing of concern over medicare's difficulties as well as, hopefully, a desire on the part of organized medicine to play a direct and responsible role in helping solve those problems.

I ask unanimous consent that the article and the editorial which appeared in the American Medical News be printed at this pointed in the RECORD.

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

MEDICARE—THE HARD FACTS

The financial facts of life are forcing the Administration to reduce Medicare benefits and raise premiums paid by the elderly. Speeches of protest greeted the news in Congress where lawmakers pledged every effort to brake costs.

Though inflation has been the major cause of the rise in hospital and medical fees, hospitals and physicians have not escaped the wrath of lawmakers eager to pin the blame on someone.

The Medicare Part B premium next year will have to rise from the present $4 a month paid by the elderly to at least $5, a move that will cost the government an additional $280 million for its contributions from general revenues.

The previously-announced increase in deductibles the aged must pay for their hospital costs, in order to comply with the law's requirements tying the deductible to average costs of hospital stays, also did not sit well in Congress.

Senator Russell Long (D., La.), chairman of the finance committee, said the Medicare program, under present financing, would cost $126 billion more in benefits than it would collect in taxes. He told the Senate this is why the Administration recommended to Congress that Medicare taxes must be increased.

Long also stated it was his hope the investigation of the Medicare program, now underway by the finance committee, would point the way to a solution to many of the problems contributing to the sharp rise in costs of the program. Such action, he said could reduce the need for the large tax hikes now considered necessary.

"There are some very hard and sobering facts of life about Medicare which the Congress, every taxpayer, and every Social Security beneficiary should know," the senator declared. He listed, among other items:

The Medicare hospital plan's funds will be completely exhausted by 1973 under present financing—despite a 25% tax increase in 1967.

Under present financing, the costs of the hospital plan (Part A) will exceed income by $126 billion over the next 25 years.

Additional general revenues—above previous estimates—totaling $820 million will be required to pay Part A costs for uninsured persons during the period 1971 through 1975.

It is estimated that an increase in Part B (medical insurance plan) monthly premium per beneficiary from the present $4 to at least $5.20 will be necessary to bring that plan into actuarial balance. The government would match that $5.20 from general revenues. Total increased annual Part B premium costs would be about $560 million—of which general revenues would have to come up with $280 million.

Medicaid costs will also be substantially increased by the effects of increases in the Medicare Part A deductibles as well as the jump in the Part B premium.

Added Long:

"Very simply, this senator is just not willing to vote to impose new Medicare taxes of $126 billion over the next 25 years, without first trying to control the programs we now have. This senator is not willing to saddle 20 million older people with another $280 million a year in premium charges, without first trying to cut the fat out of the Part B program as we know it."

"I do not believe Congress will just sit by and finance a $126 billion Medicare mortgage, without first trying to get a responsible, hard-headed businessman's attitude into the administration of these important health programs."

Full-scale hearings on the Administration's request for increase in Social Security cash benefits, taxes, and its Medicare proposals are scheduled to begin about Oct. 15 before the House Ways and Means Committee. Administration witnesses are down for at least the first two days of testimony, to be followed Oct. 22 by other interested organizations, including the American Medical Association and other medical organizations. The hearings are expected to continue through year's end and possibly beyond. Proposals to extend Medicare to everyone, a national health program, will be heard.

Senate Finance Committee hearings, meantime, may concentrate on ways of reducing costs through more stringent physician fee regulations, review, and hospital cost cutting.

One of the reasons for the sharp jump in the Medicare Part B premium was the decision last year of former Health, Education and Welfare Secretary Wilbur Cohen to keep the premium fixed at its current $4 a month level through the fiscal year that ends next June. He said voluntary price freezing by physicians should make such restraint possible. The experience so far shows that a premium of at least $4.50 was needed. Thus, the rate next June will have to be set not only to meet future costs but to make up for deficits rung up due to Cohen's decision and rising medical care costs.

In an exchange on the Senate floor, Sen. George Aiken (R., Vt.) told Sen. Long that "instead of putting the doctors and hospitals first, maybe we should turn our attention to the old folks and have Medicare set all the fees without reference to Blue Cross and Blue Shield schedules."

Meanwhile, Sen. Abraham Ribicoff (D., Conn.) who has been scolding the sloppy administration of the nation's health programs, introduced legislation to allow state governments to buy Medicare coverage for employees who have their own state-sponsored

retirement but do not pay into Social Security. Another provision would give better tax treatment to those whose retirement income is taxable because it comes from private plans rather than tax-free Social Security.

MEDICARE'S COSTS

In July, 1965, as Congress was about to pass the Social Security Amendments establishing the Medicare and Medicaid programs, this newspaper warned:

"There is good reason to believe that those who drafted the program have underestimated its cost and its potential growth."

When the bill passed, Sen. Russell Long (D., La.), chief Senate conferee in the House-Senate committee which worked out the final details, said, "It's the most significant Social Security and public welfare legislation ever passed by Congress."

Now, the Administration says it'll have to reduce Medicare benefits and raise the premiums paid by the elderly.

And Senator Long says that the Medicare hospital plan's funds will be exhausted by 1973, despite a 1967 tax increase; that costs of Part A will exceed income by $126 billion in the next 25 years; and that the Part B monthly premiums will have to be increased to at least $5.20 per month, from $4 to bring that program into actuarial balance (the government matches that figure from general revenues).

And, he says, "This senator is just not willing to vote to impose new Medicare taxes of $126 billion over the next 25 years, without first trying to control the programs we now have. This senator is not willing to saddle 20 million older people with another $280 million a year in premium charges with out first trying to control the programs we now have."

It would be easy for the medical profession to sit back smugly and say "I told you so."

But this cannot be allowed to happen. Medicare is now the law, and millions of the elderly depend on it to finance their health care. If physicians and others in the health professions do not expend every effort to make the program work and to hold the costs down, they face the possibility of even more government regulations and controls.

## THE PHILADELPHIA PLAN

Mr. JAVITS. Mr. President, this morning I appeared before the Subcommittee on Separation of Powers of the Committee on the Judiciary, on behalf of eight other Senators and myself, and read a statement on the so-called Philadelphia plan, relating to equal employment opportunity, which has been promulgated by the Department of Labor, sustained by the Attorney General, but objected to by the Comptroller General of the United States on the grounds of legality.

The Senators joing in this statement, in addition to myself, are Senators BAYH, BROOKE, CASE, GOODELL, GRIFFIN, HARRIS, HART, and KENNEDY. Senator BROOKE also appeared and read an individual statement.

I ask unanimous consent that Senator BROOKE'S statement and the statement I made be printed at this point in the RECORD.

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

EXCERPTS FROM TESTIMONY OF SENATOR BROOKE BEFORE THE SENATE JUDICIARY COMMITTEE IN FAVOR OF THE PHILADELPHIA PLAN

The Philadelphia Plan, as you know, was designed to implement the intent of Executive Order 11246, promulgated by President Johnson on September 24, 1965. Under this order, all Federal government contracts and federally-assisted construction contracts were required to contain specific language obligating the contractor and his subcontractors not to discriminate in employment because of race, color, religion, sex or national origin.

This was no new concept in American jurisprudence. Evidence of this intent is clear in the Constitution, which talks not only about the general principles of Justice, the Blessings of Liberty, and the General Welfare, but which also speaks specifically of freedom of religion, due process of law, equal protection, and the privileges and immunities of all citizens. It is clear in the various civil rights acts passed since 1957, which provide protection specifically against discrimination in accommodations, voting, and employment. It is embodied in the National Labor Relations Act which forbids discrimination by labor unions and employers, and in the regulations issued by the Department of Labor pertaining to applicants, trainees and apprentices. The Government of the United States *does not condone* discrimination on the basis of external factors unrelated to individual capabilities.

Since 1965, however, we have learned that simple prohibition of discrimination is not enough. Overt acts of discrimination not only are becoming less common; they were never the heart of the problem to begin with.

The real problem of discrimination in America is what the Civil Rights Commission has referred to as "systematic discrimination," but what I prefer to call "systemic" or "intrinsic" discrimination. Discrimination against minorities, particularly in the employment field, is built into the very structure of American society. Three black children in *four* in America attends an essentially segregated school from the day he enters kindergarten. Negro children, on an average, complete little more than 10 years of school, as compared to 11.5 for white children. Their schools are for the most part of poorer quality—they are older and lack the facilities enjoyed by students in predominantly white institutions. Funds for job training equipment, for laboratory facilities, for typewriters and teaching aids, simply are not available in many of the schools attended by blacks. A Negro student is more likely than his white counterpart to find his formal education irrelevant to his surroundings. It goes without saying that it does not, in far too many cases, prepare him to compete for jobs or for higher educational opportunities. These circumstances are changing, to be sure, but for the vast majority of non-white youngsters in America they are still a tragic fact of life.

The policy of assigning minority employees to "traditional" jobs or departments is also an informal, systemic barrier to full opportunity in employment. This has been true throughout our society: Negroes have been clerks and custodians, nurses aides but not nurses, teachers in black schools but not in white ones, security guards but never supervisors. These conditions are slowly changing, but even now a past history of discrimination on the part of some employers deters many qualified minority persons from applying for positions.

These are the kinds of situations which the Philadelphia Plan is designed to overcome. Prohibition of discrimination is not enough; positive action is necessary.

In considering what kind of positive action might be employed without hurting present employees or dealing with them unfairly, the drafters of the Philadelphia Plan have come up with a simple yet effective formula. Present employees will not be affected at all by the plan; their jobs will be as secure as they have always been. The Plan does, however, seek to establish a formula for hiring minority members on future jobs. It has been determined by the Department of Labor that each construction craft should have approximately 7.5 percent new job openings annually due to death, disability, retirement, and loss of workers for any other reason. Operating solely on the basis of these anticipated new job openings, the Office of Federal Contract Compliance, working in conjunction with the Federal contracting agency, will devise a set of criteria for minority employment for each contract. These standards will be clearly spelled out in the bids and each contractor who desires to bid on the government contract in question will be obligated to include in his proposal a statement of his goals for attaining these standards. Once the contract is awarded, checks will be conducted to determine whether the employer is in fact living up to his obligation.

I favor this approach for two basic reasons. First, because, as I have stated above, I believe that *positive* efforts to eliminate discrimination are essential. But secondly, I appreciate the fact that there is no question of the Federal government dictating to the states, the cities, or the local contractors. There are, in fact, no Federal standards involved. There is simply a statement of Federal intent, embodied in Executive Order 11246, with the mechanics to be worked out on the local level, taking into account local factors such as: the current extent of minority group participation in the particular trade; the availability of minority group persons for employment in such trade; the need for training programs in the area; and the impact of the program upon the existing labor force. Even then, after all these criteria have been taken into account, the contractor and subcontractors are still allowed leeway in meeting the minority employment targets, and need only demonstrate that they have made a good faith effort to do so.

Mr. Chairman, nothing could be fairer, or more equitable, or ultimately more beneficial for all concerned. The spirit of the law has for too long been ignored in the field of equal employment opportunity. I welcome the promulgation of the Philadelphia Plan, I applaud the Administration's unequivocal support of it, and I hope to see similar plans worked out to achieve similar results in Boston and other communities all across the country. Only in this way can we truly make America a land of opportunity for all our people.

STATEMENT BY SENATOR JAVITS

We welcome this opportunity to reiterate our support for Executive Order 11246 and the Department of Labor's decision, based on the opinion of the Attorney General, to implement the Philadelphia Plan, notwithstanding the adverse ruling on the Plan by the Comptroller General.

Despite the passage of the Civil Rights Act of 1964, equal employment opportunity remains far from a reality in America today. Notwithstanding the efforts which have been made by the Federal government and private litigants, historic patterns of discrimination persist among employers and among unions, even though many trade unionists have been the victims of discrimination in the past. A vigorous program of action by the Federal government is, therefore, still essential to assure to members of minority groups the full participation in our economic system to which they are morally and legally entitled.

The federal program must include, if it is to be effective, a firm policy of requiring all federal contractors to insure that equality of employment opportunity exists for their employees, as well as the type of remedy made available through individual suits under Title VII of the Civil Rights Act of 1964.

We are thus directly in accord with the principles underlying Executive Order 11246, which requires each government contractor to agree that he "will not discriminate against any employee because of race, color,

religion, sex, or national origin" and also that he "will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin."

The contract compliance program governed by Executive Order 11246 antedates the Civil Rights Act of 1964 and has received the recognition and support of Congress, through appropriations to the Office of Federal Contract Compliance, and its predecessor, the President's Committee on Equal Employment Opportunity for many years. In addition, it is to be noted that the Senate itself, during the debate on Title VII of the bill that became the Civil Rights Act of 1964, rejected an amendment offered by Senator Tower that would have made Title VII the exclusive remedy for ending discriminatory employment practices. Had the amendment been adopted, the contract compliance program would, of course, have ended. The vote on the amendment, in effect, approved continuance of the contract compliance program as separate and apart from the program under Title VII.

It is thus far too late in the day to maintain, as some are now doing, that Title VII of the Civil Rights Act of 1964 preempts the Executive Order program, or that the President may not require more, in the way of "affirmative action" by federal contractors as a condition of doing business with the government, than Title VII requires of operations in the private sector.

We recognize of course, that under no circumstances may the Federal government require anyone to violate Title VII of the Civil Rights Act of 1964, or any other law duly enacted by Congress. Insofar as the Philadelphia Plan is concerned, however, the Attorney General, who has the primary governmental responsibility for enforcing Title VII, has expressly ruled that the Plan does not require any contractor to violate Title VII. That is also what the Plan, itself, states on its face.

As we understand the Philadelphia Plan, and the Attorney General's opinion sustaining its legality, the goals which it establishes are to be used only as criteria to establish performance of the contractor's duty to take affirmative action to provide equal employment opportunity. If the goals are met, adequate performance will be assumed, absent other proof to the contrary. On the other hand, failure to meet the goals will not be presumed to establish non-performance if the contractor can demonstrate that he attempted, in good faith, to meet the goals. Such good faith does not include practicing "reverse discrimination," which is expressly forbidden by the Plan.

What the Philadelphia Plan really does, then, is to anticipate the result which should ensue from a good faith affirmative action program. If the result is achieved, compliance will be assumed; if the result is not achieved, it is still open to the contractor to show why not. If, for example, the contractor can show that to meet the goal he would have had to practice reverse discrimination, his failure to meet the goal could not be used as a ground for terminating his contract.

One virtue of the Philadelphia Plan in its revised form which deserves special emphasis is that it will remove a great deal of the uncertainty and confusion which have so far plagued the contract compliance program. Indeed, goals which the Plan establishes are the result of earlier criticism of the Plan by the Comptroller General on the ground that it was not specific enough to enable contractors to frame their bids intelligently. In the past, many contractors have voiced legitimate complaints that they simply did not know what was expected of them under the program. Little or no coordination seems to have existed among the different contracting agencies, the OFCC, the EEOC and State and local agencies concerned with equal employment opportunity. The result was bound to produce frustration among minority groups, and overlap, duplication, and confusion for businessmen and union officials who found themselves caught in the crossfire. The Philadelphia Plan, coupled with the interagency liaison and coordinating procedures which have recently been established, offers real promise of ending this anomolous situation, and at the same time, of demonstrating that the contract compliance program is more than the paper pledge it has been up to now in far too many cases.

We cannot stress too strongly the need for the Federal government to demonstrate this kind of unqualified commitment to the goal of equal employment opportunity to those millions of black and brown Americans to whom it has been denied for so long. As recent events in Chicago and Pittsburgh have shown, those who have suffered the brunt of exclusionary and discriminatory employment practices are willing to wait no longer to see the pattern of the past changed. The Philadelphia Plan is a way to meet these legitimate demands, and it certainly will prove far more satisfactory than the sort of "street demonstrations" we have witnessed in Chicago and Pittsburgh.

In sum, we believe that it is incorrect to characterize the Philadelphia Plan as a "quota System" and that the Labor Department was right in relying on the Attorney General's Opinion sustaining the legality of the Plan. We believe, also, that if there are any questions concerning the legality of the Plan, or its implementation, they should be settled in the Courts, which have the final authority to determine the application of Title VII of the Civil Rights Act of 1964 to Executive Order 11246.

Mr. JAVITS. Mr. President, the fundamental question involved in this matter is a legal one. In that regard I would prefer to let the memorandums speak for themselves, as to whether we are dealing with quotas or goals. I deeply believe, and so do my colleagues who joined in the statement, that we are dealing with goals and that all legalities are fully preserved.

The sociological and governmental problem involved is, Shall we give an opportunity to those who contract with the Government to use good faith efforts to deal with a very nettling and frustrating problem? This problem has very revolutionary implications, as shown by the experience of both Pittsburgh and Chicago, where groups marched on each side. It is a problem of the real limitation of educational opportunity which apparently exists in given areas for members of minority groups in the building trades. It involves a union problem and an employer problem, and the situation is one where both the employers and the unions seem to be satisfied, but where, in effect, members of minority groups who ought to have openings into these trades, are effectively deprived of those openings. There are also some grave arguments about the sufficiency of operatives to have an expanded building program in the United States.

For all those reasons, I welcome the hearings which are now being conducted by the Senator from North Carolina (Mr. ERVIN) before the Subcommittee on Separation of Powers of the Committee on the Judiciary.

Inasmuch as I believe that the matter will ultimately, through some amendment, find its way to the floor—though it could very properly and should be settled in the courts—I think it is desirable for Senators to have some concept of the legal questions which are involved, as well as the governmental questions. I believe Senators must think through whether the Federal Government is not in this case—and I give great credit to the administration for this—doing its utmost to find a realistic and imaginative way to deal with this very serious question of labor-management relations and employment opportunity in a peaceful, orderly, legal, fair and practical manner.

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

Mr. JAVITS. I yield.

Mr. KENNEDY. Mr. President, I commend the Senator from New York for bringing this matter to the attention of the Senate. I serve as chairman of the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary. In the early part of the year we held hearings on the entire question of contract compliance and the very significant problems that are posed in connection therewith for employers and employees.

I think the administration is to be commended for the courage it has demonstrated in developing the Philadelphia program and for refining it. I think the Attorney General, with whom I have disagreed on a number of occasions, deserves commendation for the position he has taken in support of the program.

I think the administration, by taking a clear position on this question, has provided an example for various contractors around the country. It is a position which contractors can take as a model. It was a bold position taken in the early part of the administration. It has been fired at and hammered at since it was announced.

Again, I think the Senator from New York has performed a useful service in this area, and I commend him.

Mr. JAVITS. Mr. President, I greatly appreciate the statement of the Senator. It illustrates the genius of our system, for the distinguished majority whip feels free to give credit where he feels credit is due.

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

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

Mr. JAVITS. Mr. President, I ask unanimous consent that I may proceed for 2 additional minutes.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized for 2 additional minutes.

Mr. JAVITS. I yield to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, I thank the Senator from New York. The distinguished majority whip has given my speech; and I would much rather that he give it. I appreciate very much having those remarks come from the other side of the aisle, recognition of the policies which this administration is pursuing vigorously in this very difficult, controversial, and complex field. We recognize that from time to time the administration is criticized, but it is good to hear

the recognition from both sides of the aisle in that particular field, especially, the administration is moving in the right direction.

I particularly wish to join the distinguished majority whip in commending the distinguished senior Senator from New York for his leadership because I feel confident his leadership is a very important factor both with respect to Congress and the administration.

Mr. JAVITS. Mr. President, I am grateful to my colleagues. This is the first time that this plan has been exposed in a hearing to the give and take of debate, both on the law and the facts. I deeply believe we have presented a very credible position. The strength added by Senators who joined is critically important. Without them it could not be done.

I thank the Senators.

## EXECUTIVE COMMUNICATIONS, ETC.

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

REPORT OF RECEIPTS AND DISBURSEMENTS TO APPROPRIATIONS FROM DISPOSAL OF MILITARY SUPPLIES, EQUIPMENT AND MATERIAL AND LUMBER AND TIMBER PRODUCTS

A letter from the Assistant Secretary of Defense, transmitting, pursuant to law, a report of receipts and disbursements pertaining to the disposal of surplus military supplies, equipment, and material, for expenses involving the production of lumber and timber products during the fiscal year 1969 (with an accompanying report); to the Committee on Appropriations.

PROPOSED AMENDMENT OF THE CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT

A letter from the Director, Central Intelligence Agency, transmitting a draft of proposed legislation to amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (with an accompanying paper); to the Committee on Armed Services.

SALES OF FIRM ELECTRIC POWER FOR RESALE

A letter from the Chairman, Federal Power Commission, transmitting, for the information of the Senate, a publication entitled "Sales of Firm Electric Power for Resale, 1965–1967" (with an accompanying publication); to the Committee on Commerce.

PROPOSED AMENDMENT OF TITLE 38, UNITED STATES CODE

A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to permit the furnishing of benefits to certain individuals conditionally discharged or released from active military, naval, or air service (with an accompanying paper); to the Committee on Finance.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on foreign aid provided through the operations of the U.S. Sugar Act and the International Coffee Agreement, Department of Agriculture, Department of State, Agency for International Development, dated October 23, 1969 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the effectiveness and administration efficiency of the Neighborhood Youth Corps program under title IB of the Economic Opportunity Act of 1964, Chicago, Ill., Department of Labor, dated October 24, 1969 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the effectiveness and administrative efficiency of the concentrated employment program under title IB of the Economic Opportunity Act of 1964, Los Angeles, Calif., Department of Labor, dated October 24, 1969 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the effectiveness and administrative efficiency of the concentrated employment program under title IB of the Economic Opportunity Act of 1964, Detroit, Mich., Department of Labor, dated October 27, 1969 (with an accompanying report); to the Committee on Government Operations.

REPORT ON RECEIPTS AND EXPENDITURES UNDER OUTER CONTINENTAL SHELF LANDS ACT OF 1953

A letter from the Assistant Secretary for Administration, Department of the Interior, reporting, pursuant to law, the receipts and expenditures of the Department in connection with the administration of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

REPORT OF PERSONNEL CLAIMS PAID BY THE VETERANS' ADMINISTRATION

A letter from the Administrator, Veterans' Administration, transmitting, pursuant to law, a report of the personnel claims paid by the Veterans' Administration during the fiscal year ended June 30, 1969 (with an accompanying report); to the Committee on the Judiciary.

PROPOSED AMENDMENT OF THE ATOMIC ENERGY ACT OF 1954

A letter from the Chairman, Atomic Energy Commission, transmitting a draft of proposed legislation to amend the Atomic Energy Act of 1954, as amended, to authorize the Commission to charge Federal agencies fees for the licensing of nuclear power reactors (with accompanying papers); to the Joint Committee on Atomic Energy.

## PETITIONS AND MEMORIALS

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

By the ACTING PRESIDENT pro tempore:

A resolution adopted by the township of Princeton, Mercer County, N.J., praying for the end of the war in Vietnam and to redirect all the resources to urgent domestic priorities; to the Committee on Foreign Relations.

## REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, without amendment:

S. Res. 143. A resolution to refer the bill (S. 1343) entitled "A bill to relinquish and disclaim any title to certain lands situated in Yuma County, Ariz.", to the Chief Commissioner of the Court of Claims for a report thereon (Rept. No. 91–498).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with an amendment:

S. 2062. A bill to provide for the differentiation between private and public ownership of lands in the administration of the acreage limitation provisions of Federal reclamation law, and for other purposes (Rept. No. 91–499).

## EXECUTIVE REPORT OF A COMMITTEE

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

By Mr. STENNIS, from the Committee on Armed Services: Brig. Gen. Ross Ayers, general of the line, Army National Guard of the United States, for promotion to major general; and

Col. Jackson Bogle, Adjutant General's Corps, Army National Guard of the United States, for promotion to brigadier general.

## BILLS INTRODUCED

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

By Mr. TYDINGS (for himself, Mr. BAYH, Mr. BIBLE, Mr. EAGLETON, Mr. GOLDWATER, Mr. GOODELL, Mr. INOUYE, Mr. MATHIAS, Mr. PACKWOOD, Mr. PROUTY, Mr. RANDOLPH, Mr. SPONG, and Mr. HOLLINGS):

S. 3071. A bill to provide a comprehensive program for the control of drug abuse and drug related crime through improved law enforcement, strict regulation of the distribution of controlled drugs, and prevention, treatment, and study of drug abuse and drug dependence in the District of Columbia; to the Committtee on the District of Columbia.

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

By Mr. MAGNUSON (for himself, Mr. JACKSON and Mr. MUSKIE):

S. 3072. A bill to stimulate the development production, and distribution in interstate commerce of low-emission motor vehicles in order to provide the public increased protection against the hazards of vehicular exhaust emission, and for other purposes; 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. MAGNUSON:

S. 3073. A bill to amend section 117 of the Internal Revenue Code of 1954 to exclude from gross income up to $300 per month of scholarships and fellowship grants for which the performances of services is required; to the Committee on Finance.

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

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

S. 3074. A bill to provide minimum standards for guaranties covering consumer products which have electrical, mechanical, or thermal components, and for other purposes; to the Committee on Commerce.

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

## S. 3071—INTRODUCTION OF THE DISTRICT OF COLUMBIA COMPREHENSIVE DRUG ABUSE AND NARCOTICS CRIME CONTROL ACT OF 1969

Mr. TYDINGS. Mr. President, I introduce for appropriate reference, a bill, sponsored by myself, Mr. BAYH, Mr. BIBLE, Mr. EAGLETON, Mr. GOLDWATER, Mr. GOODELL, Mr. INOUYE, Mr. MATHIAS, Mr. PACKWOOD, Mr. PROUTY, Mr. RANDOLPH, Mr. SPONG, and Mr. HOLLINGS, en-

titled "The District of Columbia Comprehensive Drug Abuse and Narcotics Crime Control Act of 1969."

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

The bill (S. 3071) to provide a comprehensive program for the control of drug abuse and drug related crime through improved law enforcement, strict regulation of the distribution of controlled drugs, and prevention, treatment, and study of drug abuse and drug dependence in the District of Columbia, introduced by Mr. TYDINGS, for himself and other Senators, was received, read twice by its title, and referred to the Committee on the District of Columbia.

Mr. TYDINGS. Mr. President, this legislation will create a comprehensive program to control drug abuse in the National Capital by strengthening criminal penalties against narcotics traffickers, applying realistic penalties and providing treatment for narcotics users, keeping drug addicts who commit crimes off the streets until they are no longer dangerous, and offering preventive programs.

That illegal narcotics traffic flourishes across the Nation today is a monument to the failure of existing drug laws to stop it.

Though the distribution and possession of narcotic drugs have been against the law for more than half a century, there is no indication that under present law the drug abuse problem will ever be controlled.

Illegal drug traffic is a most intricate system of transactions. It poses difficult and complex problems of law-enforcement officers. It involves both some of the most notorious kingpins of organized crime and the most uncriminal-like children of some of the Nation's most respected and trusted families.

Solving the drug abuse problem requires a comprehensive approach. Though there is a direct relationship between addiction to narcotics and crime, a drug addict cannot be treated the same as other criminals because extended incarceration does not reduce the likelihood of his returning to addiction and continuing to commit drug-related crime upon his release.

The National Capital might be expected to have developed model solutions to the problems of narcotics traffic and narcotics related crime. Unfortunately, it has not. In fact, the drug abuse crisis in Washington is a national disgrace.

In March and April of this year, my Senate Committee on the District of Columbia conducted oversight hearings on the drug crisis in the Washington area. In an additional day of hearings in June, the committee compared the efforts made in Baltimore to curb drug traffic with the efforts made here.

Those hearings painted a dismal picture of a drug abuse and drug-related crime crisis in the National Capital. I would like to relate some of the committee's findings:

Illegal narcotics traffic in Washington is increasing. Reliable estimates indicate that there are 10,000 or more drug addicts in the Nation's Capital. Drug abuse is increasing in both the low- and upper-income sections of the city.

The use of illegal narcotics is a principal cause of crime in the Nation's Capital and its metropolitan area. Between half and three-fourths of the serious crime in this area is drug related. Drug-related crime costs the law-abiding citizens of the metropolitan area upward of $30 million a year. There is absolutely no way an addict can secure money to buy drugs without resorting to crime.

Illegal drug traffic is clearly a metropolitan problem. The drug abuse problem is increasing in the suburban counties of Maryland and Virginia—and nearly all the illegal drugs flowing into those counties come out of the District of Columbia. In addition, suburban residents are continually victimized by narcotics addicts from Washington who come outside the city to commit drug-related crimes. If the suburbs are ever to be safe from drug abuse and drug-related crime, drug traffic in the District of Columbia must be controlled.

The illegal drug traffic—particularly the heroin traffic—feeds on itself. One of the principal ways heroin addicts make money to pay for their drugs is to sell drugs themselves. As a result, heroin addicts are constantly trying to hook new persons on drugs in order to increase the market for the heroin they sell. In some cases, addicts are known to give away drugs to nonusers in the hopes of hooking them.

Until the past few months, the police have been enforcing the narcotics laws more effectively against the minor violators than against the major traffickers. The result has been that marihuana-smoking youngsters and smalltime heroin pushers have felt the brunt of the enforcement efforts rather than the big-time dealers. When the new U.S. Attorney Thomas Flannery cracked a major narcotics ring 2 months ago, it had been 17 years since the last major trafficker had been arrested.

Many youngsters who experiment with marihuana are being led to experiment with heroin and other more dangerous drugs, often because the archaic laws on marihuana and more dangerous drugs result in one distribution system for all drugs.

Treatment of narcotics addicts by the Department of Public Health and in the criminal justice system has been wholly inadequate. The Health Department's sole drug treatment program, the Drug Addiction Treatment and Rehabilitation Center, is strictly an outpatient program and has been largely ineffective in its first year. Treatment for criminal addicts within the criminal justice system is virtually nonexistent. There is no program for pretrial treatment of drug addicts. Only 6 percent of the known addict prisoners in District of Columbia correctional institutions receive any kind of treatment at all for their addiction.

There is currently no protection for the law-abiding public from drug addicts who continuously commit crimes. Under current procedures, an addict arrested for a drug-related crime is immediately upon his arrest released back to the community to commit more crimes. Since the addict receives no treatment upon his arrest when he is released on bail or personal recognizance, he is still addicted and extremely likely to commit crimes to buy drugs. It is likely that several hundred addict criminals are freed each month to await trial.

District of Columbia officials have relied solely on law-enforcement efforts to control the narcotics and narcotics-crime problem, despite incontrovertible evidence that both a law-enforcement and treatment approach is needed. The District has ignored the conclusions of three Presidential Commissions that comprehensive treatment of criminal drug addicts is essential to reduce drug-related crime. In the words of the President's Commission on Crime for the District of Columbia:

> In view of the District's experience this Commission is persauded that a successful program of prevention and rehabilitation of drug addicts would contribute substantially to a reduction of serious crime.

The District's civil commitment statute is hopelessly outdated, and as a result is seldom used by prosecutors or the courts. The Federal Narcotic Addict Rehabilitation Act is not available for use by the court of general sessions and is too limited to be much use in treating addicts and combating drug-related crime.

No program has been developed for providing badly needed counseling and assistance in the area of drug addiction for law-enforcement, welfare, and vocational rehabilitation officials who encounter addicts and potential addicts every day in the course of their duties. The addiction problem is overwhelming all of our public agencies, with little or no effort to confront and deal with it.

The District has no education program about dangerous drugs for juveniles or adults.

There is no training program for lay professional workers in the field of dangerous drugs, in spite of the fact that it is a principal public problem in the District today.

Finally, the District of Columbia has no plan for dealing with the problem. No one knows where to begin, or what to do.

We can no longer afford to live with this national disgrace at the doorstep of our National Government. Every day we fail to enact a comprehensive narcotics program for the National Capital more persons are becoming addicted to narcotics and committing drug-related crime.

President Nixon's crime program for the National Capital contains nothing specific on the narcotics traffic or narcotics-related crime. Likewise, the Federal narcotics legislation sent to Capitol Hill by the administration contains no provisions to deal with the cancerous problem of drug-related crime.

I am introducing today the District of Columbia Comprehensive Drug Abuse and Narcotics Crime Control Act of 1969 to reduce both narcotics traffic and narcotics-related crime in the National Capital.

There are numerous reasons this legislation is vitally needed. First, it is

frightfully clear that existing narcotics laws simply have not worked. Despite the fact that existing laws have outlawed the use of dangerous drugs for more than 50 years, drug abuse today is more prevalent in America than ever before. Nowhere is that fact more clear than in the case of marihuana. Despite existing laws that make possession of marihuana illegal, it is estimated that as many as 10 million Americans have smoked marihuana, and it is acknowledged that a high percentage of high school and college age youngsters use it regularly.

Second, new legislation is needed because existing laws have failed to control the distribution and use of heroin—the drug that causes most drug-related crime—because they emphasize enforcement against drug users rather than against the traffickers. In other words, existing law hits as hard or harder at the victim of narcotics traffic as it does the perpetrators of this insidious activity. Legislation is sorely needed that puts the focus of law enforcement where it should be—on apprehending and convicting the major traffickers.

Third, new legislation is needed because existing District of Columbia law fails to provide strong enough penalties to deter major traffickers from engaging in illegal drug traffic. Current District of Columbia law calls for imprisonment of only 1 year for trafficking on the first offense and only for imprisonment up to 10 years on subsequent convictions of traffickers. Clearly, those penalties are insufficient to keep major traffickers out of the drug business.

Fourth, existing laws must be changed so they can deal more effectively with drug-related crime. They must, for example, be amended to permit the kind of comprehensive treatment for criminal addicts as recommended by three Presidential commissions. There is nothing in present drug laws—Federal or District of Columbia—to deal with the problem of drug addicts who commit drug-related crimes. For example, an addict who commits an armed robbery is likely, under existing law, to be returned to the streets still an addict and still in need of committing other crimes to support his habit.

My legislation is intended to make the approach to the drug abuse problem in the National Capital a model for the Nation.

Specifically, this legislation will strengthen the law enforcement and treatment efforts against narcotics in the National Capital.

The legislation will place major emphasis on narcotics law enforcement where it belongs—on the wholesalers and retailers who supply this area with drugs. In 1963, the President's Advisory Commission on Narcotics and Drug Abuse warned:

> The illegal traffic in drugs should be attacked with the full power of the federal government. The price for participation in this traffic should be prohibitive. It should be made too dangerous to be attractive.

The bill will make the price for trafficking drugs in the National Capital prohibitive.

Under this legislation, any person who is convicted of wholesale distribution can be sentenced to life in prison and fined an amount large enough to make him divest himself of his drug business. Just 2 months ago, U.S. Attorney Flannery indicted members of a major drug ring, including several underworld figures. Under the bill an underworld figure convicted of wholesale distribution of narcotics could be sentenced to life imprisonment and he would be mandatorily fined an amount large enough to divest him of any profits he made from drug traffic and any investments he made with those profits. In other words, if an underworld figure purchased a legitimate business with profits from his drug traffic, the court would have to fine him the value of that company.

Existing law makes the penalties for dealing in narcotics far less prohibitive. The Federal legislation proposed by the Nixon administration calls for penalties for distributing illegal drugs no harsher than those in the existing law that the Advisory Commission on Narcotics and Drug Abuse indicated were not strong enough to make participating in drug traffic "too dangerous to be attractive." Present penalties for distribution of either hard drugs or marihuana are on the first offense imprisonment of 5 to 20 years and a fine of $20,000 and on the second and subsequent offenses imprisonment of 10 to 40 years and a fine of $20,000. None of the alternative penalty schemes suggested by the administration for its narcotics bill increases those penalties for narcotics traffickers.

This legislation will give prosecutors and law enforcement officials additional investigative tools needed to stop narcotics traffic. In addition, it will give prosecutors and the courts flexibility in dealing with offenders they do not now enjoy. Specifically, my bill includes four provisions requested by the Metropolitan Police Department when police officials testified at our hearings. They are:

First. A provision that allows commitment of addict suspects to treatment before their release on bond.

Second. A "no knock" provision for officers in the confiscation of contraband drugs.

Third. A workable civil commitment procedure that will allow police to aid in the treatment and rehabilitation process.

Fourth. A provision to regulate the sale and use of gelatin capsules which are often used to package illegal drugs.

This legislation will deal directly with the problem of drug-related crime because, under my bill, an addict who commits a drug-related crime will be committed to treatment on the order of the U.S. attorney rather than released on bond or personal recognizance to prey on his community. Once committed to treatment, an addict will not be released from that commitment until he no longer poses a danger to his community.

Under the bill, an addict who commits an armed robbery, for example, could be detained for treatment before his trial. Then, if the judge so orders, he can be sent to prison to serve his sentence like any other felon who commits armed robbery. But the bill will allow the prosecutor and the judge option of committing the addict to treatment if they feel curing his addiction is the best way to prevent him from committing another armed robbery. If the treatment alternative is chosen, the addict will not be released from treatment until he is no longer dangerous. In other words, an addict can be held in treatment for the rest of his life if he continues to pose a danger to his community. A person detained under that bill can only be released when his medical officer decides, based on his record during treatment, that he is no longer dangerous or when the court orders his release based on the testimony of the medical officer and other witnesses.

The bill emphasizes the treatment of addict criminals. Unless we cure these sick people of their addiction, we can never expect them to stop committing crimes. I agree with the District of Columbia Crime Commission when it reported:

> In view of the District's experience this Commission is persuaded that a successful program of prevention and rehabilitation of drug addicts would contribute substantially to a reduction of serious crime.

This legislation will fill the treatment and rehabilitation void in the Nation's Capital. It recognizes that addiction, itself, is an illness that must be treated by medical professionals. The bill establishes a Bureau of Drug Abuse within the District government and authorizes it to develop immediately a comprehensive program of inpatient and outpatient treatment for addicts, including joint projects with the Department of Correction for inmate addicts. In addition, the bill creates a workable civil commitment procedure—something that has been badly needed here for more than a decade. And it will create an extensive drug education program to warn youngsters of the danger of experimenting with drugs.

The bill acknowledges the metropolitan aspects of the narcotics problem. There are specific provisions in my legislation requiring cooperation between the District and the Maryland and Virginia suburbs so that an areawide drug abuse program can be developed. Specifically, my bill will create a Drug Abuse Council with members from the District, Maryland, and Virginia to make sure the District's drug efforts are coordinated with those of the surrounding jurisdictions.

While under the bill, all dangerous drugs remain against the law, my legislation does differentiate among those drugs. I was disturbed during my recent committee hearings to hear witness after witness testify about the spread of heroin to high school and even grade school age youngsters. What disturbed me most was that several witnesses testified that because under present laws the penalties for using marihuana are as severe as the penalties for heroin, youngsters felt no particular risk in graduating from marihuana to heroin. Not only that but the present laws practically encourage a person selling even small quantities of marihuana to also sell heroin, since he risks no additional penalty.

Because in my view use of heroin is a far more serious habit and results in more dangerous antisocial behavior than does use of marihuana, the bill calls for

stiffer penalties for use of heroin than for use of marihuana. I want to make it clear: Marihuana is and should remain illegal and its use is still punishable under my bill by a criminal penalty, but a less severe penalty than for using heroin. I want to make every youngster who experiments with drugs aware that playing with heroin is considerably more dangerous to himself and to his community than experimenting with marihuana.

My view on this question is supported by both Dr. Roger Egeberg, the highest health official in the Nixon administration, and Dr. Stanley Yolles, the Director of the National Institute of Mental Health, the Government agency responsible for research on drug abuse. In his testimony before the Senate Subcommittee to Investigate Juvenile Delinquency, Dr. Yolles said:

I do not, at this time, advocate the removal of all restrictions on the use of marijuana. I believe that until we know more than we now do about the long-term effects of marijuana and other forms of *Cannabis* that use of the drug should continue to be controlled—Medically speaking, I cannot give it a clean "bill of health." But, penalties for its use should be lowered, in proportion to the danger and risk to the individual and society of this drug.

The bill recognizes that a high percentage of our high school age youngsters are experimenting with illegal drugs. I feel that these misguided youngsters should be discouraged from using drugs—and the greatest discouragement is a criminal penalty. Therefore, this legislation calls for a criminal penalty for every drug offense. But my bill contains a probation without verdict provision to give the judge an alternative to impose a criminal sentence on a first offender. If a judge feels jail is not the best way to deal with a drug offender, he can invoke the probation without verdict provision of my bill.

Probation without verdict is advantageous both to the defendant and to law-enforcement officers. It is advantageous to the defendant because it allows him to avoid going to jail and having a criminal record if he does not violate his probation. It is advantageous to law-enforcement officers because the defendant can be automatically put in jail if he violates the terms of his probation. In other words, a person given probation without verdict who continues to use drugs and gets caught can be sentenced to jail for his first offense.

My thinking of this subject is shared by others in the law-enforcement community. Every law-enforcement officer—policeman, prosecutor, or judge—who testified at my drug abuse hearings endorsed probation without verdict for first offenders. So did the President in the administration's narcotics bill. In fact, the probation without verdict provision in my bill is practically verbatim to that in the President's bill.

At the recent juvenile delinquency subcommittee, hearings, Attorney General Mitchell endorsed a flexible policy toward dealing with drug offenders. He said:

I personally believe in sentences which are reasonably calculated to be deterrents to crime and which also will give judges sufficient flexibility to tailor the sentences to the requirements of the drug violator or narcotic addict.

Prison is not the only logical alternative. In some cases, it may be advisable to use federal rehabilitation programs, halfway houses and private medical treatment while on probation or parole. Perhaps the most promising alternative is to approach the narcotics violator in relation to his function; the professional trafficker who should be given as severe a sentence as possible; the casual and intermittent user who is perhaps only experimenting out of curiosity; or the mentally or physically ill addict who, without additional help, cannot break a confirmed habit.

Expanding on the Attorney General's statement at that same hearing, John E. Ingersoll, Director of the Bureau of Narcotics and Dangerous Drugs, said:

The casual user or intermittent experimenter of drugs, usually of the non-addicting variety such as LSD, marijuana, and other hallucinogens, who, for a variety of reasons starts exploring the drug scene, is the second type of person that must be identified in any penalty structure. This type of person is far different from the professional criminal mentioned above. This is the group that is possessing, or giving away these drugs, usually among its own peer group. For these reasons the penalty structure should be more flexible and open-ended as these persons seem most likely to respond to rehabilitative efforts and the court should not have imposed on it rigid requirements. The penalties should be flexible enough to deter and, if deterrence fails, flexible enough to allow the judge, based on his observations of the defendant, to tailor the penalty to the nature of the crime and the person committing that crime. This type of person forms a major segment of the defendant population and for the penalties to be effective and rational, they must be geared to fit the punishment to this person with fairness.

I believe that this legislation is a most comprehensive and most progressive approach to the narcotics problem. I realize it encompasses new approaches to the narcotics problem. I, like the members of those three Presidential Commissions, think they will work. For too long we have sat back and watched old methods fail. Now is the time for action, not words—legislation, not messages. We must utilize the new methods and make an all-out effort to solve this old and evermore complex problem.

I ask unanimous consent that a section-by-section analysis and questions and answers about this bill be printed in the RECORD.

There being no objection, the section-by-section analysis and questions and answers, were ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS—DISTRICT OF COLUMBIA COMPREHENSIVE DRUG ABUSE AND NARCOTICS CRIME CONTROL ACT OF 1969

TITLE I—FINDINGS AND DECLARATION OF PURPOSES

Section 101 relates that the Congress finds that drug abuse and illegal narcotics traffic are increasing in the District of Columbia, posing safety, health and welfare problems to the citizens of the District. This section also relates that the Congress finds that drug abuse is a metropolitan problem and that drug abusers commit a high percentage of the serious crime in the Washington Metropolitan Area.

Since drug dependence is an illness, properly treated by medical, health, welfare and rehabilitative services, the Congress finds the best way to decrease drug abuse is a combination of improved law enforcement against traffickers in controlled drugs and increased education, treatment and rehabilitation for drug dependent persons.

Finally, in this section, the Congress concludes that control of drug abuse requires a major commitment of health and law enforcement resources in the District, which has not been the case in the past.

In Section 102, the Congress declares that there shall be a comprehensive program for the control of drug abuse and drug-related crime in the District of Columbia through improved law enforcement, strict regulation of the distribution of controlled drugs, and prevention, treatment, and study of drug abuse and drug dependence.

Law enforcement will be aimed primarily at the major traffic of controlled drugs and the serious drug related crime. Drug dependent persons will be provided education, treatment and rehabilitation services under this act.

Those drug dependent persons who are likely to commit drug related crimes and constitute a danger to the public safety may be detained for treatment indefinitely, until such time as they no longer constitute a danger to their community.

Under this act, the Congress declares that all available law enforcement and health resources shall be brought to bear on controlling drug abuse and drug related crime in the District of Columia.

TITLE II—DEFINITIONS

Title II sets out the definitions that apply throughout the bill. They incorporate, or bring up to date, the definitions in prior or related Federal legislation.

A "controlled drug" includes any narcotic drug, marijuana, or any depressant or stimulant drug. Of particular importance, the definition of a "narcotic drug" and of "marijuana" are revised to bring them into line with the latest thinking of the National Institute of Mental Health and the Department of Justice's Bureau of Narcotics and Dangerous Drugs. The definition of a "depressant or stimulant drug", which includes all hallucinogens other than marijuana, is adopted by reference directly from the Federal Drug Abuse Control Amendments of 1965.

A "drug dependent person" is defined as any drug user who is so far dependent upon the use of a controlled drug as to have lost the power of self-control over the use of such drug. This is intended to include both physical addiction and psychological habituation. Whether a drug abuser has become dependent upon a drug will depend upon expert medical diagnosis in each individual case. A "drug-related offense" is defined to include both crimes committed by drug dependent persons to obtain funds to satisfy that dependence, and crimes committed while under the influence of a controlled drug.

The terms "courts" and "government attorney" are broadly defined to make it clear that the bill is intended to apply in both District of Columbia and Federal courts, and is to be enforced by both the Corporation Counsel's Office and the United States Attorney's Office.

The remaining definitions are routine, and are included primarily to make certain that there is no misunderstanding about the intended application of the bill's provisions.

TITLE III—REGULATION OF THE DISTRIBUTION OF CONTROLLED DRUGS

Title III establishes the legitimate and illegitimate channels of distribution for all controlled drugs, and the penalties for illegal distribution and use. Section 301 provides for the licensing of producers, manufacturers, and wholesale distributors of any controlled drug. Without such a license, no

person may engage in any of those practices. No such license may be granted without proof that the applicant has registered pursuant to applicable Federal laws. Upon such proof, a license will be issued for $10 per year. The Commissioner has the right under this section to suspend or revoke any license issued for failure to comply with the requirements of this Act.

Section 302 sets out the channels of legitimate distribution and possession of controlled drugs. Subsection (a) lists the persons to whom, and for what purposes, a controlled drug may be lawfully distributed. Subsection (b) lists the persons who may lawfully possess such a drug. Subsection (c) then provides that no person who may lawfully possess a controlled drug, other than an ultimate user, may divert it to his own personal use.

Section 303 specifies the conditions under which a controlled drug may be prescribed, administered and dispensed. This section provides that a pharmacist may dispense a controlled drug only upon the written prescription of a practitioner. As under Federal law, a prescription for any other controlled drug may be refilled no more than 5 times.

This section further provides that a physician or dentist may prescribe a controlled drug only in good faith in the course of his professional practice, within the scope of the patient relationship, and in accordance with treatment principles accepted by a responsible segment of the medical profession. Under this section a veterinarian may prescribe, administer or dispense a controlled drug in good faith in the course of his professional practice and not for use by a human being. This section also places stringent requirements on the dispensing of controlled drugs by pharmacists pursuant to a written prescription.

Section 304 allows for investigational use of controlled drugs in compliance with the requirements of federal law.

Section 305 prohibits the receipt of any controlled drug as a result of fraud or deceit.

Section 306 provides that every person who may lawfully possess a controlled drug except an ultimate user must keep certain records relating to the inventory and distribution of such products. Any loss or theft of these drugs must be reported promptly. The bill requires that these records be made available to law enforcement officers and that any such records that are to be made public must be divulged in such a way as not to reveal the identity of ultimate users of the drugs.

Section 307 contains prohibited acts and penalties.

Section 307(a) sets the penalties for the failure of any otherwise legitimate person to obtain a license for production, manufacture, or wholesale distribution of a controlled drug, or for distribution of gelatin capsules suitable for packaging a controlled drug as follows:

1. First offense is punishable by imprisonment of not more than 6 months or a fine of not more than $10,000, or both.

2. Second and subsequent offenses are punishable by imprisonment of not more than 2 years or fines not more than $40,000 or both.

Section 307(b) establishes five degrees of illegal trafficking and sets the penalties for each.

Trafficking in the first degree includes wholesale distribution of any controlled drug except marijuana and carries penalties as follows:

1. First offense carries a penalty of imprisonment for 5 years to life, at least a part of which must be served, and a fine without limitation of an amount sufficient to exhaust the assets utilized in and the profits obtained by the illegal activity.

2. Second offense carries a penalty of imprisonment for 10 years to life, at least part of which must be served, and a fine without limitation of an amount sufficient to exhaust the assets utilized in and the profits obtained by the illegal activity.

Trafficking in the second degree includes retail distribution of any controlled drug except marijuana and carries penalties as follows:

1. First offense is punishable by imprisonment for 2–20 years, at least part of which must be served, and a fine without limitation of an amount sufficient to exhaust the assets utilized in and the profits obtained by the illegal activity.

2. Second and subsequent offenses are punishable by imprisonment for 4–40 years, at least part of which must be served, and a fine without limitation of an amount sufficient to exhaust the assets utilized in and the profits obtained by the illegal activity.

Trafficking in the third degree includes persons under 26 who distribute small amounts of any controlled drug except marijuana for small remuneration as incidental to their own experimentation and not as a regular source of income or for the purpose of making another dependent upon the drug and carries penalties as follows:

1. First offense is punishable by required education, or imprisonment for up to 4 years, or a fine not exceeding $20,000, or any of these.

2. Second and subsequent offenses are punishable under the provisions for trafficking in the first or second degree.

Trafficking in the fourth degree includes any distribution of marijuana and carries penalties as follows:

1. First offense is punishable by imprisonment for 1–10 years, at least part of which must be served, and a fine without limitation of an amount sufficient to exhaust the assets utilized in and the profits obtained by the illegal activity.

2. Second and subsequent offenses are punishable by imprisonment for 2–20 years, at least part of which must be served, and a fine without limitation of an amount sufficient to exhaust the assets utilized in and the profits obtained by the illegal activity.

Trafficking in the fifth degree includes persons under 26 who distribute small amounts of marijuana for small remuneration as incidental to their own experimentation and not as a regular source of income and carries penalties as follows:

1. First offense is punishable by required education, imprisonment of not more than 1 year, or a fine not exceeding $2,000, or any of these.

2. Second and subsequent offenses are punishable under the provision for trafficking in the fourth degree.

Under a proviso in this section, any person who sells drugs only to feed his own drug habit, other than large distributors, shall be handled under the civil commitment procedures of this act, except that the court may in its discretion order the defendant to stand trial and sentence him to not more than six months in prison before his being civilly committed to custody with treatment for as long as he remains a danger to his community. The six months imprisonment provision is not applicable to persons who volunteer for civil commitment.

Section 307(c) provides the following penalties for any person who acquires a controlled drug in violation of this act and subsequently places it in legitimate channels of distribution:

1. First offense is punishable by imprisonment of not more than four years, or a fine not exceeding $20,000, or having his license revoked for not more than six months, or any of these.

2. Second and subsequent offenses are punishable by imprisonment not exceeding 10 years, or fines not exceeding $50,000, or having his license suspended or revoked, or any of these.

Section 307(d) establishes the penalties for illegal possession of controlled drugs for personal use and distribution of controlled drugs without remuneration.

Possession in the first degree includes possession of any controlled drug except marijuana and is punishable on the first offense by required attendance at a drug abuse school, imprisonment of not more than 2 years, or a fine not exceeding $10,000, or any of these.

Possession in the second degree includes possession of marijuana and is punishable upon the first and each subsequent offense by required attendance at a drug abuse school, or imprisonment of not more than 30 days, or a fine not exceeding $500, or any of these.

This section also provides that any person, except for a large distributor, in possession of a controlled drug in violation of this act for the purpose of his personal use to satisfy his drug dependence shall be handled only pursuant to the civil commitment procedures of this act.

Section 307(e) contains penalties for illegal prescription, administration, dispensing, or investigation of any controlled drug as follows:

1. First and second offenses are punishable by imprisonment not more than one year, or a fine not more than $5,000, or have his license revoked for not exceeding three months, or any of these.

2. Third and subsequent offenses are punishable by imprisonment of not more than 10 years, or a fine not exceeding $30,000, or having his license revoked for not more than five years, or any of these.

Section 307(f) provides penalties for the illegal receipt of a controlled drug by fraud or deceit as follows:

1. First offense is punishable by imprisonment for not more than one year, or a fine not more than $5,000, or both.

2. Second and subsequent offenses are punishable by imprisonment not more than two years, or a fine of not more than $10,000 or both.

This section provides that a drug dependent person, except for a large distributor, who illegally receives a controlled drug by fraud or deceit to satisfy his own habit shall be handled only pursuant to the civil commitment sections of this act.

Section 307(g) contains penalties for failure to maintain or permit inspection of records as follows:

1. The first offense is punishable by imprisonment for not exceeding two years, or a fine not exceeding $10,000, or having his license revoked for not exceeding one year, or any of these.

2. Second and subsequent of such offenses are punishable by imprisonment for not exceeding ten years, or a fine not exceeding $30,000, or having his license revoked for not exceeding five years, or any of these.

Section 307(h) contains the penalties for manufacture or distribution of a counterfeit controlled drug as follows:

1. First offense is punishable by imprisonment for not exceeding five years and a mandatory fine without limitation of an amount sufficient to exhaust the assets utilized in and the profits obtained by the illegal activity.

2. Second and subsequent offenses are punishable by a mandatory imprisonment of not less than five years nor more than thirty years, and a mandatory fine without limitation of an amount sufficient to exhaust the assets utilized in and the profits obtained by the illegal activity.

Section 307(i) sets out certain criteria for guiding the judge in determining the severity of any penalty to be imposed under Section 307. These criteria include:

1. The degree of potential harm to the user of the controlled drug involved.

2. The degree of potential harm to society as a result of the use of the drug.

3. In cases involving illegal distribution, whether the controlled drug was distributed to an experimenter or to an experienced drug abuser, and whether the distributor was part of an organized or professional system of distribution or operated independently.

This section also provides that the Bureau of Drug Abuse of the District of Columbia Department of Mental Health shall prepare a list of controlled drugs, broken down according to the degree of potential harm to the user and to society, for the guidance of the courts.

Section 307(j) provides that there will be no accumulation of penalty under Section 307 of this Act if more than one offense is charged.

Section 307(k) provides that any adjudication of violation or conviction under any related provision of law with respect to controlled drug, other than a juvenile violation, shall constitute a prior offense for purposes of this act.

Section 307(l) provides for the execution of any license revocation ordered by a court.

Section 307(m) provides that a defendant may be convicted of an offense under this Section if he knew that he was engaged in the prescribed act, but his knowledge that the act was a violation of the law is not required for his conviction.

Section 307(n) provides that imprisonment may be imposed for failure to pay a fine only when the offender has the funds and refuses to pay.

Section 307(o) provides that all fines collected under the criminal provisions of this act will be utilized for the treatment and rehabilitation services established under this act.

Section 307(p) authorizes periodic urine analyses as a condition upon which probation, parole, or other conditional release may be granted for a person convicted of an offense under this act. This provision states that neither a relapse into drug abuse nor the failure to conform to a set schedule for rehabilitation shall be sufficient, in and of themselves, to require that the persons' status must be revoked or treatment denied. This provision was requested by officials of the Department of Corrections to permit a flexibility in the treatment program, in accordance with rehabilitative objectives.

Section 307(q) provides that the "implements of crime" provision under present law would not apply if the only criminal activity that could be committed by using such implements would be one or more of the offenses set out in this act.

Section 307(r) calls for a court to hold a fair and full hearing without jury for the purpose of setting the amount of fines under the provisions of this section which call for unlimited fines.

Section 307(s) provides for probation without verdict, in the discretion of the court, for a first-time offender under the Act. Reasonable terms and conditions of probation may be imposed.

Section 308 provides for the regulation of gelatin capsules suitable for packaging any controlled drug. This section requires that a license be obtained for distribution of such capsules and records of that distribution must be kept in order to permit public officials to trace their use.

Section 309 provides that search warrants may be issued for the gathering of evidence involving the violation of sections of this act except with respect to the personal possession and minor marijuana distribution provisions. This section also contains a "no knock" provision, which permits the court, when good cause is shown, to authorize an officer to break down a door without previously announcing his presence if the property sought by the warrant is likely to be destroyed or disposed of, or if danger to the officer may result. This section also sets out the standard provisions of permitting an aggrieved person to contest the warrant and to have the property returned and have any damage repaired.

Section 310 provides for the agencies charged with the responsibility of enforcing the provisions of this act to cooperate with all other Federal and State officials charged with the regulation of the distribution of controlled drugs.

Section 311 provides for the expunging of criminal records upon a showing, after a specified period of time, that the individual involved has reformed his activities and has not engaged in further criminal conduct. This provision is retroactive. This section provides, however, that in the event the expunged conviction may be exceeded by another conviction, the expunged conviction will still count as a prior offense for purposes of any penalty to be imposed for that subsequent offense.

Section 312 provides a mechanism by which the government may require the testimony of any witness, or the production of any evidence, concerning a violation of this act, as a result of granting immunity. Any person who refused to give testimony after obtaining immunity would be in contempt of court and subject to a continuing court penalty.

TITLE IV—PREVENTION, TREATMENT, STUDY, AND CONTROL OF DRUG ABUSE

Title IV of the bill contains all of the prevention and treatment provisions. It represents a major change in emphasis with respect to the drug problem in the District of Columbia, and requires a correspondingly major allocation of public resources.

*Section 401* establishes a Bureau of Drug Abuse Control in the District of Columbia Department of Mental Health. The Bureau is delegated full responsibility for all scientific, medical, treatment, and other related functions with respect to drug abuse in the District. The Bureau is also directed to coordinate all efforts to combat problems of drug abuse and drug dependence with the State and local governments in Maryland and Virginia.

*Section 402* of the bill outlines the treatment and rehabilitation program of the Bureau. This aspect of the Bureau's program must include three types of treatment modalties: emergency medical care and withdrawal services, inpatient extended care services, and outpatient, intermediate care, and aftercare services. Persons assisted under the bill can be required to contribute toward the cost of the treatment.

The bill also provides that some of the Bureau's personnel may formerly have been drug abusers or drug dependent persons.

*Section 403* of the bill relates to emergency medical care and withdrawal services.

*Subsection 403(a)* provides that any person who appears to be under the influence of a drug may be taken for emergency medical care services. The bill specifies such a person may be detained for purposes of involuntary withdrawal from drugs for no longer than ten days.

Once he has gone through withdrawal and is otherwise in control of his faculties, he is free to leave if no criminal charges are pending against him.

*Subsection 403(b)* deals with the person charged with a misdemeanor, who is either under the influence of a drug or taken into custody for what appears to be a drug-related offense. Once withdrawal is complete, the individual may be detained for a diagnosis for possible drug dependence, and possible civil commitment.

If the person is diagnosed as drug dependent, the government attorney will decide, with the recommendation of the medical officer, whether the person should be prosecuted, civilly committed, or permitted to follow voluntary treatment. If the person is not diagnosed as drug dependent, the government attorney, with the recommendation of the medical officer, will decide whether he should be prosecuted, or permitted to follow voluntary education and treatment for drug abuse. Even if he is prosecuted and convicted, he may still receive a suspended sentence, or be placed on probation for treatment, or civilly committed for treatment, rather than being criminally sentenced.

The bill provides that the medical officer shall make his recommendations to the government attorney at every stage of the decision-making process with respect to such an individual. In all instances, however, the government attorney has the ultimate decision, and can either accept or reject the medical officer's recommendation. Similiarly, the judge is free to accept or reject the recommendations made by the medical officer.

*Subsection 403(c)* contains similar provisions relating to a person taken into custody by the police for a felony who either appears to be under the influence of a drug or is charged with a drug-related felony. After any necessary withdrawal, he may be detained for diagnosis for possible drug dependence. If he is diagnosed as drug dependent, the government attorney, with the recommendations of the medical officer, must decide whether to institute civil commitment proceedings or to prosecute the criminal charges. If he is not diagnosed as drug dependent, the criminal charges are prosecuted, and if he is convicted, he may also receive treatment through civil commitment.

*Subsection 403(d)* provides that the government attorney shall institute involuntary civil commitment proceedings for short-term emergency medical care treatment pursuant to Section 406 whenever possible.

*Subsection 403(e)* provides that civil commitment proceedings for treatment for drug dependence should be instituted by the government attorney pursuant to Section 407 whenever appropriate under the provisos in Title III which states that a drug dependent person shall be handled under the treatment rather than the criminal provisions of the law. If the medical officer and the government attorney should disagree on the applicability of the proviso, however, the judgment of the government attorney shall prevail. Under these circumstances, the medical officer's report would also go to the court, which in many instances would be obligated under applicable case precedents to raise the issue of criminal responsibility *sua sponte*, or at least bring it to the attention of the defendant's counsel.

*Subsection 403(f)* makes certain that any police officer, government or defense attorney, court, probation officer, or parole officer must refer any person who appears to be under the influence of drugs for diagnosis. The medical officer must be given the complete records and all available information with respect to any person sent for diagnosis by a law enforcement officer.

*Subsection 403(g)* provides that the police shall make every reasonable effort to protect the health and safety of any person under the influence of a drug.

*Subsection 403(h)* provides that no entry shall be made on a person's arrest or other criminal record if no criminal charge is prosecuted against him.

*Subsection 404* of the bill outlines the inpatient extended care services established under the Bureau's program. Admission for such services is in the professional judgment of the medical officer. Involuntary treatment may be required only pursuant to Sections 406 and 407 of the bill. If civil commitment is not instituted, voluntary treatment will be encouraged. No patient may be detained for inpatient services without his consent unless he is committed under the civil commitment procedure of this act.

*Section 405* of the bill outlines the outpatient, intermediate care, and after-care services. The bill recognizes that a drug dependent person must be expected to relapse into drug abuse one or more times after the onset of therapy. Such relapses, without

more, need not result in any punishment, or elimination from outpatient treatment under this section. In some cases, where the prognosis for recovery of a drug dependent person is poor, emphasis may be given to supportive services and residential facilities so that they may live in a decent manner. In addition, under this section, all public and private, supportive community services will be part of the outpatient program. Except when under civil commitment, no person may be required to remain in the outpatient program.

*Section 406* permits a court to order up to 30 days of emergency medical care services for a drug dependent person who, even after the withdrawal period, is in imminent danger of sustaining substantial physical harm and is not in a position to exercise a rational judgment about accepting assistance. Any such person must be released, without court permission, as soon as he is again able to make a rational decision about accepting assistance, and chooses to leave, unless he is charged with a criminal offense.

*Section 407* of the bill sets out in detail the conditions under which civil commitment for involuntary treatment of drug dependence may be imposed upon drug dependent persons. Prior to any commitment under this section, the court must conduct a full and fair hearing without a jury.

There are two forms of commitment for treatment of drug dependence. The first relates to a person charged with an offense, who voluntarily requests treatment in lieu of criminal prosecution, or to a person who has already been convicted of an offense. For either of these persons, the court must find that he is a drug dependent person and that adequate and appropriate treatment is available for him. Commitment for this person cannot be longer than the sentence that could have been imposed, or actually was imposed. Voluntary treatment may be provided for as long as the medical officer believes warranted.

The second category of civil commitment for treatment of drug dependence relates to a person who is acquitted of a drug-related offense on the grounds of drug dependence, or is the subject of a civil commitment petition. In either of these cases, the court must find that he is a drug dependent person, that adequate and appropriate treatment is available, and that he constitutes an immediate and continuing danger to the safety of other persons or property. In either case, there is a limitation upon the maximum term of commitment.

*Subsection 407(a)(3)* provides that a person who volunteers for civil commitment shall be given preferential consideration for treatment over a person who chooses to stand trial and is convicted.

Consistent with the primary objective of protecting the public, the bill provides that no person shall fail to be committed, or shall be released, who continues to represent a substantial danger to other persons or property. Such persons shall be retained in custody until there is good reason to believe that they no longer represent such a danger.

The bill permits little possibility of abuse of the provision requiring detention of dangerous persons. Under the bill, every individual is entitled to intermediate care or outpatient status as soon as possible. It can be anticipated that an individual will have an opportunity to prove himself in this way long before the maximum period of commitment is up.

This section contains procedural safeguards with respect to committed persons. A committed person must be released immediately when he is shown to be rehabilitated. He is, moreover, entitled to a court review of his status every six months. He is entitled to appointed counsel, and retains all of his civil rights and liberties.

The bill emphasizes individualized treatment for committed persons, rather than routine and inflexible treatment. A specific treatment plan, adapted to each individual, must be prepared and maintained on a current basis.

*Section 408* contains provisions under which a person who is dependent for his financial support upon a drug dependent person may obtain the appointment of a conservator to manage an estate. Before a conservator is appointed, the court must find that the petitioner is in fact dependent for financial support upon the person alleged to be incompetent, and that the person alleged to be incompetent is a drug dependent person who is in fact incompetent to manage his estate to the extent that the estate is likely to be substantially diminished.

*Section 409* provides that a drug abuser or drug dependent person who has been adjudged mentally ill shall be governed by the provisions of the District's Hospitalization for the Mentally Ill statute. However, under this section, the services provided by this act will also be available to any mentally ill drug abuser or drug dependent person.

*Section 410* provides that a person treated under the provisions of this bill retains his civil rights and liberties.

*Section 411* sets out various provisions with respect to confidentiality of records. It provides that a person treated under the bill is entitled to the confidentiality of the physician-patient relationship, and therefore that no records may be disclosed without a court order, or used against him.

*Section 412* permits the Commissioner to contract with other agencies to carry out the purposes of the bill. Such other agencies must provide proper and adequate facilities, services, and personnel.

*Section 413* sets out a new drug abuse policy for highway safety. The section provides that rehabilitation shall be sufficient to justify issuance of a motor vehicle operator's license. A person convicted of driving under the influence of drugs is to be treated.

*Section 414* provides that drug abusers among Government employees shall be treated rather than summarily punished by dismissal. The Bureau is given the responsibility for fostering drug abuse services in private industry.

Under this section, prior drug dependence is not sufficient to disqualify an individual for any governmental or private employment, or any professional or other license.

*Section 415* requires the establishment of a drug abuse program in the Department of Corrections, and coordinates the work of corrections and Mental Health with respect to drug abuse in the District of Columbia. The bill gives the Bureau primary responsibility for establishing all such programs, and provides that the Department of Corrections shall cooperate in utilizing the Bureau's programs and services for correctional inmates and persons on probation and parole. The Bureau, in turn, will provide periodic reports to the Department of Corrections and probation and parole personnel so that these officials may keep abreast of the progress of the persons entrusted to the Bureau's care.

*Section 416* establishes a drug abuse program for juveniles. Of particular importance, it requires an educational campaign among young school students designed to warn about misuse of drugs.

Under the bill, any juvenile drug abuser or drug dependent person is still subject to the jurisdiction of the District of Columbia Juvenile Court. The Juvenile Court is required to handle such persons in a manner consistent with the policy of the bill. The services established in the bill are, moreover, available to the Juvenile Court with respect to any particular case.

*Section 417* makes the services of the Bureau available to all law enforcement officials in the District of Columbia. The Bureau will serve in a consulting capacity to all courts, and shall be available with respect to any cases involving drug abuse or drug dependence coming before the courts.

*Section 418* provides for basically the same services for the Department of Welfare and Vocational Rehabilitation.

*Section 419* requires that any health and disability plans offered for sale within the District of Columbia must cover drug dependence in the same way as other major disabling diseases. Funds for treatment of drug dependence will therefore become available from non-public sources.

*Section 420* requires that all private hospitals must admit drug abusers and drug dependent persons for treatment without discrimination.

*Secion 421* provides that the Bureau is responsible for the organizing and fostering of training of professional and non-professional workers in the field of drug abuse.

*Section 422* requires the Bureau to establish a comprehensive public education program with respect to drug abuse.

*Section 423* requires annual reports from the Bureau. These reports must specify the action taken and services provided under each provision of the bill. The Bureau may also submit additional recommendations and requests to the Commissioner and to Congress, whenever appropriate.

This bill will authorize the Bureau to obtain its own statistics in the areas of drug abuse and drug related crime, as well as to promulgate regulations specifying uniform statistics to be obtained and reports to be submitted by other public and private agencies.

*Section 424* establishes a Drug Abuse Advisory Committee consisting of 9 qualified persons—5 from the District of Columbia, 2 from Maryland, and 2 from Virginia. The Committee will be charged with assisting the Commissioner and the Bureau in carrying out the provisions of the bill. It may establish its own technical consulting committees, and it shall remain independent of the Bureau and the District of Columbia Government. The purpose of this Advisory Committee is to make certain that there is an independent overview of the entire drug abuse program. The Advisory Committee shall employ a full-time executive director with a secretary to assist the Committee and coordinate its activities. They shall not be employees of the Bureau.

*Section 425* establishes an Interdepartmental Drug Abuse Coordinating Committee within the District of Columbia Government. This Committee will be responsible for coordinating all District of Columbia efforts with respect to drug abuse and assisting the Bureau in coordinating its drug abuse efforts with those of Maryland and Virginia.

TITLE V—COMPREHENSIVE DRUG ABUSE AND DRUG DEPENDENCE CONTROL PLAN

Title V requires the development of a detailed and comprehensive drug abuse and drug dependence control plan for the District of Columbia to implement the bill.

*Section 501* requires the plan to be developed within six months after enactment of the bill, and that it be revised and submitted to Congress annually. As soon as the plan is approved, this section requires all efforts to be directed toward implementing it.

*Section 502* requires the Commissioners to consult with all public and private agencies in developing the plan. The plan must, moreover, specify how all of these public and private resources are to be utilized, and how District of Columbia efforts are to be coordinated with Maryland and Virginia efforts.

The Drug Abuse Advisory Committee, the Metropolitan Washington Council of Governments, and the National Institute of Mental Health will be requested to review a final draft of the complete plan, and any comments shall be given full consideration.

The plan must be coordinated with comprehensive health planning in the District of Columbia, pursuant to Federal statutes. All Federal funding will be utilized wherever possible.

The plan shall specify how District efforts will be coordinated with those of Maryland and Virginia.

TITLE VI—MISCELLANEOUS PROVISIONS

Title VI of the bill contains a number of miscellaneous provisions.

*Section 601* authorizes promulgation of regulations, which will be subject to the requirements of the District of Columbia Administrative Procedure Act. It also permits the Commissioner to delegate his responsibilities under the bill.

*Section 602* is a separability clause, in the event that a provision is declared invalid.

*Section 603* repeals the prior criminal and civil law provisions relating to drug abuse and narcotics crime in the District of Columbia.

*Section 604* amends two provisions to delete obsolete references to narcotic drugs.

*Section 605* provides that the Act shall take effect 90 days after date of enactment, except that Title V—relating to a comprehensive plan—shall take effect immediately.

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QUESTIONS AND ANSWERS—TYDINGS NARCOTICS BILL

1. Are drugs and crime related?

Narcotic drugs and crime are directly related. A high percentage of the serious crime in our cities today is committed by narcotic addicts in search of funds to buy drugs. The reason is obvious. To support a heroin habit may cost $50 or $75 a day. There is simply no other way for an addict to get that money without resorting to crime. As the President's Commission on Law Enforcement and the Administration of Justice reported:

"The price of the drug . . . is never low enough to permit the typical addict to obtain it by lawful means. So he turns to crime."

The National Capital is no exception. Testimony before the District Committee hearings on drug abuse revealed that up to three-fourths of the serious crime in the District is committed by drug addicts. A recent study by the D.C. Department of Corrections revealed that 45 percent of the inmates booked into D.C. Jail during the month of August showed up on a urine test as having used narcotics within 48 hours of their incarceration.

There is no doubt drugs and crime are related. As the President's Commission on Crime in the District of Columbia reported: "The law-abiding citizens of the District become victims of drug abuse as addicts shoplift, rob and burglarize to pay for their habit."

2. Why do we need any new narcotics legislation?

We need new narcotics legislation because the present legislation has *not* worked. Despite the fact that heroin has been illegal for more than half a century, and marijuana for nearly that long, there is more drug abuse now than ever before. Nowhere is that more clear than in the case of marijuana. Despite existing laws that outlaw possession of it, it is estimated that as many as 10,000,000 Americans have used marijuana and it is acknowledged that a high percentage of high school and college age youngsters smoke it regularly.

Existing laws, too, have failed to control the use of heroin, primarily because they emphasize law enforcement against the drug users rather than against the traffickers. In other words, existing law hits as hard at the victims of narcotics traffic as it does at the perpetuators of this insidious activity. What is sorely needed is new legislation that effectively focuses the law enforcement effort on stopping the major traffickers from distributing illegal drugs.

Also, existing laws deal ineffectively with the matter of drug-related crime. As long as there are narcotic addicts, there will be drug-related crime, and present law does nothing to cure addicts of their addiction. What is drastically needed, as the President's D.C. Crime Commission recommended, is legislation authorizing an effective treatment program within the criminal justice system. Only that way can addicts be rid of their habit and their necessity to commit more crimes.

Finally, existing laws must be changed in order to strengthen the criminal penalties against illegal narcotics trafficking in the District of Columbia. Under current D.C. law, trafficking is only punishable by imprisonment up to a year on the first offense and up to 10 years on the second. Such penalties are clearly inadequate to deal with major traffickers and must be strengthened. The Tydings bill will strengthen them.

3. Is the Tydings bill more comprehensive than existing drugs laws?

Yes. The Tydings bill is far more comprehensive than any existing federal or state drug legislation. No current piece of drug legislation deals with the problems of illegal drug traffic, drug related crime and rehabilitation of addicts as comprehensively as the Tydings bill.

4. Will the Tydings bill affect the existing federal laws on narcotics, like the Harrison Act?

No. The Tydings bill will in no way affect existing federal legislation, but will simply replace the inadequate existing narcotics statutes in the D.C. Code. After the enactment of the Tydings legislation, however, it is intended that the U.S. Attorney will utilize the new law rather than existing obsolete federal legislation.

5. Does the Tydings bill get at the major narcotics traffickers?

The Tydings bill hits directly at the major traffickers. In fact, the Tydings bill may be the strongest and most effective narcotics legislation ever written to get at the major trafficker. It is designed specifically to knock major traffickers out of the narcotics business.

In 1963, the President's Advisory Commission on Narcotics and Drug Abuse recommended:

"The illegal traffic in drugs should be attacked with the full power of the federal government. The price of participation in this traffic should be prohibitive. It should be made too dangerous to be attractive."

The Tydings bill adopts that philosophy. Specifically, it calls for sentences of up to life imprisonment for wholesale distribution of narcotics, even on the first offense. In addition, the bill requires the judge to fine any narcotics dealer, wholesaler or retailer, an amount great enough to exhaust his assets in the drug business and the profits he obtained from dealing drugs. That means, for example, if an underworld figure placed his profits from selling drugs into a legitimate campany, under the Tydings bill, the judge would mandatorily have to fine him the value of that company.

No current legislation makes the price so prohibitive for dealing in narcotics traffic.

6. How do the penalties of the Tydings bill compare with existing law?

The penalties in the Tydings bill will substantially strengthen the penalties in the law it will replace, the D.C. Uniform Narcotics Act. In fact, the penalties in the Tydings bill against narcotics trafficking are considerably stronger than existing federal law.

Here's how the Tydings bill penalties compare specifically to the penalties in the Uniform Narcotics Act. Under the UNA, trafficking of narcotics—whether hard narcotics or marijuana or wholesale or casual—is penalized on the first offense by imprisonment of not more than one year and a fine of $100 to $1,000. The second offense is penalized by up to 10 years in prison and a fine of $500 to $5,000. Possession of illegal drugs is subject to the same penalties under the UNA.

The Tydings bill will substantially strengthen the penalties for trafficking both hard drugs and marijuana under District of Columbia law. Under the Tydings bill, for example, trafficking of hard drugs will be subject to a penalty of up to 20 years in prison—or twice the existing law. In addition, in either case the trafficker would mandatorily be fined an amount large enough to exhaust the assets utilized in and the profits obtained by his drug traffic.

The Tydings bill also strengthens the penalty for possession of hard narcotics, making it punishable on the first offense by up to two years in prison—twice the existing law—and a fine up to $10,000. The only area where the penalty in the Tydings bill is less than existing D.C. law is for possession of marijuana for personal use, where the Tydings bill calls for a penalty of up to 30 days in prison and a fine of up to $500.

In the case of possession of marijuana, the Tydings bills is in complete accord with the ideas expressed by Dr. Roger Egberg, the government's highest medical officer, and Dr. Stanley Yolles, the Director of the National Institute of Mental Health, the agency charged with the responsibility of handling the health side of the drug problem. At a recent Senate hearing, Dr. Yolles testified on the subject:

"I do not, at this time, advocate the removal of all restrictions on the use of marijuana. I believe that until we know more about the long-term effects of marijuana and other forms of *Cannabis* that use of the drug should continue to be controlled—medically speaking, I cannot give it a clean 'bill of health.' But, penalties for its use should be lowered, in proportion to the danger and risk to the individual and society of this drug."

7. How about kids and others who simply experiment with drugs?

Under the Tydings bill, a person who experiments with drugs and has no previous record of involvement with illegal drugs would be eligible for probation without verdict—as he would be in the Nixon Administration Narcotics Bill—if the judge agrees to follow that course. In other words, in such a case, the experimenter would neither have to go to jail nor have a felony on his record for the rest of his life. It must be stressed, however, that it is left to the discretion of the judge. The judge has the option of imposing a criminal penalty or granting probation without verdict.

Probation without verdict is advantageous both to the defendant and to law enforcement officers. It is advantageous to the defendant because it allows him to avoid going to jail and having a criminal record if he does not violate his probation. It is advantageous to law enforcement officers because if the defendant violates his probation, he can still be sentenced for that offense. In other words, by granting probation without verdict the judge is giving the defendant a second chance. If the defendant muffs that chance, he can be sentenced to jail for that offense.

8. What does President Nixon think about penalties for drug offenders?

The Administration's narcotics bill as originally submitted to the Congress in July called for virtually the same penalties as the existing federal narcotics laws. On October 20, the Administration, through John E. Ingersoll, Director of the Bureau of Narcotics and Dangerous Drugs, suggested three schemes of alternatives to the penalties in the original bill.

All three of the Administration's alternative penalty schemes and its original bill call for softer penalties for drug traffickers than does the Tydings bill. Under the harshest of the President's alternatives, for example, a major trafficker arrested for the first time should be given only 20 years in jail and a $25,000 fine, even if he had been operating

for years and law enforcement officers had spent years trying to crack him. Under two of the President's suggested alternatives, a major narcotics wholesaler could get no more than 12 years in jail. Under the Tydings bill, a major supplier of hard narcotics could get up to life imprisonment and a fine large enough to knock him out of the drug business.

Concerning possession of illegal drugs for personal use, in the suggested revision to its narcotics bill, the Administration called for the first-possession offense of hard drugs and marijuana to be a misdemeanor. Thus, the newly proposed Administration penalties for possession of hard drugs are softer than those in the Tydings bill. Possession of marijuana is also a misdemeanor in the Tydings bill.

9. What do other government officials think of mandatory minimum sentences for people who experiment with narcotics, but commit no other crime?

Other top government officials have supported more flexibility in dealing with offenders of this type. At a recent Senate hearing, Attorney General John Mitchell expressed this view about sentencing narcotics offenders:

"Prison is not the only logical alternative. In some cases, it may be advisable to use federal rehabilitation programs, halfway houses and private medical treatment while on probation or parole. Perhaps the most promising alternative is to approach the narcotics violator in relation to his function; the professional trafficker who should be given as severe a sentence as possible; the casual and intermittent user who is perhaps only experimenting out of curiosity; or the mentally or physically ill addict who, without additional help, cannot break a confirmed habit."

Expanding on the Attorney General's statement at that same hearing, John E. Ingersoll, Director of the Bureau of Narcotics and Dangerous Drugs, said:

"The casual user or intermittent experimenter of drugs, usually of the non-addicting variety such as LSD, marijuana, and other hallucinogens, who, for a variety of reasons starts exploring the drug scene, is the second type of person that must be identified in any penalty structure. This type of person is far different from the professional criminal mentioned above. This is the group that is possessing, or giving away these drugs, usually among its own peer group. For these reasons the penalty structure should be more flexible and open-minded as these persons seem most likely to respond to rehabilitative efforts and the court should not have imposed on its rigid requirements. The penalties should be flexible enough to deter and, if deterrence fails, flexible enough to allow the judge, based on his observations of the defendant, to tailor the penalty to the nature of the crime and the person committing that crime. This type of person forms a major segment of the defendant population and for the penalties to be effective and rational, they must be geared to fit the punishment to this person with fairness.

10. Does this new bill provide for the treatment of drug addicts?

Yes. The Tydings bill provides, perhaps, the most comprehensive treatment of drug addicts ever written into legislation. It authorizes both inpatient and outpatient treatment for either short or extended periods. It authorizes treatment programs for addicts both inside and outside the criminal justice system. In addition, it puts into law an operative civil commitment procedure for narcotics addicts in the National Capital.

11. Does existing legislation provide any effective treatment?

No. There is a great void in the area of treatment of drug addicts in existing legislation. Present narcotics laws deal only with the criminal aspects of sale and possession and not with treatment. The federal treatment statute—the Narcotic Addict Rehabilitation Act of 1966—currently has only about 700 beds for addicts in the entire country. Prosecutors in both Washington and Baltimore have complained that it is difficult to get a person committed under NARA because the program is not large enough. Though there is a civil commitment law for the District of Columbia, it is inoperable and has seldom been used.

12. Why is treatment important?

Treatment of narcotics addicts is vital because it is one of our most powerful weapons in our war against crime. The D.C. Crime Commission reported:

"Federal and local laws must be revised so as to encourage treatment and rehabilitation. . . . Otherwise there is little hope of reducing illegal drug traffic or the significant amount of crime which it spawns."

There is no question that the failure to treat criminal addicts has contributed substantially to the escalating crime rate. If a criminal addict merely goes to prison and receives no treatment, he is almost certain to revert to drugs and crime as soon as he is released. That situation, in the words of the D.C. Crime Commission, "almost guarantees return to serious crime for such addict prisoners upon release."

The consequences of failing to treat criminal addicts were graphically described by Kenneth L. Hardy, Director of the D.C. Department of Corrections. at this spring's hearings of the Senate District Committee:

"We may hold these people for nine months on a misdemeanor charge, or five years on a felony charge. But within a few hours, or a few days, or a few weeks after release, they will have gone back to narcotics. We may punish them by locking them up, we may instruct them, or we may counsel them—individually or in groups. When we follow up later to learn how they have adjusted in the community, we almost invariably find that they have gone back to the needle, or the reefer, or the pill."

In addition to its importance as a weapon against crime, treatment is important because drug addiction is an illness and, as such, can only be cured by effective long-range treatment and rehabilitation.

13. How does the Tydings bill affect drug users who commit no other crimes?

Under the Tydings bill a drug user who is arrested for possession of an illegal drug would be committed to treatment for his addiction under the civil commitment procedures of the bill. In that way, the drug addict will not be released from commitment until he has been cured of his addiction that is likely to lead him to other crimes in the future.

14. How does the Tydings bill affect drug users who commit other crimes?

Under the Tydings bill, an addict who commits a drug-related crime will not be released from commitment until he is no longer a danger to his community. He can, at the option of the prosecuting attorney or the judge, either by treated as any other criminal case or be civilly committed for treatment.

Under the Tydings bill, as soon as a suspect is arrested who either appears to be a drug user or for committing a drug-related crime, he must be diagnosed immediately to determine if he is drug dependent.

If he is an addict, it is then up to the prosecuting attorney to decide whether he should face the criminal charge or be civilly committed to treatment. If the prosecutor decides to prosecute the charge, the judge then has the option upon a guilty finding of sentencing him to prison or ordering him civilly committed to treatment. The judge has the option also of placing him on probation on the condition he accepts treatment.

If he is committed to treatment, he will remain in treatment until he is no longer a danger to his community.

Also under the Tydings bill, the prosecutor may have an addict arrested for a drug-related crime civilly committed for treatment rather than released on bond while awaiting trial, so that he can be cured of the addiction that caused him to commit the crime in the first place.

15. Does the Tydings bill tie the hands of the police, prosecutors and judge?

No, in fact, the Tydings bill gives the police and prosecutors additional investigative tools needed to stop narcotics traffic. And it gives the courts much more flexibility than they now have in dealing with drug offenders.

Specifically, the Tydings bill includes four provisions requested by the Metropolitan Police Department when they testified before the District Committee this spirng. They are:

1. A provision that allows for the commitment of addict suspects to treatment before their release on bond.

2. A "no knock" provision for officers in the confiscation of contraband drugs.

3. A workable civil commitment procedure that will allow police to aid in the rehabilitation process.

4. A provision to regulate the sale and use of gelatin capsules which are often used to package illegal drugs.

The Tydings bill will aid prosecutorial investigations because it contains an immunity provision that will allow prosecutors to grant immunity to persons offering information about narcotics traffic. This has proved an invaluable tool in cracking narcotics conspiracies in the past.

The Tydings legislation generally gives law enforcement officials and the courts considerably more flexibility than any existing legislation in dealing with narcotics offenders. Under the Tydings legislation, prosecutors and judges will have options as to whether to deal with addict criminals through traditional criminal channels or whether to civilly commit them to treatment. In addition, the Tydings legislation gives the judge the flexibility to sentence a narcotics offender in accordance with the severity of his offense.

The flexibility in sentencing was a specific recommendation of the D.C. Crime Commission: "The mandatory sentencing provisions of the federal narcotics statutes should be revised to permit more flexible sentencing, especially for youthful offenders."

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## S. 3072—INTRODUCTION OF THE FEDERAL LOW-EMISSION VEHICLE PROCUREMENT ACT

Mr. MAGNUSON. Mr. President, I introduce, on behalf of myself and Senators JACKSON and MUSKIE, the proposed Federal Low-Emission Vehicle Procurement Act, a bill to stimulate the development, production, and distribution in interstate commerce of low-emission motor vehicles in order to provide the public increased protection against the hazards of vehicular exhaust emission, and for other purposes.

The air pollution problem in the United States has reached crisis proportions. We are all aware of air pollution's symptoms. Witness the flecks of dirt we smear from our faces, the choking fumes spewed at us by passing buses and cars, or opaque curtains of smog which shroud and blacken our skyscrapers. But these are only the symptoms of a problem which now seriously threatens the life systems of each and every one of us. Air pollution is a significant contributing factor to the rising incidence of chronic respiratory diseases—lung cancer, emphysema, chronic bronchitis, and asthma. In some sections of the country the problem has

become acute. For example, in a single year doctors in Los Angeles advised more than 10,000 to flee from the death dealing smog.

One of the great tasks for us in what remains of the 20th century is the control of air pollution. It will not be enough to stand still, to accept present levels. We must roll back the cloud of pollution and sharply reduce present levels. To do this, we must attack air pollution at its source.

What are the primary sources? Many people see smoke spewing forth from factories and mills, and point an accusatory finger. In my own State, the noxious odors emanating from various pulp mills permeate the nostrils and bring tears to the eyes. But ironically, the most obvious polluters are not the core villains—this, of course, does not suggest that such sources of pollution should not be brought under more stringent control.

Automobiles are the grossest villains in air pollution. They account for at least 60 percent of the total air pollution in the United States—as much as 85 percent in some urban areas. Each year vehicles which all of us operate spew over 70 tons of pollutants into the atmosphere; this is twice as much as any other single contributor. If air pollution is to be curtailed, dangerous emissions from automobiles must be substantially curtailed.

Some would have us believe that "the automobile industry has won the main battle against air pollution." In recent months all auto manufacturers have joined in making such claims. Let us look at the facts.

In the first place, it is rather presumptuous of the automobile industry to take credit for improvements in the air pollution problem. Not until State and Federal legislation forced them to bring the internal combustion engine under control in 1968 did they even start the fight, which has really just begun. Existing emission standards only require Detroit auto makers to control carbon monoxide and hydrocarbon emissions. A third type of pollutants, oxides of nitrogen, has not been controlled—although California has enacted emission standards for oxides of nitrogen beginning in 1971. Manufacturers presently control hydrocarbon and carbon monoxide emission by combusting fuels at high temperatures; this high temperature combustion reduces hydrocarbon and carbon monoxide pollution but increases oxides of nitrogen emission. The auto makers still are battling to bring oxides of nitrogen under control. At this time there is no guarantee that they will win that battle.

It is true that present automobiles produce far less pollution than their uncontrolled predecessors, but air pollution gains in many parts of the country will only be temporary. Total emissions may go from 80 million tons per year to 55 tons per year by 1980 before starting to climb again, but this overall reduction is not going to help such areas as the Pacific Northwest very much. For example, in the next 15 years the Northwest will experience a population growth of 40 percent, whereas the national average will be 20 percent. As suburbia sprawls out from the urban center, people will have to drive their cars more miles and consume more fuel, and the prospects for rapid transit in the immediate future are dim. The influx of people and their cars promises to wipe out in the Northwest any possible gains in vehicular air pollution.

What is the solution? We must find an automobile that does not pollute. Any new approach must be directed toward the development of a low-emission vehicle.

For almost 3 years the Senate Commerce Committee, in joint hearings with the Air and Water Pollution Subcommittee of the Public Works Committee, has been searching for a low-emission vehicle. In the spring of 1967 joint hearings explored the potential for electric cars. A year later hearings on steamcars were held. This March a comprehensive staff report entitled "The Search for a Low-Emission Vehicle" was published by the Senate Commerce Committee.

Some progress has been made. At the urging of the Senate Commerce Committee, the Department of Transportation has sponsored several steam bus demonstration projects. The Department of Health, Education, and Welfare has let a passenger car steam engine design contract, and Congress is about to authorize funds for additional research and development of low-emission vehicles and alternative fuels. But more must be done.

The automobile companies appear unwilling or incapable of transcending the internal combustion engine. They have announced that the main battle against automobile air pollution has been won, but this is not the case. The existing internal combustion engine may not give us the type of air we need or want. The time has come to launch a Government program which will stimulate the development, production, and distribution of low-emission vehicles. Hearings and sponsorship of research and development projects are not enough. Legislative action is necessary.

Therefore, today I propose the Federal Low-Emission Vehicle Procurement Act of 1969. Here is the bill's rationale: In order to foster the development, production, and distribution of low-emission vehicles, Congress should create a legislatively guaranteed market for innovative developers.

Here is how the legislation would work. A low-emission vehicle developer makes application to the Low-Emission Vehicle Certification Board composed of the Secretary of Transportation, Secretary of Health, Education, and Welfare, the Director of the National Highway Safety Bureau, the General Services Administrator, and a Presidential appointee. The Secretary of Health, Education, and Welfare determines whether the vehicle is a low-emission vehicle. For a passenger car such vehicle would probably have exhaust emissions in the range of 0.5 grams per mile of hydrocarbons, 11 grams per mile of carbon monoxide, and 0.75 grams per mile of oxides of nitrogen. The Board then determines whether or not the vehicle is suitable for use as a substitute for a class or model of vehicles presently in use by agencies of the United States. In making that determination it considers such things as the safety of the vehicle, its performance characteristics, its reliability potential, its serviceability, and its fuel availability. Any low-emission vehicle certified by the Board is then eligible for purchase if its procurement and maintenance costs are no more than 125 percent of the procurement and maintenance costs of the vehicle for which it can substitute. The General Services Administrator is required to purchase such vehicles in lieu of other vehicles if the costs are within the prescribed limitations.

The costs for this program will be minimal. In fiscal 1968 the Federal Government spent approximately $128 million for 46,430 buses, trucks, and ambulances and about $26 million for 15,706 passenger cars. If the Government were to start tomorrow and purchase only low-emission vehicles, the yearly add on cost could not exceed $35 million. Of course, the actual costs would be much lower, particularly during the early stages of procurement when few low-emission vehicles would be available. In my opinion, this is a small price to pay for curbing the air pollution epidemic and preserving a life-sustaining environment.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a very thoughtful letter from the Administrator of the General Services Administration endorsing in principle the proposed legislation.

I also ask unanimous consent to have the full text of the bill printed in the RECORD following that letter.

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

GENERAL SERVICES ADMINISTRATION,
*Washington, D.C., May 16, 1969.*

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your letter of April 25, 1969, regarding proposed legislation for the procurement of low-emission vehicles.

The General Services Administration strongly endorses your proposed legislation for curbing pollution. Therefore, we are in accord with the philosophy that this legislation would most certainly foster independent and perhaps innovative development of low-emission vehicles and provide initial guaranteed markets for these vehicles in the Federal Government.

From the onset, with the publication of Federal Standard No. 515, Standard Safety Devices for Automotive Vehicles, promulgated by Public Law 88-515, August 30, 1964, we used the exhaust emission limits as well as the test procedures established by the State of California (California Test Procedure and Criteria for Motor Vehicle Exhaust Emission Control). Our detailed Federal Standard No. 515/14, Exhaust Emission Control System for Automotive Vehicles, is enclosed. We subsequently published a revised detailed Federal Standard No. 515/14a, Control of Air Pollution from Automotive Vehicles, dated July 15, 1966, also enclosed. In this revised detailed standard, we referred to the standard established by the Department of Health, Education, and Welfare, Control of Air Pollution from New Motor Vehicles and New Motor Engines, 45 CFR Part 85. However, this standard never became effective as we found it prudent to revoke Federal Standard No. 515 in its entirety on September 29, 1967 (Federal Reg-

ister, Volume 32, No. 189). This revocation was in favor of the issuances promulgated by Department of Transportation (DOT) for Motor Vehicle Safety Standards and the issuances on emission control by the Department of Health, Education, and Welfare.

For practical purposes, all of the motor vehicles purchased by the General Services Administration are procured on a competitive basis in accordance with Federal specifications which are under our cognizance. Our current passenger and applicable light truck vehicle specifications provide for positive crankcase ventilation as a means of controlling exhaust emission. However, all vehicles furnished the Government must, of course, comply with the standards issued by the Department of Health, Education, and Welfare. In our new proposed passenger and applicable truck vehicle specifications, which have been distributed to Federal agencies and industry for comments, we have specifically referenced the standard for emission control issued by the Department of Health, Education, and Welfare.

We are unable to furnish any additional information concerning the establishment of performance criteria and the cost framework in connection thereto with emission control performance standards for passenger vehicles and applicable light trucks since we accomplished no basic research in this area. We used the State of California criteria for our initial requirements followed by those standards issued by the Department of Health, Education, and Welfare as we indicated above.

The legislation requiring the Federal Government to procure low-emission vehicles contemplates that some additional costs would be involved in the procurement and operation of the motor vehicles. Since we are experiencing difficulty in obtaining passenger vehicles within the current statutory limitation imposed upon the procurement of sedans, any legislation which is developed should provide that procurements of low-emission vehicles may be made without regard to the existing statutory price limitations.

We would also suggest that your legislation specify the agencies which would be required to use these vehicles. Although the General Services Administration procures most commercial vehicles for use by the Government agencies, the specific and intended use of these vehicles remains with the requesting agency. It is our opinion that without specific statutory authority, it would be impossible for the General Services Administration to require an agency to accept any particular type of vehicle.

With regard to representation on the proposed Certification Board, we recommend representatives from the following organizations:

National Air Pollution Control Administration.

Department of Health, Education, and Welfare.

General Services Administration.

National Highway Safety Bureau, DOT.

State Governments.

In addition, we recommend that the responsibility for certifying these low-emission vehicles be assigned to the National Highway Safety Bureau in view of their current responsibility for certifying that passenger vehicles comply with the Federal Motor Vehicle Safety Standards.

We wish to thank you for the opportunity of reviewing this proposed legislation. If we can be of further assistance, we shall be pleased to do so.

Sincerely,

ROBERT L. KUNZIG,
*Administrator.*

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

The bill (S. 3072) to stimulate the development, production, and distribution in interstate commerce of low-emission motor vehicles in order to provide the public increased protection against the hazards of vehicular exhaust emission, and for other purposes, introduced by Mr. MAGNUSON, for himself and other Senators, was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 3072

*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 "Federal Low-emission Vehicle Procurement Act of 1969".

DEFINITIONS

SEC. 2. For the purpose of this Act—

(1) "Board" means the Low-emission Vehicle Certification Board;

(2) "Federal Government" includes the legislative, executive, and judicial branches of the Government of the United States, and the government of the District of Columbia;

(3) "motor vehicle" means any vehicle, self-propelled or drawn by mechanical or electrical power, designed for use on the highways principally for the transportation of passengers except any vehicle designed or used for military field training, combat, or tactical purposes;

(4) "low-emission vehicle" means any motor vehicle which produces significantly less pollution that the class or model of vehicles for which the Board may certify it as a suitable substitute.

LOW-EMISSION VEHICLE CERTIFICATION BOARD

SEC. 3. (a) There is established a Low-Emission Vehicle Certification Board to be composed of the Secretary of Transportation or his designee, the Secretary of Health, Education, and Welfare or his designee, the Director of the National Highway Safety Bureau in the Department of Transportation, the Administrator of the General Services Administration, and one member appointed by the President. The Secretary of Transportation or his designee shall be the Chairman of the Board.

(b) Any member of the Board not employed by the United States may receive compensation at the rate of $125 for each day such member is engaged upon work of the Board. Each member of the Board shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

(c) (1) The Chairman, with the concurrence of the members of the Board, may employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Board, but no individual so appointed shall receive compensation in excess of the rate authorized for GS–18 by section 5332 of title 5, United States Code.

(2) The Chairman may fix time and place of such meetings as may be required.

(3) The Board is granted all other powers necessary for meeting its responsibilities under this Act.

CERTIFICATION

SEC. 4. (a) The Secretary of Health, Education and Welfare shall determine which models or classes of motor vehicles qualify as low-emission vehicles in accordance with the provisions of this Act.

(b) The Board shall certify any class or model of motor vehicles—

(1) for which a certification application has been filed in accordance with subsection (d) of this section;

(2) which is a low-emission vehicle as determined by the Secretary of Health, Education and Welfare; and

(3) which it determines is suitable for use as a substitute for a class or model of vehicles presently in use by agencies of the United States.

The Board shall specify with particularity the class or model of vehicles for which the class or model of vehicles described in the application is a suitable substitute. In making the determination under this subsection the Board shall consider the following criteria:

(1) the safety of the vehicle;

(2) its performance characteristics;

(3) its reliability potential;

(4) its serviceability; and

(5) its fuel availability.

(c) Certification under this section shall be effective for a period of two years from the date of issuance.

(d) (1) Any party seeking to have a class or model of vehicles certified under this Act shall file a certification application in accordance with rules established by the Board and published in the Federal Register.

(2) The Board shall publish a notice of each application received in the Federal Register.

(3) The Board shall determine whether or not the vehicle for which application has been properly made is a low-emission vehicle in accordance with procedures established by it and published in the Federal Register.

(4) The Board shall conduct whatever investigation necessary, including actual inspection of the vehicle at a place designated by the Board in the certification application rules established under this section.

(5) The Board shall receive and evaluate written comments and documents from interested parties in support of, or in opposition to, certification of the class or model of vehicle under consideration.

(6) Within 90 days after the receipt of a properly filed certification application, the Board shall reach a decision by majority vote as to whether such class or model of vehicle is a low-emission vehicle and is a suitable substitute for any class or classes of vehicles presently being purchased by the Federal Government for use by its agencies.

(7) The Board shall publish in the Federal Register, within 90 days after the receipt of a properly filed certification application, a report of its decision on such application which sets forth with particularity the reasons for granting or denying certification, together with dissenting views.

PROCUREMENT OF LOW-EMISSION VEHICLES

SEC. 5. Certified low-emission vehicles shall be acquired by purchase by the Federal Government for use by the Federal Government in lieu of other vehicles if the General Services Administrator determines that such certified vehicles have procurement and maintenance costs which are no more than 125 per centum of the procurement and maintenance costs of the class or model of motor vehicles for which they are certified substitutes.

WAIVER

SEC. 6. For the purposes of this Act any statutory price limitations shall be waived, and the procuring agency shall be required to purchase available certified low-emission vehicles which are eligible for purchase before purchasing any other vehicles for which the low-emission vehicle is a certified substitute.

APPROPRIATIONS AUTHORIZED

SEC. 7. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 8. This Act shall take effect immediately upon signing by the President and the Board shall promulgate the procedures required to implement this Act within 90 days thereafter.

S. 3073—INTRODUCTION OF A BILL AMENDING THE INTERNAL REVENUE CODE OF 1954

Mr. MAGNUSON. Mr. President, I introduce today a bill which provides for the amendment of section 117(b) of the Internal Revenue Code of 1954. This amendment is to be effective for taxable years beginning after December 31, 1965.

This amendment is offered in hopes of correcting a misunderstanding that has existed since the original enactment of section 117 in 1954. I believe that Congress intended a relatively broad interpretation of "scholarships" and "fellowship grants" as used in section 117 so as to encourage a well-educated citizenry by excluding from ordinary income amounts which were within the meaning of these words. Instead, the Internal Revenue Service has given the words a narrow interpretation and hence many graduate students who are required to perform teaching, research, or other services as a condition to receiving financial assistance from educational institutions are being subjected to extreme financial hardship. These students and those faculty members who are in direct contact with them view the amounts received for performing such services as "scholarships" or "fellowship grants" irrespective of certain administrative regulations which necessitate performance of services.

The proposed amendment creates a presumption that minimal amounts are to be excluded from gross income as within the meaning of the terms "scholarship" or "fellowship grant" despite the fact that recipients are required to perform certain services. This will insure a broader interpretation of these terms and place the burden on the Internal Revenue Service to establish that compensation for teaching, research, or other services is truly amounts which are received as wages. Where degree requirements are such that teaching, research, or other services must necessarily be performed to qualify for the receipt, then all amounts received for so performing are to be excluded.

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

The bill (S. 3073) to amend section 117 of the Internal Revenue Code of 1954 to exclude from gross income up to $300 per month of scholarships and fellowship grants for which the performance of services is required, introduced by Mr. MAGNUSON, was received, read twice by its title, and referred to the Committee on Finance.

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S. 3074—INTRODUCTION OF THE CONSUMER PRODUCTS GUARANTY ACT

Mr. MAGNUSON. Mr. President, I introduce on behalf of myself and the Senator from Utah (Mr. Moss), for appropriate reference, the proposed Consumer Products Guaranty Act, a bill to provide minimum standards for guaranties covering consumer products which have electrical, mechanical, or thermal components, and for other purposes.

The philosophy behind this proposed bill is simple. When a manufacturer or retailer purports to guaranty the performance of a consumer product, he should, in fact, provide a meaningful assurance of performance. The manufacturer or retailer should not hide behind mountains of fine print which negate the very essence of a "guaranty." No maker of a guaranty should provide coverage for the replacement of a defective part which might cost $1 and charge the consumer $30 for the labor to replace it; and no maker should require a consumer to return a heavy appliance to a repair center in order to have it repaired "free of charge"; and no maker should disclaim all implied warranties while purporting to give the consumer an express guaranty of performance.

This bill would not force a manufacturer or retailer to guaranty a consumer product. He could sell it "as is," or he could sell a service contract instead of issuing a guaranty. But if the manufacturer or retailer did guaranty the performance of his product, he would have to stand directly behind that guaranty. He could not sidestep his apparent obligations by riddling the guaranty with page after page of fine print exclusions.

If the consumer is led to believe through a guaranty that manufacturer or dealer stand behind the product, then manufacturer or dealer should be required to do just that. Congress has often provided for the setting of minimum safety standards for hazardous products. In this bill we propose setting minimum standards of guaranty performance. The word "guaranty" has for too long been abused, twisted, and debased. Manufacturers and retailers must begin meeting consumer expectations they, themselves, have fostered.

This bill would require every manufacturer or retailer who guaranteed a consumer product to play by the same rules. No longer could a manufacturer or retailer offer the consumer a product with an illustory guaranty. By requiring everyone to play by the same rules—by imposing minimum guaranty standards—companies would have to compete with each other by lengthening guaranty periods, not by adding a few fine print exclusions or imposing several more burdens. Competitive advantage would accure to those companies producing the most reliable products, not those with the cleverest or most conniving legal draftsmen.

The Consumer Products Guaranty Act, then, could stimulate the "unplanning" of any planned obsolescence and could help focus America's engineering talents on product reliability. It would pay companies to produce more reliable products rather than concentrate on cosmetic frills.

The extent to which American manufacturers are concerned with such frills was brought home to me very vividly by an article which appeared in a recent issue of Time magazine. In that article automobile manufacturers were reported to be very concerned—almost preoccupied—with the sound or "thunk" that closing car doors make. In one instance a group of engineers stole a car from a plant, took it to a nearby field, and carefully listened with stethoscopes to the lingering vibrations accompanying each door slamming. One company's chief of body engineering was quoted as saying:

> There is very little to go on when you buy a car these days. If the glove box opens, the seats are soft and the doors *thunk*, that's all you have over the competition.

That same person employs 250 engineers to work on doors, and every year U.S. auto makers invest millions of dollars and countless man hours trying to produce the "thunk that sells." It is my hope that this proposed guaranty bill will redirect the production genius of U.S. manufacturers away from the "thunking" sounds of doors and toward enhanced soundness of functional design and performance reliability.

Let me discuss with you some of the specifics of the proposed bill. It covers consumer products which have electrical, mechanical, or thermal components—those things that "work" or "do not work." When a manufacturer or retailer makes any promise related to the performance of such a product, by operation of law he immediately is obliged to repair—or replace if repair is not possible or cannot be timely made—any malfunctioning guaranteed component, within a reasonable time, and without charge. The maker of a guaranty cannot impose any duty other than notification upon the consumer as a precondition of securing repair or replacement unless the maker can show that such a duty is reasonable.

Guaranty makers, of course, are afforded protection under the bill. If a maker can show that damage or unreasonable use caused any guaranteed component to malfunction, then he is excused from his duty to repair or replace the consumer product. But the burden of proof is on him; the consumer does not have to prove "no damage" or "reasonable use."

Under section 6 of the proposed bill, the use of the word "guaranty" is expressly reserved. No manufacturer or retailer can use the word "guaranty" to designate any promises except those relating to the performance of consumer products having electrical, mechanical or thermal components. A manufacturer or retailer of other products who wants to give the consumer assurances will have to use some other word such as "warranty." This provision in the proposed bill is designed to let the consumer know when the manufacturer or retailer is required by law to assure the performance of the product he is selling.

Section 12 of the proposed bill prohibits the maker of a guaranty from disclaiming implied warranties that normally accompany the sale of consumer goods. No longer can an express guaranty be used to deny the consumer rights which he would ordinarily have but for that guaranty.

To facilitate the operation of the proposed legislation, the Federal Trade Commission is given authority to issue trade regulation rules which will clarify guarantors' duties under the act. Any violation of such rules or other provisions of the bill are to be treated as violations of section 5 of the Federal Trade Commission Act, but action by the FTC is not the bill's exclusive enforcement tool.

Section 16 of the bill declares it to be the policy of Congress, "to encourage

guarantors to establish procedures whereby consumer disputes related to performance guarantees are fairly and expeditiously settled through informal dispute settlement mechanisms." Industry is encouraged to set up fair and responsive procedures for hearing and settling guaranty disputes. If such procedures are not available or if the informal procedures are unsuccessful in resolving the case, the consumer may seek redress of any alleged wrong by going to court. In order to make his recourse to court economically viable, a successful consumer plaintiff can recover the costs of prosecuting his case—including reasonable attorneys fees—through provisions in section 19 of the proposed bill.

In my opinion the legislative approach outlined above is desperately needed. Senate Commerce Committee correspondence files testify to the high level of consumer frustration generated by unreliable products guaranteed in name, but not in fact. A law requiring minimum guaranty standards will greatly relieve existing consumer frustration by providing meaningful guaranties—guaranties which will cause manufacturers to produce more reliable products.

The proposed legislation would also benefit those existing companies who now produce reliable products and stand behind them. No longer would a reputable firm have to compete on an apparently equal basis with those who hold out false assurances of performance to the buying public. Unguaranteed products could still be sold, but the consumer would know what he was getting. The $279 appliance without a guaranty might turn out to be more expensive in the long run than the $300 guaranteed product. Because of the proposed legislation, the consumer for the first time would be able to consider the product reliability cost factor when making his purchasing decision.

I look forward to participating with Senator Moss in hearings on this bill and welcome the constructive comments of my colleagues, consumers, industry representatives, and product reliability experts.

Mr. President, I ask unanimous consent to have the text of the bill printed in the RECORD at the conclusion of these remarks.

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

The bill (S. 3074) to provide minimum standards for guaranties covering consumer products which have electrical, mechanical, or thermal components, and for other purposes, introduced by Mr. MAGNUSON, for himself and Mr. MOSS, was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 3074

*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 "Consumer Products Guaranty Act."

DEFINITIONS

SEC. 2. For the purposes of this Act—

(1) A "consumer product" is one normally used for personal, family or household purposes.

(2) An "electrical component" is one with an assemblage of parts which conducts a flow of electrons from one point to another in a predetermined manner in order to perform an intended function.

(3) A "mechanical component" is one with an assemblage of parts which transmits mechanical forces or energy from one point to another in a predetermined manner in order to perform an intended function.

(4) A "thermal component" is one with an assemblage of parts which conducts heat energy from one point to another in a predetermined manner in order to perform an intended function.

(5) A "malfunctioning component" is one in which the assemblage of parts is not properly transmitting mechanical, electrical, or thermal forces in a predetermined manner, and, therefore, not performing its intended function.

(6) The term "without charge" means that the guarantor(s) cannot assess the owner for any costs the guarantor or his representative incur in connection with the required repair or replacement of guaranteed components. The term does not mean that the guarantor must compensate the owner for incidental expenses unless such expenses were incurred because the repair or replacement was not made within a reasonable time or because the guarantor imposed an unreasonable duty upon the owner as a condition of securing repair or replacement.

(7) "Reasonable and necessary maintenance" consists of those operations which the consumer reasonably can be expected to perform or have performed which are necessary to keep any thermal, mechanical, or electrical component operating in a predetermined manner and performing its intended function.

(8) The term "replacement" shall include the refunding of the purchase price of the product less reasonable depreciation based upon use prior to malfunctioning if the guarantor is unable to effect replacement, or if the owner is willing to accept such refund in lieu of replacement or repair.

(9) An "express guaranty" is one created as follows:

(a) Any affirmation of fact or promise made by the seller to the buyer which relates to the consumer product or any of its components and becomes part of the basis of the bargain creates an express guaranty.

(b) Any description of the consumer product or any of its components which is made part of the bargain creates an express guaranty.

(c) Any sample or model which is made part of the basis of the bargain creates an express guaranty.

It is not necessary to the creation of an express guaranty that the seller use formal words such as "warrant" or "guarantee" or that he have a specific intention to make a guaranty, but an affirmation merely of the value of the goods or a statement purporting to be merely the seller's opinion or commendation of the goods does not create a guaranty.

DUTIES OF GUARANTORS

SEC. 3. In the sale of consumer products which are distributed in or which affect interstate commerce and which have electrical, mechanical, or thermal components, any express guaranty related to the performance of such products imposes upon the maker or makers of such guaranty the duties—

(a) to repair, or replace if repair is not possible or cannot be timely made, any malfunctioning guaranteed components,

(b) within a reasonable time, and

(c) without charge.

In fulfilling the above duties the maker shall not impose any duty other than notification upon owners as a condition of securing repair or replacement of a malfunctioning guaranteed component unless the maker can show that such a duty is reasonable. In a determination of whether or not the additional duty or duties are reasonable, the magnitude of the economic burden necessarily imposed upon the maker and purchaser shall be weighed against the magnitude of the trouble and annoyance caused owners of malfunctioning guaranteed products.

The above duties extend from the maker to the first purchaser and any subsequent owners for the duration of the guaranty period stated, or if no period is stated, for a reasonable time.

DEFENSES AVAILABLE TO GUARANTORS

SEC. 4. The duties enumerated in section 3 shall not be imposed upon the maker of any performance guaranty if the maker can show that damage or unreasonable use (including failure to provide reasonable and necessary maintenance) caused any guaranteed components to malfunction.

REQUIREMENTS OF WRITTEN GUARANTEES

SEC. 5. Whenever a guaranty described in section 3 is made in writing, the maker of the guaranty shall cause it to be labelled "performance guaranty" and shall cause the following information to be provided to the first purchaser prior to the time of purchase:

(a) The duration of the guaranty period measured either by time, or where practical, by some measure of usage such as mileage.

(b) Any reasonable and necessary maintenance required as a condition of the guaranty.

(c) The costs of such maintenance if required to be performed by a designated representative of the maker.

The maker shall also provide the following information to the first purchaser:

(a) A recital of the maker's duties to the purchaser or subsequent owners during the guaranty period.

(b) The step-by-step procedure which the owner should take in order to obtain repair or replacement of a malfunctioning guaranteed component.

(c) Any means available for quick informal settlement of any guaranty dispute.

(d) A recital that legal remedies are available to any owner if the guarantor has not fulfilled the terms of the performance guaranty.

(e) A recital that any consumer who successfully pursues his legal remedies may recover the reasonable costs incurred, including reasonable attorney's fees.

EXCLUSIVE USE OF THE WORD "GUARANTY"

SEC. 6. One year after the date of enactment of this Act, no guarantor shall characterize any promise or affirmation which relates to consumer products by the word "guaranty" unless such promise or affirmation relates to the performance of consumer products which have electrical, mechanical, or thermal components.

SEPARATE GUARANTY PERIODS

SEC. 7. Nothing in this Act shall prohibit the maker of a performance guaranty from assigning separate guaranty periods to separate components of a consumer product, provided that any varying coverages are clearly stated and reasonable in number.

PARTS WARRANTY

SEC. 8. Nothing in this Act shall prohibit the maker of a performance guaranty from warranting parts and not labor after the expiration of a performance guaranty period if that period is of reasonable duration.

SERVICE CONTRACTS

SEC. 9. Nothing in this Act shall be construed to prevent a manufacturer, distribu-

tor, or retailer who does not give a performance guaranty on consumer products which have mechanical, electrical, or thermal components from selling a service contract covering parts and labor to the first purchaser at the time of sale.

DESIGNATION OF REPRESENTATIVES

SEC. 10. Nothing in this Act shall be construed to prevent the maker of any performance guaranty from designating representatives to perform the duties required under this Act, but no such designation shall relieve the maker of his direct responsibilities to the consumer.

RELATION OF THIS ACT TO STATE LAW

SEC. 11. Except as provided by section 12, State law is not preempted by this Act.

SEC. 12. State law is modified to the extent that there may be no express disclaimer of implied warranties if any performance guaranty is given.

SEC. 13. Remedies for breach of implied warranties may be limited, liquidated, or contractually modified in accordance with applicable provisions of State law.

SEC. 14. Nothing in this Act shall be construed to limit implied warranties to durations coincidental with express performance guarantees.

FEDERAL TRADE COMMISSION

SEC. 15. (a) The Federal Trade Commission shall establish such trade regulation rules as it shall determine are necessary for implementing sections 2–10 of this Act.

(b) It shall be a violation of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)) for any person or corporation subject to the provisions of this Act to fail to comply with any requirement imposed on such person or corporation by or pursuant to this Act or to violate any prohibition contained in this Act.

(c) Nothing in this section shall be construed as impairing the rights of owners, to seek, individually or as a class, any remedy available for any breach of any duty imposed by law.

REMEDIES

SEC. 16. Congress hereby declares it to be its policy to encourage guarantors to establish procedures whereby consumer disputes related to performance guarantees are fairly and expeditious settled through informal dispute settlement mechanisms. Such informal dispute settlement procedures should be created by guarantors in cooperation with independent and governmental entities and should be supervised by some governmental or public body.

SEC. 17. Any owner, individually or as a class, may sue in any United States, State, or District of Columbia court of competent jurisdiction for any breach of a performance guaranty.

SEC. 18. The guarantor shall be liable to the owner for any breach of a performance guaranty and shall be under a duty to perform as required under this Act and to compensate the owner for all reasonable expenses incurred by the owner because of the guarantor's initial failure to perform.

SEC. 19. If any owner shall finally prevail in any suit or proceeding involving a performance guaranty, he shall be allowed to recover as part of the judgment a sum equal to the aggregate amount of cost and expenses (including attorneys' fees) determined by the court to have been reasonable incurred by such owner for or in connection with the institution and prosecution of such suit or proceeding.

EFFECTIVE DATE

SEC. 20. This Act shall take effect six months after the date of its enactment.

Mr. MOSS. Mr. President, I am pleased to join my distinguished colleague from Washington (Mr. MAGNUSON) in introducing the Consumer Products Guaranty Act, a bill to provide minimum standards for guarantees covering consumer products which have electrical, mechanical, and thermal hazards.

As chairman of the Subcommittee for Consumers of the Senate Commerce Committee I daily receive complaints from American consumers. Many letters often register consumer frustration—almost disgust—resulting from experiences with unreliable products whose guarantees are worthless or whose repairs are ineffectual. The following excerpt from a recent letter is typical:

MEQUEN, WIS.,
*October 17, 1969.*

DEAR SENATOR MOSS: The following is another "tale of woe" regarding shabby treatment of a consumer:

1. In April of 1966, we bought a new home, which, among other things, contained a new . . . dishwasher.

2. For two years, we gave this machine normal (two-three loads per day) usage and then it began to fall apart starting in April of 1968.

3. In the next 16 months, we had to pay for:

a. a new water valve
b. a new main control system
c. another water valve
d. a new safety switch for the door

Total cost $91.95.

So here we are with a three-and-one-half-year-old dishwasher, $112.94 in repairs, two rusting racks and a great sense of being "had."

Sincerely,

JAMES M. GUINAN.

The letters received are not of the "crank" variety. They are not from the poor and discontented by and large. In the last 3 weeks I have received two letters from irate owners of Cadillacs complaining about the problems they have been having with their recent purchases. One Cadillac owner enclosed a detailed time sheet showing how he had spent 30 hours over the last 3 months trying to get "an uncomfortable and distracting rhythmic vibration" out of his car. I wonder how much that time was worth to him?

The following excerpts from a letter written by a retired Army colonel are also instructive:

OCTOBER 7, 1969.

DEAR SENATOR MAGNUSON: Understanding that your esteemed committee plans to inquire into the subject of product warranties I beg to submit this brief report and documentation on my experience with a . . . warranty for your consideration.

When it is realized that the replacement cost of a picture tube amounts almost to one-half of the original cost of the set, and that the unit without a serviceable tube has no resale or turn-in value, the public risk seems disproportionate to the warranty . . . for only one year.

While I do not plead any such distressing impact, I do think that probably a large number of purchasers, who stretch family budgets to enjoy this refined entertainment, may be hopelessly subjected to a total loss of original investment by being unable to meet this enormous tube replacement cost . . .

Sincerely yours,

GAYLORD B. KIDWELL.

ARLINGTON, VA.

In my opinion, product reliability legislation is desperately needed to protect the consumer's rights. The American consumer has the right to purchase a reliable, high-quality product. Unfortunately, in today's society of planned obsolescence and elusive promises, no individual consumer is able to exercise that right.

"Let the buyer beware." That seems to be the attitude of manufacturers, even though they know full well that the typical consumer is in no position to evaluate the intricate maze of gadgetry involved in today's appliances, much less ascertain a product's reliability potential.

"If you want a more reliable product, pay more" these industrialists urge. Well, the recent recall of a batch of Rolls Royce cars certainly explodes the "pay more for reliability" myth.

Warranties and guaranties at the present time often mean nothing. They too often serve to limit rather than expand the obligations of manufacturer and retailer. Of course, honest disclosure in warranties and guarantees helps the situation, but more technical honesty in disclosure is nowhere near enough to protect the consumer. This is why I strongly support the Consumer Products Guaranty Act which standardizes guaranties so that no manufacturer or retailer can relieve himself of the fundamental burden of standing behind a guaranteed product.

For those who scream that such legislation would make the cost of many products prohibitive, I say let the consumer know the real cost of a purchase at the time he makes it. He is entitled to that in my opinion. A standardization of guaranties, in some ways, is the other side of the truth-in-lending coin. The consumer should know what the costs of the product he is purchasing are—not only should he know what his finance and interest costs are, he should also know how much product reliability will cost.

I look forward to participating in hearings on the bill introduced today by Senator MAGNUSON and cosponsored by me. I believe that such a bill—refined in the legislative process—is a consumer priority in the 91st Congress. I pledge that I will work hard to see that such legislation is given careful consideration.

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## SENATE CONCURRENT RESOLUTION 43—SUBMISSION OF A CONCURRENT RESOLUTION ON RED CROSS PRISONER OF WAR DECLARATION

Mr. McGOVERN. Mr. President, last month representatives of 77 governments and 91 national Red Cross societies attended the quadrennial International Conference of the Red Cross, in Istanbul.

On the agenda of the convention was a resolution proposed by the American society, urging a renewed commitment to the benefits and protections owing to prisoners of war under the Geneva Convention. The resolution was adopted unanimously, with the hope that all governments be thereby persuaded that the mistreatment of prisoners of war lends no support to the political and military causes they espouse.

Mr. President, this effort merits the strong support of the American people

and their elected representatives. We have a special stake in the international standards for treatment of prisoners of war.

Our military involvement in Southeast Asia has produced over 400 known American prisoners, with another 900 missing and believed captured. And, in violation of the 1949 Geneva Convention, the Government of North Vietnam has refused to provide the names of American prisoners and to permit the flow of mail between prisoners and their families.

This is a matter which has nothing to do with the wisdom of U.S. policies in Vietnam. No American, irrespective of his views on the war, can condone the North Vietnamese handling of prisoners of war.

With an emphatic endorsement of the Red Cross declaration, I think we can make it clear to Hanoi that their continued mistreatment of prisoners of war can only result in public contempt for North Vietnam and in a stiffened U.S. attitude toward possible negotiations or withdrawals.

To this end, I am submitting a concurrent resolution making it the sense of the Congress to approve and endorse the resolution adopted at the 21st international conference of the Red Cross.

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

The concurrent resolution (S. Con. Res. 43) which reads as follows, was referred to the Committee on Foreign Relations:

S. CON. RES. 43

*Resolved by the Senate (the House of Representatives concurring)*, Whereas the 31st International Conference of the Red Cross has approved the following resolution: "Recalling the Geneva Convention of 1949 on the protection of prisoners of war and the historic role of the Red Cross as a protector of victims of war;

Considering that the Convention applies to each armed conflict between two or more parties to the Convention without regard to how the conflict may be characterized;

Recognizing that, even apart from the Convention, the International community has consistently demanded humane treatment for prisoners of war, including identification and accounting for all prisoners, provision of an adequate diet and medical care, that prisoners be permitted to communicate with each other and with the exterior, that seriously sick and wounded prisoners be promptly repatriated, and that at all times prisoners be protected from physical and mental torture, abuse and reprisals;

Requests each party to the Convention to take all appropriate measures to ensure humane treatment and prevent violations of the Convention;

Calls upon all parties to abide by the obligations set forth in the Convention and upon all authorities involved in the armed conflict to ensure that all uniformed members of the regular armed forces of another party to the conflict and all other persons entitled to prisoner of war status are treated humanely and given the fullest measure of protection prescribed by the Convention; and further calls upon all parties to provide free access to the prisoner of war and to all places of their detention by a protecting Power or by the International Committee of the Red Cross; and

Whereas efforts to improve treatment of prisoners of war merit support of all men of good will: Now, therefore, be it resolved by the Senate (the House of Representatives concurring), that it is the sense of the Congress of the United States that—

To approve and endorse the resolution adopted at the 21st International Conference of the Red Cross, to ensure humane treatment of prisoners of war.

## TAX REFORM ACT OF 1969—AMENDMENTS

AMENDMENT NO. 254

Mr. MOSS. Mr. President, on behalf of myself and Senators CANNON, CRANSTON, DODD, GRAVEL, GURNEY, HARRIS, HART, HOLLINGS, HRUSKA, INOUYE, MAGNUSON, MATHIAS, MCGEE, MONDALE, NELSON, PACKWOOD, PELL, PROXMIRE, SCOTT, STEVENS, THURMOND, HARRISON A. WILLIAMS, YARBOROUGH, and STEPHEN YOUNG I submit an amendment to H.R. 13270, the Tax Reform Act of 1967, which should correct the unfairness of the withholding provisions toward students. This amendment will permit students to have their withholding rates set on the basis of their total expected income rather than the present formula which assumes that they will be employed full time the year round.

Many students, of course, are employed only during the summer, but their withholding rates are based on a year-round income. Thus many students have much more withheld from their paychecks than they will eventually owe in taxes. Yet they must wait until the next year before filing for a refund.

Many students need the money in the fall and should not, in any event, be forced, in effect, to "lend" the Government their money interest free.

To qualify under this amendment, a student would have to file a certificate with his employer certifying that he is a student. The certificate would also contain a statement of the student's expected total wages for the taxable year. The Secretary of the Treasury would have the authority to prescribe regulations concerning this certificate.

I ask unanimous consent that the amendment be printed in the RECORD.

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

The amendment (No. 254) was referred to the Committee on Finance, as follows:

At the proper place insert the following new section:

"SEC. —. WITHHOLDING OF INCOME TAX IN THE CASE OF STUDENTS

"(a) WITHHOLDING BASED ON EXPECTED WAGES FOR TAXABLE YEAR.—Section 3402 (relating to collection of income tax at source) is amended by adding at the end thereof the following new subsection:

"'(n) SPECIAL RULE FOR STUDENTS.—

"'(1) WITHHOLDING BASED ON EXPECTED TOTAL ANNUAL WAGES.—In the case of an employee who—

"'(A) files with his employer a certificate that he will qualify as a student (as defined in section 151(e)(4) for his taxable year, and

"'(B) sets forth in such certificate the total amount of wages which he expects to receive from all employers during his taxable year,

the amount of tax required to be deducted and withheld under this section upon the wages paid by such employer to such employee for each payroll period during such taxable year shall be the amount which would be required to be deducted and withheld if the amount of wages paid by such employer for such payroll period were the payroll-period equivalent of the total amount of expected wages set forth in such certificate.

"'(2) CERTIFICATE.—A certificate filed under paragraph (1) shall be in such form and contain such information, and shall be filed subject to such terms and conditions, as the Secretary or his delegate may prescribe by regulations.'"

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to wages paid on or after the first day of the first month which begins more than 30 days after the date of the enactment of this Act."

AMENDMENT NO. 255

Mr. MCGOVERN (for himself, Mr. BURDICK, Mr. BAYH, Mr. NELSON, Mr. METCALF, Mr. YOUNG of Ohio, and Mr. MONDALE) submitted an amendment, intended to be proposed by them, jointly, to the bill (H.R. 13270) to reform the income tax laws, which was referred to the Committee on Finance and ordered to be printed.

## CALIFORNIANS KILLED IN THE VIETNAM WAR

Mr. CRANSTON. Mr. President, between Monday, October 20, 1969, and Friday, October 24, 1969; the Pentagon has notified eight more California families of the death of a loved one in Vietnam.

Those killed were:

Sp5c. Allen B. Cecil, son of Colonel and Mrs. Thomas J. Cecil, of Edwards Air Force Base.

Pfc. Alan T. Gee, son of Mr. and Mrs. Richard H. Gee, of Baldwin Park.

Pfc. Dennis W. Kipp, son of Mr. and Mrs. Georgie Shoudy, of Fallbrook.

Pfc. Timothy E. Larmon, son of Mr. and Mrs. Elton W. Larmon, of Santa Paula.

Pvt. William A. Ruddan, son of Mr. and Mrs. Andrew W. Ruddan, of Dublin.

Sgt. Valentine B. Suarez, husband of Mrs. Virginia B. Suarez, of Vista.

Pfc. Clyde W. Van Valkenburg, Jr., son of Mr. and Mrs. Clyde W. Van Valkenburg, Sr., of Tulare.

Lt. Comdr. Paul E. Wall, husband of Mrs. Joan M. Wall, of Valley.

They bring to 3,847 the total number of Californians killed in the Vietnam war.

The ACTING PRESIDENT pro tempore. Is there further morning business?

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

## FOUNDATIONS

Mr. CRANSTON. Mr. President, just a few years ago, our children and grandchildren were miraculously freed from the terrible scourge of polio that had

wracked and worried our own generation and centuries of generations before us.

Remember how relieved and thankful we parents and grandparents felt at the time?

Remember, too, how there were signs of relief among our children, who felt that one of the many, many threats to their sense of security had vanished?

And remember how we felt especially grateful to the young genius who developed the vaccine that had made the miracle possible?

But while we were thankful to Dr. Jonas Salk, he, in turn, was giving much of the credit for his success to philanthropy.

Dr. Salk told the Senate Finance Committee just this month that he was able to succeed only because of "the American system of private philanthropy." He said the foundation grants he received enabled him to work in ways "that would not have been possible" if private philanthropy did not exist and he either had to do without or depend solely on Government tax money.

Actually, he went even further. He said that, in many ways, Government was more of a hindrance than a help to him when he was engaged in the work that led to his great discovery.

Now Dr. Salk is engaged in new research in California that may lead to the conquest of cancer. This work, too, is being made possible only by philanthropy, through our American system of foundations.

Speaking of the achievements of others, Dr. Salk told the Finance Committee that private philanthropy and private foundations also provided the freedom and the funds that led to man's victories over yellow fever, influenza and measles.

Now this very American system of private philanthropy is under attack. Its future is seriously endangered by the tax bill recently passed by the House of Representatives and now before the Senate Finance Committee.

The bill contains many necessary reforms, but I believe there is reason for grave concern over the provisions dealing with charitable gifts and nonprofit, private foundations.

Fortunately, our Senate Finance Committee, under the leadership of its exceptionally able chairman, Senator RUSSELL LONG, has devoted a great amount of attention—considering the time pressures it is working under—to this aspect of the House bill. Happily, the Senate committee has modified the House provisions relating to the taxation of appreciated gifts to charity.

While the House version of the Tax Reform Act would require the inclusion of the appreciated value of a charitable gift in a taxpayer's income, the Senate Finance Committee would require that only half of the appreciated value of such gift be included in a taxpayer's income.

The committee also has removed gifts of future interest in property from the type of property to which the appreciation rules apply.

There are all too many proposals in the House bill that, ostensibly intended to help the taxpayer, would actually cost the American taxpayer a great deal of money while setting back a unique American tradition—private, charitable giving.

The pending tax bill constitutes a punitive rather than a reform approach to foundations.

Taxes should not be used for punishment. Nor should they be used to impose conformity of views.

I believe private foundations, as private enterprises, should not be unduly restricted. Foundations form an essential part of the private sector in a free society. Their growth and creativity should be encouraged by the Government, not thwarted.

National philanthropic institutions pioneer in the public interest in medical research, foreign area studies and foreign aid, population control, agricultural modernization, urban development and revitalization, and the ever-widening field of educational innovation and enrichment.

Government is unable to do much of what private foundations have done and can do.

In fact, foundations often finance projects which the public sector cannot, or should not—or sometimes even dare not—undertake at a particular time.

Undue, unwise restrictions on foundations could mean that much-needed work of a public nature would be left undone altogether.

The restrictions would also mean that Government—at the taxpayer's expense and at the cost of creativity and diversity—would soon be doing, within the scope of its limited abilities to do these things, some of the things now done and paid for by foundations.

The proposed tax of 7½ percent on foundation investment income would inevitably increase public dependence on direct Government support in areas where individual, family, and corporate foundations now contribute so much.

Foundations spend many millions of dollars every year on academic, scientific, and social advances, thus saving the Government vast sums.

But the less private money foundations can supply, the more public money will be required from Government.

All this is folly.

Thirty percent of foundation money today goes into higher education. Foundation matching grant projects have attracted huge private sums to the support of curriculum reform, science building construction, and higher faculty salaries.

Often the Federal Government itself has required matching grant money from private foundations before granting aid to universities and colleges.

But the Federal Government cannot bring about the change we need on the campuses of our Nation. The last thing we want is Federal interference and intervention in our schools. We know how likely it is that the following step would be domination of State and local education by Washington. Yet the new tax bill, by cutting off private funds from education, will result in greater demand on the Government for more money, and greater and greater dependency by education upon Washington.

Also hit, and hit hard, would be the already overburdened property owner who traditionally finances education at the State and local level. The California taxpayer already contributes a third of his tax dollar to education. How much more can we load on him?

A vast variety of services are now provided by voluntary charities to hundreds of thousands of orphans, emotionally disturbed and retarded children, the aged, individuals, and families needing counseling or medical attention. Charities support beneficial educational, cultural, and recreational activities. They work on behalf of civil liberties and the rights of minorities.

But 85 of the country's most generous philanthropists have told the Finance Committee that the tax bill would force them to cut their charitable donations in half.

What would happen then? Obviously, the burden of supporting charitable activities would shift from voluntary contributions to Government subsidies.

Charitable gifts should be encouraged, not discouraged. Tax incentives for philanthropy are not loopholes benefiting only the taxpayer. They reflect the American commitment to voluntary support of welfare, health, and educational programs.

Because they are discretionary expenditures, charitable contributions are constructive, unselfish acts of citizenship designed to help other human beings.

Taxing charities would not only add to the Government's financial burdens, it would severely reduce citizen participation in welfare programs. That would be a particularly unfortunate development at this time, when the administration is advocating, and community leaders across our land are seeking, increased voluntary citizen efforts in various activities at the local level.

The new tax bill also threatens a hallmark of our society—freedom and diversity—by stifling foundation experimentation and pioneering with the daring, the new, the imaginative.

The pending measure, for instance, would bar foundations from attempts to influence legislation directly or indirectly.

The foremost problem with this is the difficulty of defining what constitutes "influencing legislation." The proposed restriction is too broad, too uncertain, too vague. It raises substantial threats to first amendment guarantees of freedom to publish, to speak, and to petition the Government.

Prohibiting foundations from any attempt to influence legislation through an attempt to affect the opinion of the general public or any segment thereof could very well put out of business many eminent and worthy institutions that have measurably contributed over the years to political, economic, and social research which has wisely and constructively affected vital legislative decisions: Institutions like the world-famous Brookings Institution in Washington, D.C., or the Hudson Institute of New York, headed by Herman Kahn.

The citizens conference on State legis-

lators, funded by industrial foundations like Sears, Roebuck along with 12 private foundations like Ford, Carnegie, and others, has appreciably advanced the modernization of State government.

The California Legislature, for example, has taken the lead in implementing reform measures recommended by the conference. The conference has been the prime source of support for approximately 15 citizens' commissions seeking to strengthen their legislatures.

In 40 of our 50 States, the conference has built a constituency for legislative reform.

Much of its work involves marshaling public interest in reforms of State legislatures through press conferences, magazine articles, and reports.

The whole purpose of the conference is to strengthen government at the State level. The language of the House tax bill would presumably prohibit the work of the conference.

The Carnegie Foundation now sponsors a $210,000 project exploring how 13 cities in the San Gabriel Valley can share a complex, expensive computer system. Carnegie people met repeatedly with city officials to work out design and personnel training, and to advise them on problem solving.

Government simply does not have the money for this kind of experiment; foundations do. If the project works, it will establish a pattern for other cluster cities throughout the United States. Yet it may now be aborted as an attempt to influence public officials.

Public television is an important need in California, as it is throughout the country. Private foundation grants, especially from the Ford Foundation, have been vital to the experimental programming of educational television stations in Los Angeles and San Francisco.

This important project may have to be discontinued under the tax proposal.

Similarly endangered is NET's new "Children's Television Workshops," which will combine education and entertainment. Foundations conducted the research for this new approach to TV that will show no violence, and that will carry commercials designed to teach children the alphabet and how to count and reason logically.

This project, too, will be unlikely to survive if the present text of the tax measure is not changed.

If the foundations, in John W. Gardner's words, are instruments of "private initiative for the public good," the fine name and effectiveness of the majority of those who diligently carry out their mandate must not be undermined by the few who betray their trust through bad management or unscrupulous exploitation of personal tax advantages.

The Government should keep an eye on what foundations do, of course.

The Nixon administration has recommended a 2-percent supervisory charge to finance tightened Government audits and regulations of foundations. This is a reasonable regulation. It would do no damage. In fact, it could be invigorating. I believe most foundations will favor, and will benefit from, a form of better auditing by the Internal Revenue Service.

Government monitoring is completely compatible, however, with self-policing by the foundations, along with referral to Government agencies of any foundations found in violation of the law.

Potentially of great value, too, would be the denial of public accreditation to a foundation failing to satisfy codes of ethics and procedures established by the foundations themselves, working together.

Such a code, first recommended 5 years ago by Mr. F. Emerson Andrews, then president of the Foundation Center, would oblige all foundations to make full public disclosure of their assets and activities. Many major foundations already are doing this. Some do not. All should.

This policy would strike at shoddy management of foundation funds. It would expose profiteering and personal aggrandizement through improper or badly supervised grants.

The accreditation system has long been applied with considerable success to the Nation's schools, colleges, and universities. There have been flaws, of course. But imperfections are inevitable in any policing system, whether private or public.

Surely, in the long run, continuing scrutiny by a better informed public plus self-policing by a joint committee of well-informed foundation experts and independent, public-spirited citizens can best assure foundations that their record of contributing so much to social progress will not be spoiled by selfish, fraudulent defilers.

Some people have likened foundations in our society to army scouts who probe unfamiliar territory and thus protect the main body of troops from the dangers of plunging blindly into the unknown, and perhaps suffering great loss.

I like to think of foundations as a form of philanthropic federalism, testing, probing, experimenting, scouting out untried ground so the rest of us might safely follow.

It would be a serious mistake, indeed a terrible loss, if, because of the sins of a few, we were to punish all foundations.

We need them too much for that.

The stakes are very high.

To dampen nonprofit foundation initiative could seriously threaten the autonomy, vitality, and quality of the controversial and often risky tasks of searching for an unknown truth, of helping others help themselves at home and abroad, of unlocking the mysteries of medical science, and of training each oncoming generation to build a stronger, more far-reaching society.

## DECLARATION THAT CERTAIN FEDERALLY OWNED LANDS ARE HELD BY THE UNITED STATES IN TRUST FOR THE INDIANS OF THE PUEBLO OF LAGUNA

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 210.

The legislative clerk laid before the Senate the amendment of the House of Representatives to the bill (S. 210) to declare that certain federally owned lands are held by the United States in trust for the Indians of the Pueblo of Laguna, which was, on page 4, line 6, strike out "while" and insert "which".

Mr. MANSFIELD. Mr. President, on August 13, the Senate passed S. 210, declaring that the United States holds approximately 1,016 acres of excess federally owned land in trust for the Laguna Pueblo in New Mexico.

In the printing of the bill as reported to the Senate, a typographical error was made on page 4, line 6, the word "which" being printed as the word "while". This printing error was noted by the House, and the correction has been made. This in no way alters the bill, its intent, or its purpose, and I move that the Senate concur in the House amendment.

The motion was agreed to.

## ORDER OF BUSINESS

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

## PROGRAMS OF IMMUNIZATION AGAINST GERMAN MEASLES

Mr. KENNEDY. Mr. President, last week the Senate unanimously approved S. 2264, the Communicable Disease Control and Vaccination Assistance Amendments of 1969. The bill is a measure of major significance in our continuing efforts to eradicate infectious disease from the Nation, and I am hopeful that it will soon be enacted.

One of the important factors behind the strong support for the bill in the Senate was the awareness of the need for additional Federal financial assistance for an intensive immunization campaign against rubella, or German measles as it is commonly called.

In recent months, medical experts have increasingly warned of the prospect of an epidemic of German measles in 1970, 1971, or 1972. Today in the United States, it is estimated that 50 million children and women of child-bearing age are unprotected against this disease. Unless a massive nationwide immunization is undertaken at the earliest opportunity, thousands of American children will be born blind, deaf, or with severe heart disease or mental retardation because their mothers contracted the disease during pregnancy.

Mr. President, yesterday the Washington Post published a significant article written by William Hines, of the Chicago Sun Times, on the current state of our preparations to combat the anticipated German measles epidemic. Mr. Hines reports that in most parts of the United States preparations are being hindered because of lack of funds in the current fiscal crisis. I am pleased to note that the District of Columbia is one of the few places in the Nation where an

adequate immunization program is underway, but I am distressed to hear that at this late date preparations are inadequate in many other parts of the Nation.

Mr. President, the communicable disease control and vaccination assistance amendments recently approved by the Senate are designed to provide the sort of Federal assistance that is needed if our vaccination campaign against German measles is to be successful. I believe that Mr. Hines' article helps to demonstrate the need for such legislation. I ask unanimous consent that it be printed in the RECORD.

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

GERMAN MEASLES MAY RAMPAGE

(By William Hines)

Thousands of American women may bear dead, deformed or retarded children in 1972 because a nationwide immunization campaign against rubella ("German measles") is not getting off the ground, except in a few states, New York City and the District of Columbia.

Plans to vaccinate an estimated 40,000,000 children between now and early 1971 have been shelved, and public health officials who a year ago sounded alarms about the consequences of another rubella epidemic like that of 1964 are now applying the soft pedal.

An estimated 20,000 babies were born with brain damage and at least an equal number were crippled or stillborn after their mothers contracted rubella in the early months of pregnancy during the outbreak. Health authorities had hoped to avert or at least blunt the effects of the next big epidemic of this cyclic disease in 1971 through an immunization campaign equal in scope to that against polio.

A vaccine was cleared for use by the U.S. Public Health Service earlier this year after a series of tests, trials and scientific huddles carried out in an atmosphere of urgency. Then—just about the time the first big push for mass vaccinations should have begun at the start of the fall school term—things started to slow down.

The basic reason seems to be the economy drive that is touching virtually all non-military echelons of the federal government, although administration officials deny that this is the case.

Dr. James H. Cavanaugh, assistant secretary for health in the Department of Health, Education and Welfare, even denies that the program is slowing down. "I think it's moving right along," Cavanaugh said this weekend. "We're going along right on schedule."

But subordinates responsible for carrying out the immunization program acknowledge that it is lagging and that money is at the root of the problem. An official of the Public Health Service's National Communicable Disease Center was asked whether financial restrictions were not posing an otherwise avoidable peril to thousands of children yet unborn.

"I don't think you can argue with that," he replied. "It's obvious that if you had the money you could do a whole lot to cut way down or even eliminate rubella."

Because of the insidious way German measles works on the unborn, a strategy was carefully devised to wipe out the "pool of infection" carried by pre-school and school-age children. Women of child-bearing age and adolescent girls old enough to conceive would not receive the vaccine.

Guidelines to this effect were distributed to health agencies and private doctors throughout the United States, and all indications were that the federal Public Health Service would follow through with a massive educational campaign like that organized by the National Foundation Against Polio in the 1950s and early '60s.

This educational barrage has not materialized, however, and expenditures that the Public Health Service hoped last year might top $50,000,000 have been held below $20,000,000.

"We couldn't spend $50,000,000 if we had it," Cavanaugh now asserts. "There isn't nearly the amount of vaccine we would need, we haven't got the personnel to administer it, and anyway this isn't something where you can line up kids and distribute it like Sabin vaccine in a sugar cube."

Precisely the things that Cavanaugh now says could not be done were being planned a year ago, with the difference that the vaccine would be administered subcutaneously by pressure gun rather than orally.

As far as availability of vaccine is concerned, there is also controversy. The drug industry says it could produce all the vaccine needed for a 40,000,000-unit campaign over the next 18 months, if only the government would issue additional licenses.

The only approved vaccine at present is prepared by Merck, Sharp and Dohme from virus grown on duck embryo. M, S and D has a production schedule of 18,000,000 doses by May, 1970, with a monthly production rate of 2,000,000 doses thereafter. By the end of 1970 at this rate this single supplier could turn out 80 per cent of the vaccine needed for the campaign.

The other drug makers stand ready to produce vaccine as soon as another type nurtured on dog kidney is licensed. One of these, Philips Roxane Laboratories, is said to have a production capacity equal to Merck, Sharp and Dohme's.

The federal government has acquired only 1,200,000 doses to date and apparently has decided to let private doctors have first crack at the vaccine.

This will help individual families to pay for shots, but will not go far toward giving the kind of protection the rubella vaccine is intended to give. Not children now living but their unborn brothers and sisters are the principal beneficiaries of rubella immunization.

In the view of most public health experts, the only way to wipe out rubella is through a universal, free program of shots. Doctors will probably charge $10 for an office visit with rubella immunization; even a large medical co-operative here with 50,000 members says it must charge $4.10, a price many low-income families cannot afford.

According to drug industry sources, only four states and two cities have "full-fledged programs" to immunize children against rubella. These are New Hampshire, Michigan, Massachusetts, New Jersey, New York City and Washington, D.C. In all these jurisdictions, including even the national capital, federal funds have provided only partial support.

The District Public Health Department will begin vaccinating kindergarteners through sixth graders in public and parochial schools Nov. 3. The Merck vaccine will be administered in the upper arm by jet injection. It is expected that at least 80,000 children will be immunized during a three-week period.

Evening clinics will be opened later to permit parents to bring children from one year to pre-school age for vaccinations. The health department allocated $100,000 and personnel for the program. The U.S. Public Health Service added $50,000 to purchase vaccine.

Virginia families will have to wait for free shots or else patronize private physicians. The whole state's allotment would barely cover all the children living in Northern Virginia alone, an Arlington health official explained.

Maryland is in a similar situation. With about 300,000 kindergarteners through third graders the state has an allocation of only about 70,000 doses of vaccine. It is being left up to individual counties to finance the purchase of additional vaccine.

Because of the mobility of the American people, most specialists in epidemic-fighting believe it is impossible to stamp out a national scourge with piecemeal statewide or regional programs.

To date the federal government has allocated $19,200,000 for the rubella campaign and has earmarked $6,800,000 more that will become available when and if Congress appropriates it.

## THE OCEANS, MAN'S LAST GREAT RESOURCE

Mr. FULBRIGHT. Mr. President, the distinguished Senator from Rhode Island (Mr. PELL) has written for the Saturday Review of October 11 an article entitled "The Oceans, Man's Last Great Resource." Senator PELL has given a great deal of study to the subject of oceans, and his article is extremely well written and informative. I ask unanimous consent that it be printed in the RECORD.

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

[From the Saturday Review, Oct. 11, 1969]

THE OCEANS—MAN'S LAST GREAT RESOURCE

(By Senator CLAIBORNE PELL)

After millenniums of exploiting and often destroying the riches of the land, man is now hovering acquisitively over the wealth of the oceans that cover three-quarters of the Earth. In the no man's land of the seabed, a scramble for minerals and oil, for new underwater empires secured by advancing armies of technology, could well set a new and wider stage of world conflict.

Even the most conservative estimates of resources in the seabed stagger the imagination of a world grown used to dire predictions of incipient famine and exhausted mineral resources. In the millions of miles of ocean that touch a hundred nations live four out of five living things on Earth. In the seabed, minerals and oil have been proved to exist in lavish supply. The oceans are a source of pure water and food protein; of drugs and building materials; even possibly a habitat for man himself and a key to survival for the doubling population on the land.

Man may yet learn to use a tiny fraction of this wealth. Unless international law soon determines how it shall be shared, that fraction alone could set off a new age of colonial war. Is the deep seabed, like the high seas, common to all, or is it, like the once wilderness areas on land, open to national claim by use and occupation by the first or the strongest pioneer? The question of what is to be done to regulate and control exploitation of the seabeds is no longer an exercise for academics and global thinkers. At stake is not just the prize of great wealth; pollution or geologic accident in the ocean deeps is no respecter of national boundaries.

A few years ago, "practical" men dismissed speculations about wealth in the sea as economic foolishness. It would never, they said, be economically profitable to exploit the seabeds no matter how great the riches to be found there. They underestimated the lure of gold as the mother of invention. Yet such pessimists may well be proved right in a fashion they did not anticipate. In these pioneer years of the ocean age, the damage done sometimes seems to exceed the benefit reaped. Beaches from England to Puerto Rico to California have been soaked in oily slime. Fish and wildlife have been destroyed. Insecticides, dispersed in the Rhine River, killed

fish and revived fears of other lethal legacies that may emerge from our casual use of waterways as garbage dumps. The U.S. Army, until deterred recently by a few alert legislators, was disposing containers of chemical agents in the Atlantic despite some predictions that severe damage to the marine environment could not be ruled out, because of either deterioration of the containers or unforeseen underwater accidents. The future disposal of increasing amounts of atomic waste is an unresolved problem. Millions of acres of offshore seabed have been leased for drilling. Largely in ignorance, we are tinkering with our greatest source of life.

The incredible magnitude of the oceans' resources can be measured by just one isolated example: the metal content of manganese nodules, for years a curiosity with no realizable value. One study of reserves in the Pacific Ocean alone came up with an estimate that the nodules contained 358 billion tons of manganese, equivalent, at present rates of consumption, to reserves of 400,000 years, compared to known land reserves of only 100 years. The nodules contain equally staggering amounts of aluminum, nickel, cobalt, and other metals. Most of these resources exist at great depths of 5,000 to more than 15,000 feet, yet within five to ten years the technology will exist for commercial mining operations, a development that will open to exploitation virtually unlimited metal reserves. Closer to home, the University of Wisconsin discovered a deposit of manganese worth an estimated $15-million in the shallow waters of Green Bay in Lake Michigan.

More familiar to most of us is the accelerated pace of offshore oil drilling that now extends more than fifty miles out to sea and accounts for 15 per cent of U.S. oil production. In the twelve years between 1955 and 1967, offshore production of crude oil increased from seven million to 222 million barrels. Estimates of known reserves of natural gas have more than tripled in the past fifteen years, and each advance of scientific exploration of the ocean beds brings to light new finds that would gladden the eye of the most hardened veteran of the California gold rush.

Perhaps the least developed resource, and one of critical importance to spiraling population figures, is the use of the seas for farming techniques or "aquaculture." Present methods of fishing can only be compared with primitive hunting with a bow and arrow; if fish were cultivated like livestock, the present world fish catch could easily be multiplied by five- or as much as tenfold. The production of protein concentrate and the distillation of fresh water are still experimental in an economic sense; there is no reason to believe that they too cannot become both useful and profitable. Aquaculture could also be applied to a variety of marine plant life.

Nor is the potential confined to what we can extract from the seas or the seabed. In crowded England, serious plans have been developed to build entire cities just off the coast. Offshore airports may solve the demand for large tracts of jet-age space near such large coastal cities as New York and Los Angeles. Some Americans, quick to take advantage of the legal confusion that reigns beyond coastal waters, have planned to build independent islands atop seamounts and reefs outside the three-mile limit. Indeed, a romantic notion, but one with, it is suspected, the more prosaic aim of avoiding the constrictions of domestic law concerning gambling and taxes. One such venture has been restrained by the courts on the grounds that the reefs and seamounts attach to the seabed on the continental shelf, and are, therefore, under U.S. jurisdiction. In another case, a year or so ago, the United Nations was presented with an application for permission to extract minerals from the bed of the Red Sea in an area fifty miles from the coastal states. The Secretariat dodged this thorny question, citing lack of authority to act.

Such claims are no longer isolated or frivolous. Much of the wealth of the oceans is now both proved and exploitable beyond that part of the continental shelf once considered to mark the practical limit of exploitation and national claims. This Pandora's box is as full of political hazards as it is of manganese. Parts of the Gulf of Mexico became such a forest of drilling rigs that an agreement was necessary to clear shipping lanes. This spring, the Dominican Republic granted a single oil concession covering some three-quarters of a million acres of offshore seabed, and many other small coastal nations are looking for an economic bonanza in the leasing of drilling rights. Under what safety and pollution regulations will such developments take place? How far out may any nation grant such leases or undertake such exploitation?

In short, diplomats and politicians who five years ago looked backward to the slow evolution of mining the sea and found nothing to engage their immediate concern have been overtaken, as is frequently the case in this day, by the less stately pace of technological change. If the know-how of ocean exploitation has gathered momentum of its own, the same cannot be said for any reasoned approach to orderly development under a regime of law.

Two years ago, faced with the prospect of orbiting weapons in the legal void of space, nations did agree on a treaty to limit the uses of outer space. Similar concern has not been so evident in the realm of ocean space, perhaps because people are so used to taking marine environment for granted.

A less charitable view might suggest that one of the inhibiting factors is the prospect of making a good deal of money, an incentive not present at the moment in space, except for the manufacturers of hardware here on Earth.

Yet, the oceans offer no less a fearsome stage for escalation of the arms race. The seabed already abounds with a multiplicity of sounding devices and other defensive technology. High "mountain" ridges in the ocean bed offer tempting sites for the deployment of nuclear weapons, and there is no reason why the Soviet Union and the U.S. might not soon be planning ABMs eyeball to eyeball on the Atlantic ridge. Thanks in large part to initiatives in the United Nations, the question of arms control in the seabed is under discussion at the Conference of the Committee on Disarmament in Geneva. Last spring both the Soviet Union and the U.S. offered differing proposals to ban the emplacement of weapons of mass destruction on the seabed; proposals that hopefully could forestall this new escalation of the nuclear race.

If the prospect of a new arms race on the ocean floor precipitated efforts to focus world attention on the problem, there is no lack of other and equally explosive possibilities for conflict. How far may the claims and undertakings of coastal states extend seaward? By whose permission, if any, is exploitation of the ocean deeps undertaken? Who is entitled to the proceeds, and who is to establish and enforce rules governing the safety of such exploitation? There have not been, as yet, any murders or muggings on the ocean floor. If there were, what law would apply? No one knows. The laws of the high seas, which have evolved over so many centuries of our coastal passage across their surface, are not wholly applicable by extension to the ocean floor.

In a study of the full range of our national interests in marine resources, made public early this year, a special Presidential Commission on Marine Science, Engineering, and Resources noted, rather matter-of-factly, that the threat of "unbridled international competition for the seas' resources may provoke conflict," and recommended a series of international agreements that would create new legal political frameworks for the exploitation of the mineral resources underlying the deep seas. There is no lack of proposals for such a regime; their specifics are as various as the magnitude of the interests involved.

As could be expected, the differences among nations reflect political power and geographic accident. In a letter to the Spanish ambassador in 1580, the first Queen Elizabeth of England wrote that "the use of the sea and air is common to all, neither can a title to the ocean belong to any people or private person, forasmuch as neither nature nor public use and custom permit any possession thereof." The Queen may have had in mind the Treaty of Tordesillas, signed a little more than a century earlier by Spain and Portugal, dividing all the world's oceans between them. That treaty did not survive the emergence of a superior naval power, and the Queen's views of freedom of the seas prevailed.

Four centuries later, the same dispute has been revived beneath the seas. There are those who would carve up the shelf and the seabed among the major maritime powers, and there are others who would insure freedom of the ocean beds beyond a narrow claim of national jurisdiction equivalent to the customary three-mile or twelve-mile claim of jurisdiction over territorial waters on the surface.

The three-mile limit claimed by the U.S. is the measure of a cannon shot in the eighteenth century. It may be regrettable that nothing so simple as a cannon shot was used to determine an equivalent measure on the seabed, since efforts to date—with more sophisticated standards—have only compounded the confusion that began in 1945 when the U.S., largely at the behest of the oil industry, unilaterally extended its sovereignty to include the bed of the continental shelf (that portion of the submerged land mass that extends at relatively shallow depths seaward, in some places for more than a hundred miles). Other nations followed, and in 1958 an international Convention on the Continental Shelf declared that a nation's jurisdiction over the shelf extends to a depth of 200 meters (about 650 feet) or "beyond that limit to where the depth of the superjacent waters admits of the exploitation of the natural resources." For coastal nations with extensive shelves, it was the most painless territorial conquest in history. Few then suspected that effective exploitation of resources would soon take place far deeper than 200 meters, or that the "exploitability" clause of the convention—as interpreted by the oil industry and others—would, in effect, grant a license to move in the ocean beds to the limits of a nation's power to defend its claims.

Strategic interest in what goes on in the seabeds off our shores further complicated efforts to decide whether our national interests would be best served by limited claims—as in the waters above—or by a more expansive goal. Yet the same rationale of maximum maneuverability, which is the basis of the jealously guarded right of freedom of the seas, argues equally strongly for a narrow claim of jurisdiction on the seabed. Beyond that narrow band, our own military, like their opposite numbers in the Kremlin, would prefer to trust to luck and muscle in making the best of all possibilities. The oil industry has no such dual interest; it wants to carry the flag as far as effective exploration permits.

And what of the small nations who believe, not unreasonably, that the riches of the seas should not be left up for grabs by the already rich and powerful?

It was this prospect, as well as the looming threat of a new weapons race, that two years ago brought forth two different proposals for

an international regime for the seabed. In the United Nations, the government of Malta introduced a resolution that would place the riches of the sea under international administration to be used for the benefit of mankind. In the U.S. Senate, I introduced a treaty, based in part upon the Treaty on Outer Space, and one that would, in my judgment, deal more realistically than does the Maltese proposal with the competing economic and political interests in ocean space.

Other detailed proposals have been made—by the National Petroleum Council at one end of the spectrum and by the Commission to Study the Organization of Peace, the World Peace Through Law group, and the Center for the Study of Democratic Institutions in Santa Barbara at the other. Neither of these opposing views, whether favoring unilateral action by the U.S. or advocating extensive internationalization of the seabed, is entirely practicable.

The oil industry advises a clubby agreement among the major maritime powers extending their jurisdiction by their own actions to the limits of their technological capacity for exploitation at least to that point where the continental slope meets the abyssal ocean floor. Such a claim would encompass most of the known wealth and would, they argue, neatly delimit the lines of jurisdiction and so insure maximum stability. What might happen in the event of the emergence of a powerful nonmember of the club is not clear, but history provides some clues. In advocating such an approach, the National Petroleum Council piously noted that it "is in the best interest of the United States whether or not it is in the best interests of the American oil and gas industries." So pleased is the industry with this act of statesmanship that the publisher of the *Oil Daily* felt impelled to comment editorially that "we rather doubt there is a record of a more high-minded, patriotic, and statesman-like position involving comparable interests in the whole range of the industrial economy."

Those proposals that advocate international administration of the resources of the sea, or of the profits from their exploitation, also suffer from practical defects, however useful their purpose may appear in theory. Only a few nations, most particularly the U.S., possess both the technology and the financial capability to proceed with the exploitation of the oceans. The financial risks and investments are enormous, and it is unlikely—and unreasonable—to expect that they would be assumed for altruistic purposes. It is clearly essential that any exploiting company be assured of security of tenure and the right to profits.

Adequate protection of economic incentive and investment security is not, however, irreconcilable with the thought that these resources should also provide some revenues for the common benefit of mankind. Ambassador Arvid Pardo of Malta once estimated that at the present rate of development, annual revenues could reach $6-billion by 1975, if a regime such as he proposed were established by 1970. His figures assume that the fees paid would be the equivalent of those now paid to national governments for offshore drilling leases, and that they would cover all exploitation beyond the relatively narrow confines of a 200-meter depth or a lateral distance from the shore of twelve miles. Such a sweeping concept of internationalization, is not likely to prove acceptable, but his estimate paints a tantalizing picture of the measure of funds that could be generated by licensing fees even on a much more limited scale.

Another practical defect in some of the proposals for international administration of the ocean beds, and one even closer to the bedrock of practicality in the present political climate of the world, is that it is simply not realistic to expect any great power to surrender to an international body control of a resource in which its national security interests are so substantially involved unless those interests are fully recognized and protected. Any international regime must be responsive to the realities of power or be doomed to failure.

Despite substantial and specific differences, most advocates of some international regime share a common purpose: to avoid an underseas land grab; to forestall a new nuclear arms race; to control marine pollution and, by extension, other actions that might upset the ecology of the oceans; and to insure some equitable distribution of the wealth for the common benefit of mankind. The same philosophy was stated earlier by President Johnson when he said, "Under no circumstances, we believe, must we ever allow the prospects of a rich harvest in mineral wealth to create a new form of colonial competition among the maritime nations. We must be careful to avoid a race to grab and to hold the lands under the high seas. We must ensure that the deep seas and the ocean bottoms are, and remain, the legacy of all human beings."

As a result of the initiative of Malta, the United Nations created a temporary, and now permanent, forty-two nation subcommittee of the General Assembly to deal with the seabed. Meetings of the subcommittee and its working groups have focused attention on the need to know more about our marine environment; gradually there has been a distillation of basic principles that seem essential to the orderly evolution of a body of law, however minimal. But it is evident that the sea that divides has yet to unite mankind, to paraphrase Longfellow. Except for occasional propaganda forays among the developing nations, the Soviet Union has taken the view that the least done, the better. Some Latin American states have made claims of jurisdiction extending out 200 miles on the seabed as they have also claimed a 200-mile territorial sea in the water above. Other small coastal nations, once in favor of internationalization, are now hoping to get richer quicker by leasing drilling rights off their coasts.

Technology, however, does not await the resolution of political differences, and we are fast approaching a point where the pace of exploitation may govern, rather than be governed by, sound political judgments. If there are, as seems likely, fewer risks in supporting at least a minimal international regime than in a wide-open scramble for control of the seas, it is necessary that we soon agree on some basic principles to serve as guidelines until a treaty can be negotiated.

First among these principles, and one that is embodied in the treaty I have proposed, is the recognition that the seas shall remain the heritage of mankind, open to all nations for peaceful purposes, and not subject to national appropriation by any.

To resolve the boundary problem, the treaty would set the limits of national jurisdiction at a depth of 550 meters or a lateral distance from the shoreline of fifty miles, whichever is greater. The depth measure encompasses most of the geographic shelf. The lateral measure assures those nations with little or no shelf, the security of determining what goes on in the ocean depths within that distance of their shores.

The treaty further proposes that exploitation of the seabeds beyond this limit be licensed by an independent international body to be established by the United Nations. Such a body would be constituted to reflect the realities of power and interest of the major nations. The World Bank is one example of an international body not directly under the aegis of the U.N. and in which both political power and technical expertise are adequately represented so decisions may be both informed and enforceable in terms of practical support. Licenses would be granted for extensive periods to insure security of tenure; the fees paid for the licenses would be used for an agreed international purpose.

Provision is also made in this treaty for the settlement of disputes by a panel appointed by the International Court of Justice, and the treaty draft also envisions an international sea guard, the equivalent of our Coast Guard, to which nations might contribute or lend research and scientific vessels for exploration and to supervise the observance of established standards of safety and pollution controls. Finally, the treaty proposes international regulation of the disposal of atomic waste.

In sum, the treaty provides a sensible and practical means of regulating a resource that is no respecter of national boundaries any more than are the air waves; it ensures a limit on national territorial claims as we have already done in Antarctica; it limits the nature of activities in an area of common danger as we have done in outer space; and it should, someday, become as unremarkable as all the many international agreements that now govern air traffic, maritime lanes, radio frequencies, international mails, and all the incidents of everyday living now taken for granted.

Perhaps most important, it assures incentive for development by technologically advanced nations, while making available a source of funds to benefit poor nations. If there is any single critical issue on this planet, it is not nuclear bombs or ABMs; it is the vastly greater explosive force of billions of men living ever closer to the edge of famine.

It is inconceivable that this last great resource of our planet should not ease the grip of poverty and hunger on much of the Earth. And how tragic it will be if a few centuries hence, these vast oceans that nourish life should become the instrument of our death, a not impossible end. Could those of our early settlers who first viewed the Great Lakes possibly imagine a day—a few short years in the sweep of history—when Lake Erie would become a lifeless testament to the unbridled depredations of men and machines? And, if they had foreseen such consequences, would they then have sought a rule of law to control the license of man? As we view the now abundant oceans around us, it is something to think about. The answers, one way or the other, may not be long in coming.

## COMMENT ON VIETNAM MORATORIUM

Mr. ALLEN. Mr. President, on October 17, 1969, the Montgomery Advertiser commented editorially on the elaborately staged and nationally promoted Vietnam moratorium celebration. The newspaper pronounced the affair a massive flop. The reasoning advanced in support of the conclusion is interesting and persuasive. I ask unanimous consent that the editorial be printed in the RECORD.

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

[From the Montgomery (Ala.) Advertiser, Oct. 17, 1969]

THE GREAT FLOP

The Boston businessman, who with divinity student Sam Brown conceived the Vietnam Moratorium Day, said he was delighted with the response.

Jerome Grossman, president of the Massachusetts Envelope Co., said: "We are overwhelmed . . . *We don't see how President Nixon can fail to change his policies.*"

Hold on, Grossman. The Associated Press, in a nationwide guess, said some 500,000 took part. In a later estimate, the highest we've seen, the AP said as many as 1,000,000 "may" have taken part.

Taking the higher guess, which would include the curious, those who showed up with no sympathy whatever for the movement, or those who merely came out for the "happening" or the entertainment, this was a pathetic turnout.

The moratorium was, by any numerical assessment, a flop, although the publicity build-up was masterful.

In a nation of more than 200,000,000, a half-million or even a million is the barest token. Dr. King's Washington March in 1968 attracted about 250,000—in a single city. The Woodstock folk festival in August attracted at least as many as AP's lower figure and approached, according to some figures, the higher estimate—counting all those who couldn't get near the pasture. And this too was in one location.

Grossman and Brown call it a mandate for Nixon. Ridiculous. More than nine times as many as AP's highest estimate went to the polls and voted for George Wallace last November, and George certainly didn't claim he'd won.

In all, more than 73,000,000 Americans voted last November. Do a few thousand kids, students, idlers, curiosity-seekers, draft-dodgers and the like speak for them? By what strange non-Euclidian mathematics is it that this small number—small in both individual city turnouts and the wildest national estimates—can conceivably be said to represent 200,000,000 Americans, some 122,000,000 of them of voting age?

It was a massive flop, despite all the feature attractions, the speakers, the entertainers, etc. We would have confidently predicted in advance that quite a few million would have massed across the nation. They didn't.

The result is inescapable—a backfire. The TV cameras and reporters didn't see the millions of Americans who went about their business and dismissed the whole thing in disgust. But if the number of those who bothered to put out flags at full staff, burned their headlights, or otherwise demonstrated their support of the Administration were counted, we believe even this number—a small portion of those who don't subscribe to surrender—would have vastly outnumbered the pacifists.

A great and powerful nation was more interested in the fate of the New York Mets than even bothering to tell the demonstrators to go fly a kite.

But saying that it was a bust, which it was, does not alter the fact that such crowds as did gather helped Hanoi immensely in its determination to yield nothing in Paris. The propaganda uses of the films will be evident all over the world to make it appear (falsely) that Americans have staged a mass revolution against their elected leaders.

This is a lie. But it may be a successful lie, because the skillful use of film clips of crowds can make it *appear* that an entire nation is up in arms against the Administration's policy.

Nothing could be further from the truth. Many of those who did turn out oppose immediate withdrawal or unilateral retrenchment without communist quid pro quos. Many who listened to speeches, and more who stayed at home, are sick of the war, but they are more nauseated by the demand for surrender.

Nixon has not been handed anything approaching a plebiscite to alter the course he has chosen, weighing all the risks and imponderables. On the contrary, he has been given a highly articulate, silent mandate to continue on course. He was given this by more than 199,000,000 Americans who *didn't* turn out for what was suggested by some wire services and newspapers, with reckless abandon, to be an overwhelming expression for immediate withdrawal.

It wasn't. It was a microscopic show in terms of numbers. Still, it served the communists well. It will almost certainly complicate Nixon's peace plans, and may well cost the lives of many more brave Americans.

But we hope the message is communicated to our fighting men: the surrender crowd gave a party and almost nobody came.

Those that did are hardly worth a moment's anger in Vietnam—except for the knowledge that they have made an honorable end more difficult and more distant.

## THE CASE AGAINST PREVENTIVE DETENTION

Mr. ERVIN. Mr. President, during the year in which the United States began its existence as a Republic, namely, 1789, Congress passed the Judiciary Act of 1789 and thereby established a practice which has prevailed throughout the intervening 172 years, namely, that all persons charged with noncapital crimes have an absolute right to be released on bail pending their trial and conviction. At the instance of the administration, a legislative proposal, which is designated as H.R. 12803 in the House and S. 2600 in the Senate, has been submitted to Congress asking that this 172-year tradition be abrogated and that courts be authorized to imprison persons charged with crime prior to trial and conviction if they are charged with specified crimes designated as either dangerous crimes or crimes of violence in case the court predicts that they may commit some crime if freed on bail.

Manifestly, this proposal, which is known as preventive detention, would authorize the imprisonment and punishment of persons for crimes which they have not yet committed and may never commit. It is not only repugnant to our traditions but handicaps an accused and his lawyer in preparing his case for trial and will result in the incarceration of many innocent persons.

If America is to remain a free society, it will have to take certain risks, such as the risk that a person admitted to bail may flee and the risk that a person admitted to bail may commit crime while free on bail.

Surely it is better for our country to take these risks and remain a free society than it is for it to adopt a tyrannical practice of imprisoning men for crimes which they have not committed and may never commit merely because some court may peer into the future and surmise that they may commit crimes if allowed freedom prior to trial and conviction.

On October 16, 1969, I was privileged to appear before Subcommittee No. 4 of the House Committee on the Judiciary and make a statement in opposition to this legislative proposal. I undertook at that time to state the case against preventive detention. I ask unanimous consent that the statement be printed in the RECORD.

Mr. KENNEDY. Mr. President, I believe that Senator ERVIN's analysis of the constitutional and practical dangers of the proposed legislation is so cogent that it should be brought to the attention of all concerned Americans. Accordingly, I join the Senator from North Carolina in asking unanimous consent that his statement be printed in the RECORD.

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

STATEMENT OF SENATOR SAM J. ERVIN, JR.

I wish to thank the Chairman of the Judiciary Committee and Chairman Rogers of this Subcommittee for inviting me to appear today at your hearings on H.R. 12806 and other proposals to authorize the preventive detention of alleged dangerous suspects awaiting trial. These measures trouble me greatly for I am convinced that they are unconstitutional and would initiate a dangerous and unfortunate policy in the administration of criminal justice.

Initially, I want to make it clear that I am deeply concerned about the crime problem in this country and about the safety of our law-abiding citizens. The increasing rate of criminal activity in our land is appalling. I am especially disturbed by the crime problems besetting us each day here in the District of Columbia. The existence of these problems, however, should not prompt Congress towards enacting unconstitutional and unwise and deceptively appealing legislation. Rather, it should provide us with the opportunity to make those difficult legislative decisions which are essential if our court and corrective systems are to cope with the demands of modern society.

Proponents of preventive detention legislation assert that it is the only realistic and efficient way to attack the problem of crime by persons free on bail while awaiting trial. In my judgment, the supporters of preventive detention are seriously mistaken in that assertion. Although it is difficult to obtain complete statistics, the available figures indicate that offenses committed by persons released on bail are approximately 6% of the total crime figure. In addition, well over half the crimes on bail are not committed until more than 60 days after release. While any crime by bailees is serious, we should recognize that only a slight portion of our overall crime problem can be attributed to those on bail. That portion could be substantially reduced by providing for speedy trial and by other measures which would not involve such drastic infringement of civil liberties as does this legislation.

Advocates of preventive detention generally attribute the need for preventive detention legislation to problems caused by the Bail Reform Act of 1966. Again, I am constrained to say that they are in error. As members of this Committee well know, the Bail Reform Act revised Federal bail law for the first time since 1789. Its purpose is to implement the two fundamental principles which have always been at the foundation of American bail law—first, that a criminal suspect shall be released pending trial unless there are good reasons to believe he will flee rather than appear for trial; and second, that a person's financial inability to post monetary bond shall not preclude his right to pretrial release. These principles constitute the American ideal of bail—one which we have always sought but had never achieved until 1966. We should not recklessly repudiate these principles by enacting a preventive detention law.

In fairness to the members of the Senate and the House who worked diligently for the Bail Reform Act, I should point out that the Act has not made the problem of crime on bail any more acute nor increased the danger to our law-abiding citizens. A D.C. Crime Commission survey prior to passage of the Bail Reform Act of 1966 showed a reindictment rate among those on bail of 9.2%. No reliable reindictment statistics since the Act was passed reflect a percentage any higher than that, and most show rates of under 5%.

The clamor for repudiation of the Bail Reform Act and for rejection of the constitutional right to pretrial release in non-capital cases rests on a handful of highly emotional

and highly publicized cases. Inflammatory statements have made it appear that this city's crime problem is wholly due to the Bail Act. It was suggested recently that pretrial imprisonment of a few offenders—between 300 and 800—will solve the city's crime problems and usher in the millennium. This is not so. Despite the claims, neither the Justice Department nor any other supporter has produced reliable figures which prove the need for preventive detention.

The Administration recently commissioned the Bureau of Standards to undertake for the first time a scientific study of the rate of crime on bail. All of us who are concerned about that problem anxiously await the outcome. That study is still unfinished. However, if the initial results are indicative of a trend, then the problem of crime on bail may be even smaller than anyone heretofore realized. I submit that this Committee should resist demands for precipitous action and demand instead hard evidence before it takes the serious step of recommending preventive detention.

I believe our search for a solution to the problem of crime on bail should begin with an acknowledgement of three facts. First, crime on bail, though the exact extent is uncertain, represents but a small part of the overall crime problem. Second, the problem, irrespective of its precise magnitude, could be substantially eradicated if trials were conducted between 30 and 60 days following arrest and release. Third, the Bail Reform Act of 1966 has been inaccurately and unfairly cited as the villain responsible for crime on bail. It is in that perspective that we should examine preventive detention and especially H.R. 12806 (S. 2600), the Administration's solution to crime on bail.

The Administration proposal would authorize judges to consider a defendant's "danger to the community" as well as the "likelihood of flight", in setting release conditions. If no condition of release is considered adequate to protect the community, the judge could order a detention hearing for defendants charged with a "dangerous crime" or a "crime of violence." To be subject to detention, the "crime of violence" must have been committed while on bail, probation, or parole, or within 10 years of a prior conviction of a crime of violence. Persons charged with "dangerous crimes" could be detained even if they had no prior record of involvement with the law. It has been estimated that the bill encompasses between 40 and 75% of all persons charged with felonies in Washington.

To order detention, the judge must find "clear and convincing evidence" that the defendant has committed a "dangerous crime" or a "crime of violence", that there is "substantial probability" of his guilt, and that no release conditions will assure the safety of the community. Right to counsel and other rights of an adversary criminal proceeding apply, except that the rules of evidence will not govern. Testimony of the defendant at the hearing may not be introduced later at trial, except for impeachment purposes and perjury and bail violation proceedings.

Detention is nominally limited to 60 days, but it can be extended indefinitely if the trial is in progress or if the defendant has asked for an extension. The detained suspect is given a series of severely qualified "rights"—he is to be confined separately from convicted criminals "to the extent practical;" he is to be given "reasonable opportunity" to consult with counsel; he may be released, in the custody of a U.S. Marshal, for the purpose of aiding his defense when he shows "good cause"; he is to be given an expedited trial "to the extent practicable."

Other provisions of the bill provide mandatory penalties for bail-jumping and for failure to appear at trial, which are presumptively "willful" unless the defendant can show otherwise. Mandatory imprisonment is provided for conviction of an offense committed while on bail.

In my view, the provisions of H.R. 12806 (S. 2600) raise grave constitutional questions when considered in light of the Eighth Amendment's guarantee of reasonable bail, the due process clause of the Fifth Amendment, the Sixth Amendment's guarantee of access to counsel, and the opportunity to participate in preparation of a defense.

The historical purpose of bail is to insure the appearance at trial of a criminal suspect and not to detain him in the hope that such detention will impede the possibility of his further criminal activity. The Eighth Amendment prohibits excessive bail. Clearly, if bail is set at a level higher than necessary to insure appearance, it is excessive and is serving a function not consonant with its historical purpose. The result of excessive bail is pretrial detention violative of the Eighth Amendment. In my judgment, the Eighth Amendment implicitly guarantees a right to bail in all non-capital cases.

Moreover, the right to bail was explicitly provided by the Judiciary Act of 1789, which preceded adoption of the Eighth Amendment. It is evident that the founders of our country adopted the Eighth Amendment's prohibition against excessive bail as a means of securing the pre-existing right established by the same Congress only months previously. An especially significant manifestation of that intent is the presence of an absolute right to bail in noncapital cases in the great majority of our state constitutions. I have just received the memorandum on constitutionality which the Justice Department promised to prepare in defense of this legislation almost 6 months ago. In the memo, the Department argues that the Eighth Amendment guarantees a right to reasonable bail only in those cases where Congress authorizes bail. According to this argument, Congress could define away the right to bail and leave the Eighth Amendment meaningless.

While arguments may be mounted on both sides of the Eighth Amendment issue, it is generally agreed that existing case law is not dispositive. Although I am personally satisfied that preventive detention prostitutes the purpose of bail and runs afoul of the Eighth Amendment, the constitutional implications would remain unclear until a case raising them reached the Supreme Court. At best, preventive detention is a constitutionally questionable device whose survival depends on a frontal assault on the Eighth Amendment as it has been understood from its enactment.

The constitutional difficulty of this proposal does not end, however, even if the Eighth Amendment is overcome. In my opinion, preventive detention proposals are fraught with even greater difficulty when viewed in light of the Fifth Amendment guarantee of due process.

Prior to ordering preventive detention, a judicial officer must find, among other things, that there is a "substantial probability" that the individual committed the offense charged. This provision allows the government to deprive a suspect of his liberty on the basis of a vague and uncertain standard of proof. I do not believe the standard "substantial probability of guilt" comports with due process.

Fundamental to due process of law is the tenet that a man is presumed innocent until proven guilty beyond a reasonable doubt. Preventive detention proponents argue that the presumption of innocence is merely a technical rule of evidence assigning the burden of proof to the government at the actual trial. To the contrary, I believe that the presumption inheres in due process. Under our system of justice the government cannot deprive a man of his liberty on the basis of a mere accusation or assumption that he has committed a crime or is likely to do so. In practical effect, preventive detention legislation convicts individuals of "probable" guilt and "dangerousness" and sentences them to 60 days imprisonment without trial and conviction of a crime. Such flagrant violation of due process smacks of a police state rather than a democracy under law. It is reminiscent of similar devices in other countries which have proved all too useful as tools of political repression.

The Administration's bill attempts to avoid the due process argument by providing for a preventive detention hearing. That hearing is ostensibly designed to protect the accused, but in reality it does him irreparable harm without satisfying due process.

While the preventive detention hearing is adversary in nature, the rules of evidence do not apply. Thus, it appears that hearsay and other incompetent evidence would be admissible and that the hearing would not be a truly evidentiary one. Notwithstanding that fact, the accused's testimony at the detention hearing may be used pursuant to provisions of the bill for his impeachment in any subsequent proceeding. I doubt both the wisdom and constitutionality of that provision.

Under our system of criminal justice, the prosecution must come forward with evidence of guilt at trial. The defendant may reserve his case pending establishment by the prosecution of a prima facie case. This procedure also protects the defendant's privilege against self-incrimination and does not put him to his election on whether or not to testify at least until after the prosecution has gone forward with evidence of a prime facie case.

The procedure for a preventive detention hearing would constitute a radical departure from our traditional procedure in criminal cases and would place a defendant in an untenable position. If he wishes to avoid preventive detention, he must present his defense, including perhaps his own testimony, at this very early stage of the proceedings. The procedure prescribed by H.R. 12806 (S. 2600) thereby strikes a serious blow at two fundamental privileges traditionally reserved to a defendant at the time of his trial.

Notwithstanding the supposed safeguard of the required preventive detention hearing, it should be noted that a suspect could be detained under the Administration's bill for at least eight days without a hearing of any sort. For good cause shown, the U.S. Attorney may secure a continuance of three days while the suspect's attorney may obtain one for five additional days or more in event of extenuating circumstances. Here again we are confronted with the question of whether due process is accorded an individual as required by the Fifth Amendment.

Preventive detention hearing procedures also raise a double jeopardy issue under the Fifth Amendment. If, at the preventive detention hearing, the judicial officer finds no "substantial probability" that a suspect committed the crime, may that suspect successfully plead *res judicata* and double jeopardy at the subsequent trial? It would seem that having failed to meet the standard of "substantial probability," the government should not thereafter be allowed to try to prove guilt beyond a reasonable doubt.

In considering the constitutional problems posed by H.R. 12806 (S. 2066), we must not overlook the Sixth Amendment right of an accused to have the effective assistance of counsel for his defense. Pretrial detention clearly militates against access to counsel and the opportunity to participate in preparing a defense. While the bill provides for a suspect's temporary release "for good cause", that privilege is diluted, if not totally devoid of meaning, because the release is in the custody of a U.S. Marshal and at the pleasure of the custodial official. The presence of a U.S. Marshal is hardly conducive to contacting prospective defense wit-

nesses. Thus, preventive detention, even with a temporary release provision, substantially infringes upon a defendant's ability to assist in his defense and severely impairs his right to the effective assistance of counsel.

It is difficult to exhaust the list of constitutional questions this legislation raises. Plainly, findings of "dangerousness to the community" and "likelihood to commit serious crime" are not petty matters. Nor is a preliminary sentence of 60 days imprisonment. Does the Fifth Amendment provision regarding grand jury indictment apply to preventive detention? Is the guarantee of trial by jury secured by the Sixth Amendment applicable? Can a defendant convicted of "probable guilt" receive a fair and unprejudiced jury trial thereafter? The constitutional defects in this legislation, as I have indicated, are many and not to be dismissed lightly.

There are other equally cogent and persuasive factors, some with constitutional implications, which require Congressional attention. Perhaps the foremost of these is the fact that preventive detention rests on an untested theory of predictability. A judicial officer must be able to pick out with precision the suspect who will commit new crime while on bail. Yet there are no standards for determining dangerousness and no statistical guidelines on which to base the prediction which must be made under the proposed law. Nor will any statistics become available if preventive detention is the law because suspects who are detained will not then be able to demonstrate that they would not recidivate. A legislative judgment of predictability which does not rest on an adequate factual foundation may not be constitutionally valid where the consequences to personal freedom and a fair trial are so serious.

Throughout any consideration of the theory of predictability, on which preventive detention is based, we should remember that only a small percentage and number of suspects actually commit crime while on bail. When that fact is coupled with the fact that judges have nothing to guide them other than some enigmatic power of prophecy, the law will most assuredly result in the imprisonment without trial of many persons who are not dangerous and who are innocent of the charges. If the preventive detention law is judged by its susceptibility to abuse, plainly it is an evil law.

Another policy factor we must consider is the administrative effect of this proposed preventive detention measure. I must confess that I have great difficulty with this matter. The need for preventive detention legislation concededly rests on the inability to provide speedy trials for criminal suspects. It is an attempt to compensate for a progressive breakdown in our law enforcement structure and especially our over-burdened courts. Yet, the proposed solution would impose heavy additional administrative burdens on the already heavily backlogged courts.

The required full adversary hearing and the need to make informed decisions on predictability would, in many instances, take as much time as would actual trial of the principal case. The judicial and prosecutional manpower required by this legislation has not been estimated, but it is no doubt great. Court congestion would get worse. Delays in criminal trials, now running 10–12 months, would increase.

Under the terms of the bill, those detained must be released after 60 days. Measured by present delays, which will be worse because of this bill, the suspect will be in the streets 8–10 months awaiting trial after his 60 days detention period is over. Thus we have the curious situation where our failure to give defendants and the public their constitutional right to speedy trial has spawned legislation which will further burden the judges, and make speedy trials even less likely than at present. Yet the professed goal of protecting the public will still remain unrealized.

As with any legislation affecting the freedom and livelihood of the individual, we should examine the impact of that law upon the individual with the utmost care. It is obvious that 60 days preventive detention will cost the detained individual his job. Loss of employment plus physical absence from his home will unquestionably have a detrimental effect upon his family. The taxpayers will probably be required to contribute to the financial support of his family and will certainly pay the costs of his detention. It is interesting to note that testimony during bail reform hearings a few years ago estimated that the public cost of pretrial detention before the Bail Reform Act was $2 million.

Probably the most serious blows to be dealt the individual will stem from his subjection to the physical and psychological deprivations and degradations of prison life. It is true that H.R. 12806 (S. 2600) does provide that an individual preventively detained under the bill will be confined separately, if "practicable". That provision, however, constitutes another example of the meaningless "rights" the bill offers those subjected to preventive detention.

Approximately 40% of all Federal criminal cases in the country are tried in the District of Columbia. Criminal suspects in the District of Columbia will bear the brunt of the preventive detention law. Consequently, we ought to ask where individuals selected by prophetic judges for preventive detention in the District will be incarcerated pending trial.

The D.C. Corrections Department already wrestles each day with the problems of assault, narcotics, and homosexual rape, as well as general turmoil and unrest, all of which result primarily from overcrowding and inadequate supervision. The jails of this city are already a national disgrace. Yet the advocates of preventive detention would inject untold additional individuals, many of them innocent, into our problem-ridden, overcrowded, prison system. The probability that separate confinement facilies will be available for detainees under H.R. 12806 (S. 2600) is simply non-existent.

A period of sixty days or more of preventive detention in such a system is not likely to improve an individual's reputation. It will make securing employment difficult. It will, in all probability, exacerbate rather than reduce any existing criminal tendencies. And it will sharply detract from the defendant's ability to secure a fair trial, or a probationary or suspended sentence in the event of conviction.

Although I have not exhausted either the constitutional ramifications of H.R. 12806 (S. 2600) or the implications of instituting preventive detention as the policy of our government in the realm of criminal justice, I hope that I have demonstrated, at the very least, the need for great care in your examination of the pending legislation. On the basis of our Senate hearings earlier this year in the Constitutional Rights Subcommittee and my study of proposed preventive detention legislation, I stand firmly convinced that the legislation is unconstitutional on its face and would initiate a disastrous policy in criminal justice. Furthermore, no compelling evidence has been presented to prove the need for such drastic legislation. Preventive detention will not solve the problem at hand. Yet I fear that enactment of the pending Legislation would merely relax the mounting public pressure for a real and lasting solution to our crime problem.

In my judgment, the real answer to the immediate problem of crime committed by persons on bail, and, indeed, the solution to the general problem of crime, lies not in the preventive detention of individuals presumed innocent but in the speedy trial of the accused and the swift and sure punishment of the guilty. To attain that objective we must bring major improvements, long overdue, into our system of criminal justice. We must have more judges with adequate staffs and facilities, more prosecutors with sufficient supporting personnel, a more efficient system of defense for suspects financially unable to obtain counsel, and a more enlightened approach to penal reform.

As you know, the House and the Senate are both considering a variety of legislative proposals designed to achieve those ends. We must proceed with dispatch to enact carefully thought-through legislation in each of the areas affecting our criminal justice system. While working toward such long range reform, we can, I am convinced, meet our immediate problem by greater effort on the part of our judges and prosecutors to bring about speedy trials, by the advancement of cases involving defendants believed dangerous, and by wider use of the procedures established in the Bail Reform Act of 1966 and the D.C. Bail Agency Act to supervise and control the conduct of defendants on bail.

Given the choice between a course of action fraught with constitutional perils and one clearly constitutional, let us choose the latter. Let us reject this facile and desperate detention device which repudiates our traditional concepts of liberty and pursue instead the goal of speedy trial of criminal suspects. That objective does not depend upon constitutional affront but rather plainly preserves and enhances the rights of us all under the Constitution.

I wish to thank the Chairman of the House Judiciary Committee and the Chairman of this Subcommittee for the opportunity to testify here today on this important matter. It is always a pleasure for me to come before my distinguished colleagues in the House and I am grateful for your kind attention to my remarks.

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## TAX REFORM ACT OF 1969—ACTION OF COMMITTEE ON FINANCE

Mr. LONG. Mr. President, on Thursday, October 23, the Committee on Finance met in executive session and announced decisions with respect to that portion of the House tax reform bill which affects the tax treatment of natural resources under the percentage depletion rules. Also, decisions were made regarding the provisions concerning mineral production payments and mining exploration expenditures.

So that Senators might follow the progress of these executive sessions, I ask unanimous consent that a 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. 23, 1969]

TAX REFORM ACT OF 1969—NATURAL RESOURCES COMMITTEE DECISIONS

The Honorable Russell B. Long (D., La.), Chairman of the Committee on Finance, 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 natural resources. The important question in this area concerned the 27½ percent allowance for depletion of oil and gas wells. The Chairman reported that the Committee had resolved this matter by reducing the allowance to 23 percent.

A complete description of the actions taken at today's meeting follows:

*Oil and gas.*—The Committee agreed to reduce the percentage depletion rate for oil and gas from the present rate of 27½ percent to 23 percent, with respect to both

domestically and foreign produced minerals. The House-passed bill would have reduced the percentage depletion rate for oil and gas produced in the United States to 20 percent, and would have repealed it entirely for oil and gas produced in foreign countries.

The Committee also agreed that in the case of oil and gas producers with less than $3 million of gross income from oil and gas production the present limitation on the allowance for depletion—50 percent of the net income from the property—will be increased to 65 percent. The House bill did not deal with this matter.

*Other minerals.*—The Committee agreed that in the case of all other minerals, the provisions of the House bill, which would have reduced the applicable depletion allowances by approximately one-fourth, should be deleted. This action had the effect of retaining the depletion allowances provided by present law. These allowances range from 5 percent for sand and gravel to 23 percent for uranium and sulphur and for certain strategic minerals.

*Special limitation on depletion for gold, silver, and copper.*—Under present law the allowance for percentage depletion is based upon a specified percent of gross income from the mineral property, except that the deduction could not exceed 50 percent of the *net* income from that mineral property. In addition to the change described above in the case of small oil and gas producers, the Committee agreed that with respect to gold, silver and copper, the 50 percent limitation should be increased to 70 percent.

*Great Salt Lake.*—The Committee further agreed to an amendment clarifying the treatment, for percentage depletion purposes, of minerals extracted from saline lakes within the United States. Under present law, percentage depletion is not allowed with respect to minerals extracted from sea water or from "similar inexhaustible sources." This latter phrase has been interpreted to prevent a depletion allowance for minerals extracted from the Great Salt Lake. The Committee amendment provides that except for salt and water the regular allowances will be provided for minerals extracted from the Great Salt Lake and other saline lakes in the United States.

*Mineral production payments.*—The Committee approved the provisions of the House bill which restrict the tax benefits of carved-out production payments and so-called ABC transactions. However, it moved the effective date from April 22, 1969 to October 9, 1969 and provided two transitional rules. The first of these would permit a taxpayer who had sold a production payment in 1968 to elect to treat that transaction as a loan in the same manner as a production payment sold after the effective date. Under the second transitional rule the Committee provided that except for percentage depletion and foreign tax credit purposes, the new provision would not apply to carved-out production payments sold during that part of the taxpayer's taxable year which occurs after October 9, 1969, to the extent that the production payments offset a net operating loss which would otherwise occur in the taxable year in the absence of the carve-out. In this latter case, however, the amount of the carved-out payments qualifying for this treatment would not be allowed to exceed the amount of carved-out payments sold by the taxpayer during his preceding taxable year.

*Mining exploration expenditures.*—The Committee agreed to adopt the provisions of the House-passed tax bill relating to mining exploration expenditures. This provision amends present law to provide that insofar as future mining exploration expenditures are concerned, the general recapture rules will apply in all cases. However, the Committee provided that this provision would be applicable only to mining exploration expenditures made after December 31, 1969. The House bill would have applied to mining exploration expenditures made after July 22, 1969.

Further, the Committee provided that taxpayers who have elected to deduct mining exploration expenditures under the limited provision of present law will be deemed to have made an election, with respect to expenditures made after December 31, 1969, to deduct the expenditures under the unlimited provision, unless the taxpayer notifies the Treasury that he does not desire to be so treated. The Committee also agreed that it would clarify the treatment of expenditures which are incurred during the development or producing stage of a mine. The intention of the Committee was that a taxpayer should deduct all expenditures incurred in bringing a mine into production, either as exploration expenditures during the exploration stage, or as development expenditures or operating expenses during the development and production stage. The Internal Revenue Service has at times taken the view that these expenditures are not to be treated as development or operating expenses, but rather, they are to be treated as exploration expenditures which must be capitalized, since they are incurred after the development stage of the mine has been reached. The Committee will make it clear that this is not the position it intended in enacting the law.

*Oil shale.*—The Committee also agreed to adopt the provisions of the House-passed tax bill relating to treatment processes in the case of oil shale. The effect of the House bill generally is to extend the point at which percentage depletion is computed in the case of this mineral to the point at which the oil is extracted from the rock. (Under present law percentage depletion is computed generally on the basis of the value of the shale as it comes from the mine.)

## TAX REFORM ACT OF 1969—ACTION OF COMMITTEE ON FINANCE

Mr. LONG. Mr. President, on Friday, October 24, the Committee on Finance met in executive session and announced that it had adopted a new simplified minimum tax—applying to both individuals and corporations with tax preference income—in lieu of the provisions contained in the House bill concerning the limit on tax preferences and the allocation of deductions. Additionally, the committee approved that portion of the House bill which extends the excise tax on passenger automobiles and on telephone services.

So that Senators might follow the progress of these executive sessions, I ask unanimous consent that a 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. 24, 1969]

TAX REFORM ACT OF 1969—MINIMUM TAX COMMITTEE DECISIONS

The Honorable Russell B. Long (D., La.), Chairman of the Committee on Finance, announced today that the Committee had adopted a new comprehensive minimum tax to apply to both individuals and corporations with tax preference income which now escapes Federal tax. He reported that the new provision replaces the limit on tax preferences and the allocation of deductions features of the House-passed Tax Reform Act. The Chairman noted that these House provisions were unusually complex in their operation and had been sharply criticized during the month-long hearings on the tax reform bill. He stated that the Finance Committee substitute not only was far simpler than the House provisions but also produced more revenue, in large part because of its extension to corporations.

Senator Long also reported that the Committee had approved the House language extending the 7 percent excise tax on passenger automobiles, and the 10 percent excise tax on telephone services for another year. He noted that the Committee had previously taken identical action when it reported H.R. 12290 to the Senate in July. The full description of the Committee's action follows:

*5 percent minimum tax.*—The Committee approved a substitute for the Allocation of Deduction Rule and the Limit on Tax Preferences provision of the House bill. The substitute involves the imposition of a 5 percent tax on preference income in excess of $30,000.

Under the Finance Committee provisions, individuals and corporations would total their tax preference income, subtract an exemption of $30,000 and apply a 5 percent rate to find the minimum tax. (For married couples filing separate returns the exemption would be $15,000.) This minimum tax would be in addition to the regular individual income tax, and the regular corporation income tax.

*Tax preference income.*—The minimum tax under the Finance Committee provision applies to a total of twelve tax preference items. The covered tax preference items are as follows:

(1) *Capital gain.*—One-half of long-term capital gains of individuals. In the case of corporations, the tax preference is three-eights of long-term capital gains (based on the difference between the 30 percent rate that would apply to long-term capital gains and the 48 percent corporate tax rate.)

(2) *Accelerated depreciation.*—The excess of accelerated depreciation (or amortization) over straight-line depreciation on:

(a) Real property;

(b) Section 1245 property (equipment and machinery) where the property is leased on a net lease basis;

(c) Property receiving 5-year amortization for rehabilitation expenses;

(d) Anti-pollution facilities which would qualify for 5-year amortization under section 704 of the bill; [1]

(e) Railroad rolling stock which would qualify for rapid amortization under section 705 of the bill.[1]

(3) *Intangible drilling and development expenses.*—The excess of intangible drilling expenses over the amount that would be recovered through straight line depreciation and cost depletion.

(4) *Percentage depletion.*—The excess of percentage depletion over cost depletion.

(5) *Western-Hemisphere Trade Corporations.*—The tax savings received by Western Hemisphere corporations because their income is taxed at 34 percent instead of the 48 percent regular corporate income tax rate.

(6) *Financial institutions; bed debt reserves.*— Bad debt deductions of financial institutions in excess of actual loss experience.

(7) *Investment interest.*—Interest on indebtedness incurred to purchase, or carry investment property to the extent that such interest exceeds the net investment income received and reported as ordinary income during the year.

(8) *Stock options.*—The difference between the option price and the fair market

[1] The Committee has not yet taken up that part of the Tax Reform Act which provides for this amortization. The final decision on the inclusion of these items in the minimum tax will depend on the Committee's decision with respect to the sections providing the amortization.

value of qualified stock options at the time the option is exercised.

*Exemptions from tax preference income.*—The 5 percent minimum tax does not apply to tax exempt interest on State and local bonds, unrealized appreciation in the value of property deducted as a charitable contribution, and farm losses.

*Treatment of losses.*—If a taxpayer sustains a loss or has loss carryovers or carrybacks to the taxable year, then he may elect to offset the loss against the preference income used in the minimum income tax computation. However, to the extent he uses the loss to offset preference income then the loss may not later be used in the regular tax computation.

*Revenue effect.*—This new minimum tax would increase revenues by an estimated $700 million a year with about half the additional revenue coming from individuals and half from corporations.

*Excise tax on autos and communications.*—The Committee also approved a provision to continue the 7 percent manufacturers automobile excise tax until January 1, 1971. In addition, the reductions in the automobile excise tax scheduled under present law for future years are postponed for one additional year in each case. Similarly, the Finance Committee's action provided for the continuation of the communication services tax on local and toll telephone, and teletype writer exchange services. The present 10 percent tax on these items will be continued until January 1, 1971, and future scheduled reductions will occur one year later than provided under present law.

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## ADDRESS BY SENATOR KENNEDY BEFORE WORLD AFFAIRS COUNCIL

Mr. FULBRIGHT. Mr. President, on October 15, the distinguished assistant majority leader, the distinguished Senator from Massachusetts (Mr. KENNEDY), delivered an address to the World Affairs Council in Boston. His remarks are thoughtful, timely, and impressive. I ask unanimous consent that his address be printed in the RECORD.

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

ADDRESS BY SENATOR EDWARD M. KENNEDY BEFORE THE WORLD AFFAIRS COUNCIL, BOSTON, MASS., OCTOBER 15, 1969

It is a pleasure for me to have the opportunity to appear before this distinguished audience once again.

We meet to discuss the war in Vietnam. But we meet in a far different climate than before. The promises and hopes of years of self-deception have now gone the way of history. The policies of the past—strategic hamlets, the winning of hearts and minds," search and destroy, bombing in the North, the storming of countless Hamburger Hills, have all been discredited or discarded.

We meet on a day when millions of Americans are letting it be known that they, too, feel the war must end. They seek open discussion. They seek to persuade. They wish to involve as many as possible in renewed deliberation. In the tradition of those who brought the force of humanity to the abolition of slavery, they are meeting on Boston Common and at a hundred other places, to peacefully petition their government and their fellow citizens.

I am familiar with those who set this day apart, and regardless of the day's success I know them to be moderate, sensitive, and deeply concerned. When these young people were in elementary school the Viet Minh took Dien Bien Phu. As they entered high school, their parents supported President Kennedy's decision to send American military advisors to assist the makeshift government of South Vietnam. During their college years they watched as President Johnson committed first thousands, then hundreds of thousands of young men to the jungles and deltas of Southeast Asia.

But now these young people are adults. Now they expect to be heard. They do not choose to be the silent servants of decisions made in the past—and they have lost a good deal of their faith in the wisdom and righteousness of experts who sit in the safety of Cabinet rooms. They feel they can make a difference, having done so last year. Today they feel they can bring about change to better their nation.

And so today Americans of all ages meet to talk again of the war in Vietnam. That is fitting, for it is we, not the young, who are responsible for the war. But it is they, not we, who will live a full lifetime with the consequences of peace. All elements in America are thus involved, and all should discuss this war's conclusion.

We talk with greater frankness now about Vietnam. The harshness of the real world has finally overtaken us. Finally there is light at the end of the tunnel—but it is not the pleasant glow of victory. It is the glare of difficult compromise. For a time criticism of our Vietnam policy was stilled as we waited for a new President to carry out the promises he made and the mandate he received. And the President has taken action. He has clearly stated that he wishes peace and the extrication of America from the war. On two occasions he announced the total withdrawal of 60,000 American troops. Recent U.S. casualty figures are the lowest in three years—following the issuance of new orders to our field commanders.

Yet impatience grows across the country. For we detect in our government more improvisation than policy, more steps taken in reaction to pressures than out of leadership. The final question of political compromise remains: Are we willing as a nation to accept the fact that the ultimate solution to Vietnam will require the presence of unfriendly elements in the future government of South Vietnam—a solution not totally satisfactory to us? Are we willing as a nation to accept the fact that whatever the future government of the South, it will not be the present government, nor will it be totally free of participation by members of the National Liberation Front. If we are not willing to respond on this issue today the alternative, clear and horrible, is simply to fight on—with more bloodshed, more deaths, more war. For the cold fact is—we have not defeated the enemy in Vietnam nor will we. We are not in a position then to impose the form of government we wish. The matter must be decided by the competing political interests in South Vietnam. But no political change can effectively take place as long as the might of the United States stands between the current regime and those other nationalistic groups that would compete with it.

We have properly rejected, for moral reasons, the option of total destruction of all life in Vietnam. We have fought to a standstill. We cannot remove our adversaries by firepower, they cannot remove us by sporadic assault. We are left with a stalemate costly in lives and resources. Now we must face the final accommodation. Yet we have had no indication from this Administration, either in their public statements or activities in Paris, that they are prepared to compromise for a real settlement.

To be sure, the decisions we must make would be easier if our adversaries were more reasonable, if our allies in Saigon were more flexible, and if Americans were united in support of an agreed upon course of action. But none of these conditions are real. If we are ever to come to grips with reality on Vietnam we must distinguish that reality from our fondest hopes.

Hanoi is not and has not been reasonable. It is to their great discredit that even in matters of simple human decency, such as comforting the families of American prisoners of war, they have refused to yield. But whether we view her leaders and people to be misguided, evil, aggressive or simply wrong, the fact remains that they believe their course to be righteous. They have been willing to undergo twenty years of warfare, staggering losses among their soldiers, and the destruction of a scant industrial base by bombing. They speak and act with the zeal that accompanies a sense of mission and patriotism. To them, it is we, not they, who have intruded into the South, for they make no distinction between the two Vietnams. And having withstood the firepower of the most powerful nation on earth, they must also believe that they have succeeded in their efforts so far.

Reality also demands that we see the Saigon government for what it is. The government of President Thieu and Vice President Ky is not and has not been flexible in the move toward peace. In many major respects their best interests and our best interests are not consistent. They wish no compromise with the National Liberation Front or Hanoi for they see the North as an invader and the Viet Cong as an insurgent minority. But an even greater barrier to peace is the fear of the current leaders in Saigon that they will lose personal power. Their fear of losing power has caused them to turn away from all forms of democratic procedures. In the elections of 1967 not only were Communists forbidden to participate, but no man could run for office who favored a "neutral" South Vietnam or negotiations with the National Liberation Front. Even with this control over candidates and polling places they received only 34 per cent of the vote, and the runner-up languishes in jail to this day, as do hundreds of other political prisoners. As is the case with the Viet Cong, the Thieu regime also represents a distinct minority in the South. The United States has repeatedly stressed to them the need to broaden their base by allowing representatives of other South Vietnamese nationalist groups to share in the power. President Thieu responded recently by reorganizing his government on an even narrower basis. They silence all critics, shut down newspapers they consider offensive, expel American journalists, allow corruption to continue unabated, and presume to tell us what they interpret our obligations to be. In essence the government of South Vietnam has little more claim to democracy than the government in Hanoi, and has exhibited about as little regard for the exercise of self-determination among the people.

Finally, reality demands that we face our conditions here at home. We are a patient people, strong in resolve and firm in our beliefs. We have always been prepared to work, to sacrifice, to meet any test demanded by the national interests of our country. But the American people are also aware, informed, and far more sensitive to the genuine security interests of the United States than many in Washington are willing to believe. The cost of this war is not lost on our citizens. They know how many have died. They know how many more will die. They are aware of social discontent and the growing alienation of our children and under-privileged. We know our cities are distressed, there are diseases to conquer, the poor to assist, the young to educate. The prolongation of this war has created a national malaise, severe discontent and acrimony. The unity of a people has been periled. But now the ledger is before us and, I feel, the balance has been struck. If it ever was the case, continuance of the war in Vietnam is no longer felt to be in the national interest of the United States. Hence the impatience, hence the dissent.

What conclusions then can we draw from this view of the war?

*First*—North Vietnam will remain committed and adhere to its political goals. Their bargaining stance has not been weakened by increased U.S. military pressure, as we have seen. On the contrary, it has been the easing of our pressures that has accounted for the small steps toward peace. The North now seeks, and will continue to seek, the end of U.S. influence in the South. They care little about striking the political bargain with us. For we are not Vietnamese, we will never be the government in the South. To attribute their strength or rigidity in Paris to the level of dissent here at home is a convincing but empty argument that is not supported by the history of this war. There was relatively little protest here at home during years of escalation, bombing, and massive troop actions, yet the North remained intransigent. For their bargaining position has largely been determined by years of war, by success, by failures, by their own internal demands—not by disagreements in this country.

*Second*—The government in Saigon will do all in its power to keep us involved in the conflict, thus avoiding the necessity of dealing with the National Liberation Front, the North, or anyone else. To President Thieu, unchallenged power is equated with our presence, and peace is not worth risking a challenge to this power. And, I am afraid, this condition will prevail absent any action on our part.

*Finally*—The United States has taken the position that we will not seek a military solution in the field. Our military power has gained one result—it prevented a military conquest of the South by the North. But it has also installed and now retains an unrepresentative government in power. Since we have not won and cannot win this war in the traditional military sense, and since our adversaries have not won and cannot win the war, the only course available to reasonable men is to seek the hard compromise that will stop the violence and end the killing.

The combined armed forces of South Vietnam now number approximately one million men. These men are as well equipped as the adversaries. If they are ever to hold their own, they should be capable of doing so now. And we, no longer dedicated to a military solution, should remove our military presence as soon as possible. But we should do this not because we wish to pass on the war to the South, but because a political settlement is not possible as long as we remain.

Ultimately the future of Vietnam is in the hands of the Vietnamese. They have to make the settlement, not us. And it is the best interest of their people, of the United States and the world community, that they do it now.

Accordingly, I would propose that the United States announce a schedule of U.S. troop withdrawals—an irrevocable decision to remove our ground combat forces as soon as possible, but no later than one year from now, and our air and support troops promptly thereafter but no later than the end of 1972. The Administration may have such a schedule in mind. If so, it should be announced for two important reasons:

*First*—This unconditional statement of intent would force the government in Saigon, as nothing else will, to begin making the political accommodations for the future. There are many groups that form a majority in the South anxious for peace and anxious to negotiate the peace. But the Thieu regime will never delegate this responsibility to other South Vietnamese as long as they feel they can manipulate the power of the United States. So it is that we must drastically alter our diplomatic position with the South Vietnamese government. They must be convinced that we have not fought for them as individuals, but for larger aims. If they are not willing or able to participate in the formation of a broad-based government, others are, and it is those groups that we will look to for the future.

*Secondly*—The announcement of withdrawal would have a radical effect on the Paris negotiations. For the first time we would be demonstrating to Hanoi, as well, that we are absolutely serious in our desire for a political settlement, thus giving Hanoi, as well as Saigon, the choice between continued warfare among Vietnamese or accepting a compromise settlement. That opportunity should be used to lay on the table in earnest a proposal for a standstill cease fire while our troops are withdrawn and the Vietnamese negotiate. By so doing we would be making clear our desire that our decision to withdraw would result in an end to the killing and violence.

*Finally*—I wish to conclude on a more personal note. I feel, as a result of past relationships, that I have some knowledge of the burdens of the Presidency. I speak with some awareness of the enormous challenges that face a President in a time when his nation is at war. I also speak as one who supported earlier decisions that so deeply involved us in this conflict. Whether yesterday's decisions were right or wrong in the context of their time is not the issue. I and many others either agreed or were silent when certain steps were taken that led us deeper into this war. And so it should be apparent that my criticism of Vietnam and that of many others is not directed personally at this or any other President of the United States. It is simply an objection to a national policy that allows a conflict to continue disastrous to us as a country.

I do not believe that President Nixon is committed to continuing the war in Vietnam. But I do believe that this Administration is in danger of committing itself to goals and personalities that guarantee the war's continuance. If we continue to assume that one more year's casualties is worth the possibility of a political breakthrough in the peace talks; if we assume that renewed military power will affect the bargaining position of our enemies; if we cling to the myth that the Thieu regime is so legitimate that it must be retained with American lives, if we rely on Saigon to initiate a move toward peace, or if we hope for a truly representative government to be elected in South Vietnam under the repressions of the current regime—if we commit ourselves to these hopes, the war will continue. We have travelled these paths before, we know them to be empty of promise.

I believe what I and most Americans this day are asking of the President is that he not commit himself to things which will not and cannot occur. We ask him not to shoulder the errors of past policy nor the rhetoric of different times. What is being respectfully suggested is that he develop and speak to us of his own policy—not one based on conditions beyond our control, not one whose success is subject to veto by Hanoi or Saigon. But a United States policy—one that puts our government, our people, our national interest in the forefront. To leave Vietnam only *if* there is progress in Paris, only *if* the battle subsides in the field, only *if* the army of the South is ready, places our men and our future in the hands of others. And at this late date, at this moment in our history, that cannot be considered acceptable.

The last time I addressed the World Affairs Council I had just returned from Vietnam—and I spoke to you of that war and all its tragedy and pain. Almost two years later we meet again to speak about the war—and all its tragedy and all its pain. I can only pray, and I know you join with me in the hope, that we will not have to meet again on this matter.

Yet that possibility remains. It remains as long as you and I, and the leaders of our nation shy from facing the realities before us. It remains as long as we cling to hopes long gone, to cliches and assumptions devoid of meaning—as long as in anticipation of the judgment of the future, we avoid the hard current decisions. This time next year, and the year after, and the year after that, we could still be fighting in Vietnam—still in the pit, killing and being killed, seeking to justify past errors, waiting for something to happen that would justify an ending of the war in the old terms of past wars and past policies.

But if we do that, we will wait in vain. For what we should have learned, at the price of blood and suffering, is that this has been unlike any other war in our history. We have a chance, by ridding ourselves of its burden, to renew ourselves as a nation: to make ourselves better able to shoulder our real responsibilities here and around the world. This process must begin for the good of the nation. I hope that the policies we discuss in this room powered by the moral weight of opinion being expressed outside will cause the process to begin today.

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## RETENTION OF WEATHER BUREAU STATION AT LYNCHBURG MUNICIPAL AIRPORT

Mr. BYRD of Virginia. Mr. President, the city council of Lynchburg, Va., adopted a resolution at its October 14 meeting, asking that the U.S. Weather Bureau keep its station at Lynchburg Municipal Airport open on a 24-hour basis.

I support this request from Lynchburg. The need for a 24-hour weather watch in the Lynchburg area was clearly shown at the time of the disastrous floods of August 19.

During the night, recordbreaking rains fell on the area and caused considerable loss of life and millions of dollars worth of property damage. This tragedy might have been less serious had adequate warning been available from the Weather Bureau.

In addition, air traffic at the Lynchburg Airport has been increasing, particularly during late night and early morning hours, furnishing another reason for a 24-hour weather station.

Mr. President, I ask unanimous consent that the resolution of the Lynchburg City Council, adopted October 14, 1969, be printed in the RECORD.

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

RESOLUTION

Whereas, many interests in the area of Central Virginia are served by the Weather Bureau station located at the Lynchburg Municipal Airport; and

Whereas, the increase in the air traffic using the facilities at said airport, and particularly the late night or early morning traffic, demonstrates a definite need for weather information on a 24-hour schedule; and

Whereas, it appearing that the Weather Bureau Station at Lynchburg is the only such station in Virginia not now operating on a full 24-hour schedule each day, and

Whereas, the great need for a 24 hour weather watch in this area was shown recently when in the late night or early morning hours when the local weather station was closed disastrous rainfall and subsequent flooding came without warning to this area, inflicting a great loss of life and property damage in the millions of dollars, some of which may have been prevented or minimized had adequate warnings been given.

Now, therefore, be it resolved by the Council of the City of Lynchburg, Virginia:

(1) That a request is hereby made to the U.S. Weather Bureau, that the Weather Bureau Station, located at Lynchburg Municipal Airport, Lynchburg, Virginia be restored as soon as possible to its former operating schedule of 24 hours each day, and

(2) That a copy of this resolution be sent to the proper officials of the U.S. Weather Bureau, Washington, D.C.

EDWARD T. PETTIGREW, Jr.,
*Clerk of Council.*

Attest:

BESSIE B. AREAS,
*Deputy Clerk of Council.*

## THE VOTING AGE SHOULD BE 18

Mr. SYMINGTON. Mr. President, for a number of years many Members of Congress have urged that there be submitted to the States a constitutional amendment which would establish a minimum voting age of 18 years throughout the United States.

In a democracy such as ours, it appears desirable that the obligations of Federal citizenship be accompanied by rights to participate in the election of political representatives who establish policies that impose those obligations. Certainly the well-informed young men and women in America today have demonstrated their interest in participating in the decisionmaking processes of their Government.

In this Congress, as in the last, I am a cosponsor of one of a number of such proposals. Senate Joint Resolution 147 provides that:

> The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age. The Congress shall have power to enforce this article by appropriate legislation.
>
> This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

Sixty-nine Senators have endorsed a voting-age amendment.

So far, we in the Senate have never had an opportunity to vote on such a proposal. An editorial published recently in the Kansas City Times puts this problem in perspective. I ask unanimous consent that it be printed in the RECORD. I would hope that Congress, before it adjourns next year, would vote to submit a constitutional amendment to the States.

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

NIL IS THE WORD ON 18-YEAR-OLD VOTING RIGHTS IN CONGRESS

If there was ever broad support in Congress for lowering the minimum voting age, it has now faded. Of the 30 or so pieces of legislation on the subject that have been introduced since the 91st began last January, none is moving. Not only have committee hearings not been scheduled, but congressional sources report that no action is forecast. We think it is time for Congress to act.

As a candidate for the presidency, Richard M. Nixon said he supported letting youths between 18 and 21 years old vote "not because they are old enough to fight (in war), but because they are smart enough to vote." As President he directed the attorney general last February to study the issue. A report has been completed but not made public.

Mr. Nixon's point might signal a shift in the argument for reducing the voting age. For years, the leading edge went like this: If 18-year-olds are old enough to fight in a war, they are old enough to vote. Unfortunately, that approach, legitimate though it may have been, took on a kind of self-righteous fervor that struck at emotional chords rather than logical reasoning. It is now generally conceded that the oncoming generations of youths are better informed, better educated and far more concerned than those of just a few years ago.

Legislation to lower the voting age from 21 has been floating around in Congress for years. In 1954, for example, the Senate killed a constitutional amendment proposed by President Eisenhower to reduce the age to 18. Hearings were held by the Senate judiciary committee during the last Congress, but there was no further action.

Now the best guess around Washington is that too many lawmakers have had adverse reaction to the student unrest on college campuses, and general rejection of the bearded, unkempt image of youth that seems to prevail. That is an expected, though not necessarily well-based sentiment, since much of the trouble has been touched off by a small minority of students. Then too, lowering the voting age to 18-year-olds would mean that those who form the main source of military draft (18-, 19- and 20-year-olds) would be eligible to vote for or against the congressmen who have kept the conscription system intact.

There is another recent development in Congress, however, that should focus new and serious attention on the voting age. A proposed constitutional amendment for a popular-vote presidential election has passed the House and is expected to clear the Senate, possibly this year. That means choosing a President would be, for the first time, a truly national determination. Right now, states control their own election laws and the presidential electors are based on the size of their congressional delegations.

Statutes vary, and one of the differences among the states is the minimum voting age levels. Persons under 21 are allowed to vote in at least four states, a variance that surely would raise constitutional questions. It is our opinion the minimum age should be adjusted downward. Several states will have the issue on the ballot this year and in 1970.

As things stand, youths between 18 and 21 can participate in the political process—hand out literature at the polls, and the like—but the great bulk of them cannot vote. For the many who are aware and disenchanted with the country's course, the frustration is rawer. They are denied a voice within the framework of the system—at the ballot box.

They should be allowed to vote. The direct-vote presidential election no doubt will help force the issue. But Congress can be responsive and responsible by getting at the problem right now.

## INTERNATIONAL COOPERATIVE TRAINING CENTER—A BIG PLUS IN OUR RELATIONS WITH THE UNDERDEVELOPED WORLD

Mr. PROXMIRE. Mr. President, I am proud to report that a U.S. institution located in my State has been responsible for training more than 1,600 leaders from 91 developing nations of the world in the past 7 years. I refer to the International Cooperative Training Center at the University of Wisconsin—a joint effort between cooperatives of the United States and the Agency for International Development.

Coming from all over the world to learn about the operations of cooperatives, most of these trainees come to the International Cooperative Training Center for several weeks of classroom instruction, followed by practical field training with cooperatives in the United States. Participating cooperatives provide this field training, as well as several scholarships to help bring a limited number of people from developing countries to ICTC for training, as their contribution to development programs. These trainees then return to their countries to adapt and put into operation what they have learned at the Center and through their experience in the field with U.S. cooperatives.

Returning trainees are making a significant contribution to the economic and social development of their own nations by working with self-help cooperatives and actually organizing many of them. They are found working in agricultural cooperatives, credit unions, housing cooperatives, rural electric cooperatives, handicraft cooperatives, consumer cooperatives, and agricultural credit cooperatives. They are helping to organize new cooperatives and strengthen older ones, with the aim of increasing income or savings to members.

Followup reports on former trainees tell of increased leadership responsibility in their own countries, development of new cooperative departments in government, and other evidence of progress. One former trainee is helping the banana farmers of Jamaica to organize cooperative banana boxing plants, which will result in uniform quality and improved farm income. Several in Uganda and Tanzania are members of parliament or congress in their home country, where their cooperative training can be utilized very effectively. Another is director of a cooperative training center in Nigeria. Still another is in charge of cooperative education and training in India. The numbers of trainees and positions they hold indicate how effective the ICTC training has been.

The International Cooperative Training Center was established in response to a need, recognized by the U.S. Government and by U.S. cooperatives, for an institution that could provide in-depth study of our cooperative development and teach participants how to relate this knowledge and information to economic and social development in their own countries. Prior to the establishment of the center, many people came from developing countries receiving U.S. technical assistance, to study our cooperatives. However, the U.S. cooperatives were not prepared to provide the kind of comprehensive training these "visitors" expected. Consequently they were given little more than a tour of cooperative facilities.

Center accomplishments have been outstanding. Short and longer term training programs have been developed, and are continually being improved to provide the kind of in-depth training which participants expect to receive. The center now is an institution known around the world as one of the best in the field of cooperative training and education. Teaching staff members have, in addition to their regular teaching assignments at the center gone to several countries as consultants, research work-

ers and trainers to extend the services of the center and to multiply their own effectiveness.

Trainees are particularly appreciative of the opportunity they have of participating in community activities, of being invited into the homes of staff members and the families they meet during their field training period.

After the students return to their own countries, continued rapport is maintained and new information given to former trainees by a quarterly professional journal, the International Cooperative Training Journal, and a newsletter, each with a circulation of more than 5,000. These publications are mailed to every country represented by former trainees as well as to visitors who have registered at the Center.

From the beginning the Center has been almost wholly supported financially by AID funds. AID almost literally has built this outstanding training institution, intending that it should be available to those from developing countries or to dedicated Americans who will go to work in developing countries to assist in cooperative development. Training is the most important factor in successful cooperative development—training of management and members—because this training not only provides expertise in economic development, but also teaches democratic principles and practices. No better investment could be made than that which encourages the practical application of sound democratic principles in developing the economic strength of a nation, allowing a people to determine their own destiny and improve their own level of living.

Although AID built this Center for cooperative training the numbers of AID-supported trainees attending the Center have been declining during the past 2 years. This does not seem to be an efficient utilization of a very important investment at a time in the world's history when the need for developing native leadership for both economic and democratic programs is so vital. Why does not AID urge its mission representatives to send more participants for stateside training? It is true that not all people who need to be trained ought to come to the United States. Some can be trained just as effectively in their own countries. But those who will train others in their home countries and who will be indigenous cooperative leaders have a tremendous advantage if taught in the United States, where they can acquire not only the technical know-how they need, but also can benefit from the extension of their horizons offered by the activities of U.S. cooperatives.

U.S. cooperatives have shown a remarkable interest in the field training of these international students and simultaneously seem to be developing a very heartwarming people-to-people relationship that goes on long after the technical training is over. The Center itself offers the informational groundwork needed to develop strong leaders and trainers for cooperative development. U.S. cooperatives offer their management and administrative skills to show how technical training can be applied.

It seems clear that every effort should be made by AID, both here in the United States and abroad, to make use of this valuable resource, already developed, and to send increasing numbers of people for training at ICTC, at the same time utilizing the voluntary contribution made by U.S. cooperatives.

## INTERVIEW OF GENERAL NGUYEN CAO KY

Mr. FULBRIGHT. Mr. President, in April of 1968, an Italian newspaperman had an interview with Gen. Nguyen Cao Ky, of South Vietnam. The report was published in the Washington Post, but it was so long ago that I think most of us have forgotten what General Ky said on that occasion.

Inasmuch as we are spending so much money and losing so many lives to support the government of which General Ky is an important part, it seems to me it would be of interest to the Senate to have the article printed in the RECORD. I ask unanimous consent that it be printed in the RECORD.

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

### GENERAL KY CATALOGUES ALL HIS HATES

(By Oriana Fallaci)

SAIGON.—He is the most famous man in South Vietnam, and the most hated. Reactionaries hate him because he is the most hostile enemy of the reactionaries. Liberals hate him because he is the most hostile enemy of the liberals. Americans hate him because he is the most hostile enemy of the Americans. And there are many who think he will not die of old age; that someone will try to eliminate him very soon—which he knows. Not by chance, he likes to define himself as uncomfortable, dangerous, without friends.

At first you wouldn't say it. He is a Vietnamese like many others, neither tall nor short, neither strong nor too fragile. Physically, he distinguishes himself from the others only by his mustache. (Vietnamese don't usually wear them) and by a certain air with which he seems to oblige you to remember that he is Nguyen Cao Ky, general of the Air Force, Vice President of the Republic.

He is not cordial. He smiles very rarely and he is always in a bad mood, filled with preoccupation, a detachment which skims the arrogance. When he shakes your hand (he has very beautiful hands, rather feminine), he looks at you so distractedly that you would say he is not even looking at you. Yet when you go looking for news about him, you learn with surprise that beyond that severe scowling, discouraging appearance there is a personality very colorful indeed, one of those that popular magazines emphasize, women's magazines in particular.

### A ROMANTIC ADVENTURER

They will tell you, for instance, that he is a real ladies' man. Before he married his second wife, no one in Saigon could compete with him in certain adventures. Until three years ago, this was his principal "virtue," and he did not deny it. On the contrary, he acknowledged it with pride, explaining that every woman loves pilots, "perhaps because flying represents in her eyes somethink new, a daring way of life."

They will tell you that, besides this, he was a playboy, a heavy drinker, always frequenting night clubs, and you can see it from the way he combs his hair, the way he wears the mauve satin scarf around his neck, an unstudied, casual look to his uniform, yet always so ironed—too ironed.

He even wears it when dressed as a parachutist, the same suit, he used when he jumped at night on North Vietnam on secret missions; all black and close-fitting. With such a suit, he seems a bat with a giant rose at his neck, but what an elegant bat.

Others instead will tell you that no, inside he's a sentimentalist. He abandons himself to these harmless characteristics because of an old despair, the disappointment he had from his first wife, who was French and took advantage of him. When married to her, he was such a good boy; he became a playboy when she left him with five children and he went to live with that show girl. Think of it; a Prime Minister who goes to live with a show girl, committing to her his children. If you understand such a drama, they say, then you will also believe how tender he is, and kind and thirsty for a real, normal family, and that for this very reason he married his second wife, as good as beautiful, 11 years younger yet wise, met on an Air Vietnam flight to Bangkok when she was a hostess who studied mathematics at the University of Natrang.

You will believe that in Bangkok he invited her to dinner along with the entire crew; that seven days later he introduced her to his children to make clear that it was not only a wife he wanted, he also wanted a mother for them. Besides, his wife will confirm such a story; she'll even add that he is a good father; a good husband.

Since the day they got married, he never gave her a reason to doubt his fidelity. It is not true what people tell about the day he flew to Hue on a sentimental journey and she followed him on a military plane but he ordered the control tower to forbid her landing. "Such an order was given because the weather was bad, the landing was dangerous. She was joining him because he wished to spend the weekend with his family. People are so nasty."

### THE LUCKY DAUGHTER

Finally, others will tell you that he's superstitious, believes in horoscopes in a fanatical way, questions the astrologers before serious decisions and was very happy when the second wife gave birth to a girl because he already had four sons.

As you don't know, in Vietnam four sons mean good luck, five mean misfortune, and the astrologer had announced to him that a daughter would bring him a future full of good promises, a son would bring him disasters, and because of this he called his daughter Duyen, which means "strange magic."

He denies it with indignation. But he does not deny that his fondest amusements, his real relaxation, is watching cockfights. In his house at Tansonnhut he keeps 100 cocks, and every Sunday afternoon he organizes a show that ends in a hecatomb of blood, feathers strewn all over, breasts and necks and legs torn in pieces.

Not satisfied, he goes looking for cockfights wherever they take place. He can cross half Vietnam by plane and jeep, and enter Vietcong zones without escort, just for that. He admits it, explaining that cockfights are a pretext; in reality, those trips are useful to him to make contact with the peasants.

He likes peasants. With them, he has not a distant relationship; with them, he smiles jovially and shows all his teeth, which are white and strong and scary as the teeth of a wolf. With them, he shakes hands very friendly. He believes in them as Ho Chi Minh and Mao Tse-tung do.

He claims that Vietnam's renaissance depends on the peasants, not the intellectuals. The latter are not able to fight because they are not able to suffer, and they are not able to suffer because they have never been hungry. Before becoming a pilot, his dream was to be a farmer, although he comes from a family of mandarins of Hanoi. In other words, he is of aristocratic descent.

From his tastes, you wouldn't guess it. He doesn't love what we consider good music. He listens to Brahms or Beethoven when he wants to get sleepy; while awake, he prefers the Twist, rock and the Beatles.

He obviously doesn't go to the movie theater, such an easy place to get killed—but he often projects moving pictures in his house, and they certainly are not very deep. They are Westerns and James Bond stories. For books, it's the same. All that he reads is detective stories, his wife says that he possesses an entire library of them.

The French journalist Francois Pelou visited him at the Independence Palace and saw, over his Vice President's desk, two detective stories and a Bible. "Congratulations, I see you are dedicated to serious literature," the journalist said, pointing to the Bible. "Someone just gave it to me," he answered with irritation then took the Bible and threw it away.

He is not religious; he's a confessed atheist. He tells that when he was a soldier, his mother prayed to Buddha for him, and he made fun of her. He says he has never faced the problem of the existence of God and adds that he couldn't care less to know if God existed or not.

A LEADER NONETHELESS

In the light of these anecdotes, therefore, nobody would dare to judge him as a representative character, a man whose destiny was and is to enter into the history of this war, the only possible leader in a country painfully poor in leaders. Yet he is. And you realize it, with astonishment, when you listen to him for more than ten minutes.

The man is not stupid. He has something to say and he says it without fear. To begin with is the fact that he is a socialist, but not a pink socialist, undecided between reforms and compromises. I mean a Marxist socialist, exactly like his enemy Ho Chi Minh.

Like Ho Chi Minh, he does not believe in democracy as we accept it, in freedom as we interpret it. To his eyes, the rich are undebatably corrupt, the poor are undebatably innocent, the social revolution is the only answer to the problems of Vietnam. And not a pacific revolution: a violent, bloody one, if necessary.

The most extraordinary thing is that he expresses this belief without pronouncing the formulas "capitalist," "class struggle," "dialectric." He never read Marx and hasn't the slightest idea of what Marxism means. To those ideological conclusions he has arrived all alone, by instinct, confusedly, between a detective story and a cockfight, and it would be difficult to explain to him that such ideas are not new because someone wrote them a hundred years ago.

Things being like that, it's a mystery how he could become the Prime Minister of Vietnam, then the Vice President of the government most hated by any Marxist. And if "mystery" is not the right word, then we must admit to have understood really nothing about Vietnam and what boils there. Not at random, when you say to a responsible person in Vietnam that Nguyen Cao Ky speaks like a Vietcong, you get this answer. "But most of the Ky generation speaks like a Vietcong."

And perhaps the most dangerous enemy that the Americans have in Vietnam is not the ascetic old man who studied in Moscow and whom the Vietcong tenderly call Uncle Ho; it is this young man with a mauve silk scarf and a past of verve, this pilot whom they hosted during eight months at the air base of Maxwell Field, Ala., and whom Henry Cabot Lodge referred to as "my second son."

SLEEPS AT OFFICE

The interview that follows took place in a house of Rue Cong Ly where the Vice President lives daytimes with his family. At night, they all transfer to the Independence Palace, where they sleep in a room adjacent to his office, on mattresses placed on the floor.

Armed guards control their security. The atmosphere around them is tense, suspicious. The children have learned to keep their heads down and get covered as soon as they hear a gun shot. When Mme. Ky says, "We live like soldiers," her porcelain face seems the portrait of sadness.

Ky's face instead stays imperturbable. For him, the risk is normality, the death threat is routine. And a blind faith holds him: the faith that he can walk through that death threat like an invulnerable god. Maybe he's a visionary; maybe he knows very well what he's doing. Maybe he will end as a Lumumba; maybe he will win as a little Napoleon. Others as ignorant as he is, and as debatable, were able to succeed.

Without judging, your reporter limits herself to telling you what he said. Ky spoke to her for hours, with steady voice and hard eyes. It was a Sunday afternoon in March, 1968, and the artillery thundered around Saigon.

THE CLOSER EVIL

MISS FALLACI—Gen. Ky, many disconcerting things are told about you, but the most disconcerting is the one you said a few days ago: "I know that someone is trying to kill me. But this someone will not be a Communist."

GEN. KY—Exactly so. If someone kills me it will not be a Communist. It will be someone on the other side, someone for whom I am much more uncomfortable than I am for the Communists.

Not all the evil is on the Communist side. The corruption is among us, among our leaders. Nine out of ten are corrupted. And as I am the only one to recognize it, to admit it, many people obviously hate me and have their interest to eliminate me.

Politicians don't like me because I am not a politician, because I am not a diplomat, because I denounce this regime as an inefficient one, an incapable one, and because I say that democracy exists in it only as a name.

Americans don't like me because I tell them what I think, and I accuse them of lying. Americans claim to be here in the name of their principles of democracy and freedom. I do not believe them; at the best, I believe them 50 per cent.

Americans are not here for democracy or freedom; they are here to defend their interests. And not always do their interests coincide with the interests of Vietnam. Americans are here because they want to stay in Asia, to fight communism in Asia, not because they care for us. They do not understand what we need; they do not understand our tragedy.

Look at that Robert Kennedy who says: "Democracy, freedom." Words. His concept of democracy and freedom is simply ridiculous to me, because it is always these big powerful countries talking about democracy and freedom which create colonialism. They begin with saying: "We are here to help you." And then they become bosses, and then they become colonialists. Enough with that.

MISS FALLACI—Gen. Ky, are you speaking about revolution?

GEN. KY—I sure am. What Americans do not understand is that South Vietnam needs a revolution to counter the ideal of revolution from North Vietnam, to demonstrate that not only in North Vietnam there is a need for justice.

Americans want to institute in South Vietnam a kind of democratic regime they have in mind; respect for the laws, freedom of speech and so on. Elections. But what does it mean to speak of elections to someone who dies of starvation? What does it mean to talk about legislative power, executive power, when all that you need is a bowl of rice for your children?

When you go in the villages and you speak to the peasants about voting, they answer by telling you that they're hungry. They don't care about democracy; they care about social justice. So for me, democracy means social justice—that is, distribution of the land, building of houses and schools, no more starvation.

In most of the cases, the men who have been elected in South Vietnam are not the men that people want; they do not represent the people. The people voted for them because someone told them to vote. Our last elections were of loss of time and money, a mockery. They were only useful to elect a regime which is wrong and corrupted and weak and would fall immediately with a revolution.

It is hard for me to say so because I share the responsibility of those elections, I have been voted in them and I am the Vice President of such a regime. But at least I recognize the evil where the evil is and I say that laws must be changed, because what we now have are laws that defend the rich. We need new laws to defend the poor.

MISS FALLACI—Gen. Ky, this is what Ho Chi Minh says, and what the Vietcong say. This is socialism, Marxism.

GEN. KY—Who denies it? I am not afraid of the word socialism. It is the Americans who pronounce the word socialism as if it were a dirty word.

You say I am a Marxist. It is not the first time that a European says this to me. So maybe I am a Marxist. Who cares? I don't know Marx, nor Engels nor any of these white people who were born in Europe. They wrote theories, and I have no time to lose with theories.

Frankly, I don't read. I am not even ashamed to admit that my education is rather poor. I only studied in high school and stopped studying when I was 18 years old and the French closed the schools to send us to the war.

I am a pilot. I have spent my life with airplanes, not reading the books of this Marx and this Engels. I couldn't care less to know that this Marx discovered that the poor must not be poor. I don't need his discovery to know such an elementary thing. I am a yellow man, I am an Asiatic, and I know what my country needs much better than all those white people writing books.

MISS FALLACI—The fact remains, Gen. Ky, that had you read those books, you would realize they say the same things as those people that you are fighting. Could you tell me why you fight the Communists?

GEN. KY—Well, as I told you, I only know what I see here in my country. And what I see about the Communists in my country, well, I don't like it. I mean I don't like to see a son who condemns his mother in the name of the party; I don't like a party that in the name of an ideology destroys the family and the sentiments; I don't like a society where a man becomes a member of the party. Because it is true, that I am against the freedom which causes disorders and prevents social justice, but it is also true that I am against the dictatorship.

I don't know how to explain. Maybe I can explain it so: I don't like the Catholics and the Communists resemble the Catholics so much. They belong to the party exactly as the Catholics belong to the Church. Fanatically. So this is why I fight the Communists.

But I certainly don't reproach them for their program of distributing richness and I perfectly agree with them when they take the land of the rich and give it to the poor. I perfectly agree with them when they give a rifle to a peasant and say to him: "Fight for a better life." I perfectly agree with them when they abolish the privileged classes and when they say that the system of division of classes is wrong. As Confucius says, we must raise the poor and lower the rich until they meet at a level where everybody can live harmoniously, totally integrated.

MISS FALLACI—Gen. Ky, did it never occur to you to doubt whether you are on the wrong side of the barricade? Did it ever occur you to think that you could well stay with Ho Chi Minh?

GEN. KY—Well, if my destiny had been different, I could have been on his side. But what would I be today? I would be a little functionary lost in the cadres of the party as thousands of others, completely silenced by them, and I wouldn't be able to do a thing. Staying on this side on the barricade instead, I am Nguyen Cao Ky and I can do something. Because if it is true that a swallow does not make the spring, it is also true that a swallow announces the spring.

Of course, everything would have been easier for me at the other side of the barricade. Probably I would be less unhappy, too. But I also would be more impotent, and I could not dream my revolution.

MISS FALLACI—However, Gen. Ky, should you one day understand that you were unable to achieve your revolution and that you had chosen the wrong side of the barricade, would you be ready to go to the other side?

GEN. KY—No. When a man chooses an ideal, or a way to realize an ideal, he must follow it until the end without changing system. Should I understand, sooner or later, that I had chosen the wrong way and the wrong side of the barricade, I would prefer to die.

I know very well that my choice is not easy and will be very painful. I know very well that the Communists and I have many dreams in common, common targets, common aims. I know very well that the system of this side of the barricade is wrong, but it wouldn't make any sense to abandon a wrong system for another wrong system.

No, I will never go with them. I'd better die than admit to have chosen the wrong way. The only thing that I can admit now is that my choice is not very practical.

MISS FALLACI—Do you really believe you'll succeed or you only dream to succeed?

GEN. KY—I believe in my destiny so I believe I'll succeed. Unless they kill me. If they don't kill me, I should win, because I am not with the minority. The mass of the people that is, the poor, the peasants, are with me. And it is on the poor, on the peasants, that one must count for a revolution, not on the intellectuals, on the middle-class people. He who is not hungry does not shoot well, or does not shoot at all. My revolution must be done with the peasants and by the peasants and for the peasants.

MISS FALLACI—This is what Mao Tse-tung says.

GEN. KY—Mao Tse-tung is a Chinese, and the Chinese have been our enemies for 4000 years. All our history demonstrates that the Chinese only want to absorb us, destroy us, and what a Chinese says can never agree with what a Vietnamese says.

We hate them, in the South as well as in the North. And when some Americans say that Ho Chi Minh will ask the Chinese to intervene in this war, with their troops. I answer: You are crazy. Ho Chi Minh is a Vietnamese, and he hates the Chinese as I hate them, and he knows that calling on the Chinese would be the mistake of his life. Should the Chinese come to Vietnam, we all would reunite, the South and the North, Communists and Nationalists, and we would fight them together and all our problems would be finally resolved and our country would not be divided any more.

MISS FALLACI—Gen. Ky, what do you think of the Vietcong? What do you think of this fight between brothers? Can you consider the Vietcong as brothers?

GEN. KY—A brother is a man who is with me when I am sad and when I am happy. A brother is a man who thinks like me and the Vietcong don't think like me. They speak my language, they have my same blood, my country, but they are not my brothers. The most I can do is to feel pity for them when I see them dead.

This may scandalize you, but should you have put the same question to the Americans during their Civil War, they would have answered the same thing. Now the Americans are united. A day will come when my country will be united, too, like America, and I will not shoot what you call my brothers any more; they will not shoot me any more.

This is our destiny and the destiny I am fighting for. Until that day, don't ask me to like them. I leave this privilege to you Europeans. You Europeans have fallen in love with the Vietcong. All that they do is good for you; all that we do is bad for you. We are the villains and they are the heroes, like in the Western movies. You admire them for parti pris.

Should we attack the North, the whole world would arise against us, like they infiltrate to the South, and the whole world accepts this. I have not yet understood if yours is romanticism or idiocy.

MISS FALLACI—Maybe it's only respect, Gen. Ky; for instance, respect for their courage, their faith. You must admit that it takes a lot of courage, of faith, to go barefoot against the tanks.

GEN. KY—Who denies that they are brave, that they have faith? Sure they have it. A lot. They are Vietnamese. But our soldiers also have guts. It is you Europeans who accuse them of being cowards—I don't know on what base.

When you follow a combat, you always follow it with the Americans, never with the Vietnamese, as if the war were done only by the Americans. All right, Americans do it, and I thank them for this. But they are not alone, and if the North Vietnamese didn't infiltrate between us, we would not need the Americans and we could finally settle our business without the Americans.

We have not less guts than the Vietcong. I personally am not less courageous than a Vietcong. Oh, you have admired the Vietcong so much for their Tet offensive. Well, it certainly was a brave offensive and an intelligent one. I would call it a rather respectable offensive. But we were not less than them. They only have more discipline than we have, more training because they have kept themselves organized since 1954 and we started only three years ago.

MISS FALLACI—Gen. Ky, in your judgment, why did they lose?

GEN. KY—They have lost because they have trusted what the American press and the Vietnamese press have been saying for years, that we are the cowards, they are the lions. They have lost because they thought that our soldiers would not react and the populations would immediately pass to their side. They have lost because they have wrong information and they have not understood that the mass of the population does not stay with Ho Chi Minh, neither with me; it only stays with its bowl of rice.

They have lost because they had not me to guide them. Should I have guided the Tet offensive, I would have won because I know what is necessary to shake the indifference of my people. You have to wake up their conscience. And to wake up their conscience, you have to recognize their right to the bowl of rice. You have to make them fight for that bowl of rice, and then no army or atomic bomb can stop them.

They have lost because their leaders are old and make the revolution in an old-fashioned way, using the books which were written a hundred years ago by the white people. Their leaders reason like the Americans: interrogating computers, not the common sense.

And then, militarily speaking, they have lost because of a few stupid mistakes. First of all, they had not enough troops. Second, their troops were not sufficiently armed nor sufficiently trained. They did not occupy the right places at the right time. They wasted time with the American Embassy, for instance. Who cares about the American Embassy? How can you waste energies and lives for the American Embassy?

They should have conquered the Tansonnhut Airport, they should have conquered the radio stations, they should have spoken to raise the people: "Here we are, in Saigon. No more Ky, no more Thieu, no more Americans. We are the government now, we are your friends." I would have done like that.

MISS FALLACI—Maybe they will next time. Gen. Ky, do you think they will attack again?

GEN. KY—Sure they will. As soon as they have recovered from their terrible losses—they have lost around 50,000 men all around the country—they will attack again. And this will happen very soon. In my judgment, let's say in May or June. They will attack Saigon, because the decisive battle will take place in Saigon and nowhere else.

It is the Americans who publicize Khesanh and the places like Khesanh. The North Vietnamese are not stupid. They know very well that Khesanh has no importance, not militarily nor strategically nor politically. They have no intention to lose energy in transforming Khesanh into a Dienbienphu.

MISS FALLACI—Gen. Ky, are you not tired of this war?

GEN. KY—No, it is you Europeans, you Americans, you white people who think that Vietnamese are tired of this war, both South and North. It is not true. And the reason is that we never knew the peace or the happiness, and the death is a habitude for us and we are not afraid of it.

Every day for us is the day that we could die. We are ready for it. We are Asiatic—that is, fatalistic. We believe in destiny and we are used to the sufferings. You white people cannot understand. You white people give too much importance to life to the length of life, to the comforts of life. You are not ready to sacrifice yourselves for a dream. Should you have been in a war as long as this one, you would have given up a long time since.

Miss FALLACI. You don't love the white people, Gen. Ky, do you?

General KY. I don't. I am too proud to love you. I am too proud to be a Vietnamese, an Asiatic, a yellow. I never thought that the white race would be a superior race; on the contrary. Should I be religious, which I am not, I would say, "I am the son of Buddha, I am the son of God, I am God. I am the man that God sent to save this country and unify it and give it one day the role it has to have in Asia."

Put into your mind that the future is here among us, not among you white. Europe is old, tired, dusty, and America should not be called any more "the New World"; it should be called "the Old World." Its time, your time, is over. Which is why I couldn't care less for your criticisms about us and about me.

Like all that noise for Gen. Loan's episode. I mean when he shot the Vietcong. Of course I blame him, though I understand him: his gesture was the gesture of a man who loses his control after having seen many of his men killed. But I want to have the right to judge a Vietnamese who kills another Vietnamese and I don't transfer such a right to anybody else. I don't recognize you that right.

Miss FALLACI. You don't, but we take it, Gen. Ky. And the result is not always very positive for you. Are you aware of how hated you are?

General KY. Yes. People always seem to expect the worse from me, abroad especially. I remember when I went to Australia and the posters defined me "Butcher, murderer, dictator." When they realized that I was not that bad, they reacted in total amazement. "We waited for a butcher and we find a small, nice gentleman," the newspaper wrote.

Miss FALLACI. Gen. Ky, is there anybody in the world that you admire apart from yourself?"

General KY. I don't admire anybody except the poor who fight, for their bowl of rice. So let's use the word respect instead of the word admiration.

Well, I respect de Gaulle, for the way he fought during the Resistance and the way he brought back prestige to France. I respect Churchill for the way he fought during the Second World War. Then Stalin, for the same reason. But maybe, instead of Stalin, I should say the Russian people, for their patriotism, their courage. Ho Chi Minh, I don't know: it's difficult for me to judge Ho Chi Minh objectively.

And then I respect my cocks when they fight.

Miss FALLACI. You are a man in trouble. Gen. Ky; you could lose also staying alive.

General KY. Well, for a man like me, there are only two solutions: to win or to be eliminated. So you may be right when you say that I am a man in trouble. But perhaps it is righter to say that I am tragic man.

The fact is that it is always tragic to be a Vietnamese. Being a Vietnamese means to be in the middle of a struggle between two giants—or three giants—who don't give a damn for you and use you as a bullet to shoot each other. America and Russia. America and China. Russia and China. We are the pretext for their vanity, which only looks at the conquest of the power, of the supremacy. And in such a struggle, we risk being quashed without pity.

Even Ho Chi Minh knows this plain truth. Even you Europeans. Everybody knows. Everybody but the Americans. But trying to explain this to the Americans would be as hard as to explain to them that the word socialism is not a dirty word and there is no other answer to the civilization that they propose to us. Their civilization of robots.

It is impossible to talk with the Americans, not because they don't want to talk; because they don't understand. Once I tried with a specialist in foreign aid. He wanted to know why Americans are so much hated today in the world in spite of all the help they give.

So I said: "Because it is not what you give; it is how you give it." And he asked, "How should we give it?" So I said, "I could teach it to you. But it would take tens and tens of years. Better, generations and generatons. Better, a civilization of thousands of years."

He did not understand. He could not. He was too much a product of a world dominated by the computers, the technology, the three giants who use us Vietnamese and the small countries like the Vietnamese as instruments of their fight. If I will not be be able to win, it will be only because a man alone can no more win in a world dominated by those giants, those computers, that technology. It is all.

Miss FALLACI. Thanks, Gen. Ky.

Gen. KY. Thanks to you for having listened to me. You see. I am a very lonely man. Very lonely. Really Lonely. It happens so rarely to me to talk with someone, I mean someone who really listens to me. And when it happens, I feel almost happy, because I feel less alone.

## RESPONSE TO EDITORIAL ON VIETNAM MORATORIUM, BROADCAST BY WAJM–FM, MONTGOMERY, ALA.

Mr. ALLEN. Mr. President, I have been favored with a copy of a letter written to President Nixon by Mr. Boyd E. Quate, president of radio station WAJM–FM, Montgomery, Ala., on the subject of the Vietnam moratorium. The letter tells of a tremendous response from the people of Montgomery to an editorial broadcast by the station on the subject of the moratorium. The response to the editorial was such that it makes me extremely proud to be an Alabamian. I believe that the attitudes revealed are both significant and instructive.

I ask unanimous consent that the letter and the editorial be printed in the RECORD.

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

WAJM–FM,
*Montgomery, Ala., October 21, 1969.*

President RICHARD M. NIXON,
*The White House,*
*Washington, D.C.*

DEAR PRESIDENT NIXON: We thought you might be interested in the attitude of some Alabamians in regard to the Moratorium held October 15, 1969.

We broadcasted an editorial on the radio station all day on the 15th and the response was so gratifying that we have decided to pass the information on to you. Each time we broadcasted the editorial we asked for comments and as a result the phone rang constantly from 6:00 A.M. until 11:00 P.M., with an average of one call every three minutes. Of the phone calls 98.3% were against the Moratorium and for our editorial (a copy is enclosed). In summary, in Alabama at least, for every person that is against you, there are 50 on your side, as far as the war in Viet Nam is concerned.

The following is typical of the comments that were made:

Hooray for your station. My husband was in World War II. Thank God that he came back. The dead from all the wars that involved America, to see how some Americans are acting today, must be looking down and weeping for them.

May God be with the wounded and the brave people who died and the men in the world who are still fighting to save our country from the evils of other countries.

Thank you again for your program on this day.

Sincerely yours,

BOYD E. QUATE,
*President.*

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A WAJM EDITORIAL, OCTOBER 15, 1969

Today there is something going on called Viet Nam Moratorium. We at WAJM are very much against this Moratorium. We think it is stupid, if not out right treason. We believe we should remember the Alabama boys who died in North Viet Nam. We believe we should remember our fighting men who are still prisoners of North Viet Nam. We believe we should do what is best for the fighting men who are still in Viet Nam. If you agree, we suggest you drive with your lights on today and fly the flag. Let the world know that in Alabama "good old-fashioned patriotism" is not dead. If you believe the President should do what is best for the U.S.A., and not what North Viet Nam wants us to do, then we ask you to join thousands of other patriotic Alabamians in protesting today's Moratorium action. If you would like to comment for or against the Moratorium today, please phone us at 269–2506. Thank you.

## CYCLAMATES VERSUS CIGARETTES

Mr. MOSS. Mr. President, a letter to the editor, published in a recent issue of the New York Times asks: If cyclamates which are suspected of causing cancer are to be removed from the market, how about cigarettes, which have been proved to cause cancer. Well, why not?

I ask unanimous consent that the letter be printed in the RECORD.

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

[From the New York Times, Oct. 22, 1969]

DOUBLE STANDARD

To the EDITOR:

A perfect example of a double standard:

Cyclamates (which in theory may cause disease in human beings) are to be removed from the market. Probably a proper precaution.

Cigarettes, which, beyond any shadow of a doubt, are responsible for thousands of deaths each year, remain on the market. In fact those who produce tobacco receive substantial Government subsidies.

Sheer hypocrisy! A most blatant example of how supposedly responsible Government officials bow to pressure groups with vested interests.

RICHARD R. BASS, M.D.
KARL NEUMANN, M.D.
REUBEN H. REIMAN, M.D.
JOSEPH SOLOWAY, M.D.

FOREST HILLS, N.Y., *October 18, 1969.*

## NATIONAL BUSINESS WOMEN'S WEEK

Mr. BENNETT. Mr. President, during the week of October 19 through the 25th, 180,000 members of the Business and Professional Women's Clubs, Inc., celebrated National Business Women's Week.

During this week, the more than 3,800 member clubs located in every State in the Nation as well as the District of Columbia, Puerto Rico, and the Virgin Islands, have turned their spotlights upon outstanding women in their communities and the role of women in today's world.

In honor of the working women of the United States and on the 50th anniversary of this outstanding organization, I think it is fitting that we note the strides made by women in this Nation during the half century.

In 1920, when many mothers of today's teenagers were born, a woman's life expectancy was 55 years. In 1967, it was 74 years. In 1920, for every 100 girls 17 years old in the population, only 20 were graduated from high schools: in 1968, the comparable figure was 78. Finally, in 1920, only 23 percent of all women were in the labor force, and the occupational choices were generally very limited. In 1968, 42 percent were in the labor force in nearly 500 different occupations.

The number of women earning college degrees has risen significantly in recent years, for a record high of 345,068 in the 1967–68 school year. In 1968, they received 41.5 percent of the bachelor's or first professional degrees; 35.8 percent of the master's degrees and 12.6 percent of the doctorates.

Although the primary role of the woman has traditionally been in the home as a wife, mother, and homemaker, the role of the woman as a working person will undoubtedly continue to grow. Only recently, it was estimated that by 1980 49 percent of all women 18 to 64 years of age would be in the labor force. But this figure has already been reached—49 percent of all women of these ages were in the labor force in April 1969.

The woman has made great strides in last half century. She has been given the franchise and, in fact, has become an important political factor that no aspiring candidate for election takes for granted.

She has been, to a significant degree, empancipated from many of the drudgeries of housekeeping through the miracles of industrial advancement which leave her more time to devote to her family and outside work and other interests.

Although I believe there are still significant areas in which American women will yet become involved as discrimination continues to give way to genuine ability regardless of sex, the American woman has come a long way.

## PENALTIES FOR VIOLATIONS OF DRUG ABUSE LAWS

Mr. HUGHES. Mr. President, Dr. Stanley F. Yolles, Director, National Institute of Mental Health, recently made a statement in defense of his position in favor of removing minimum mandatory penalties for violations of the drug abuse laws. I believe this to be a clear and informed statement on an extremely important subject.

I ask unanimous consent, that this statement of one of our Government's respected public servants be printed in the RECORD.

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

STATEMENT BY DR. STANLEY F. YOLLES

I believe along with many physicians, judges, law-enforcement officials, probation officers, and other persons who deal with law breakers that the principle and effects of mandatory minimum penalties defeats the whole purpose of treatment and rehabilitation of drug users; it unnecessarily limits the courts and negates the traditional American expectancy that each individual will be heard by a court of law in terms of his intent, the circumstances of his alleged offense, and his potential ability to be rehabilitated.

In response to the specific question asked by Congressman Watson my reply in favor of removing minimum mandatory penalties was in the context that most "pushers", or sellers, of narcotics are addicts themselves and therefore an unqualified yes or no answer was impossible. I *emphasize* that each violation of drug abuse laws must be decided on its merits to allow the judge to: fit the penalty to the crime; give a maximum sentence; suspend sentence; give an indeterminate sentence; or to see to it that the addict gets treatment.

I would not favor adoption of many legislative proposals in their current form, without further consideration of medical and scientific data, as well as further consideration of statements made by judges, probation officers, prison officials and others who oppose mandatory minimum penalties for drug offenders.

If mandatory minimum sentences really were deterrents to criminal conduct, then there would be little justification for limiting them only to narcotic and marihuana offenders.

Mandatory minimum sentences bear little or no relationship to the public good, to public health or to mental health.

## TENNESSEE WALKING HORSE

Mr. TYDINGS. Mr. President, I have introduced and held a hearing on a bill designed to terminate the longstanding practice of deliberately making sore the feet of Tennessee walking horses in order to alter their natural gait.

"Soring," as the practice is known, is both cruel and inhumane.

At present, the bill is being rewritten to insure that horse shows which make an honest effort to exclude sored walking horses from the ring are not unfairly penalized. Other changes are being contemplated, although no final decisions have been made.

The bill, if reported and enacted, will be an improved piece of legislation and will go a long way toward putting an end to a barbaric practice.

I recently received a fine letter from a young girl, Ceci Carmichael, who is 9 years old. Miss Carmichael asks a question that I have often asked myself:

Why do they have to put horses in agony to train for some shows?

I ask unanimous consent that Ceci's letter be printed in the RECORD.

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

WASHINGTON, D.C.

DEAR SENATOR TYDINGS: Why do they have to put horses in agony to train for some shows? They should just put a stop to this so that these horses won't be in agony.

There *has* to be some other way that won't hurt the horse.

CECI CARMICHAEL,
*Horselover.*

## FRAMINGHAM HEART STUDY FALSE ECONOMY

Mr. KENNEDY. Mr. President, on October 3, 1969, officials of the National Heart Institute confirmed that the Institute's support for the Framingham heart study, in Framingham, Mass., would be phased out at the end of the current fiscal year because of the lack of funds. I am deeply concerned about the imminent termination of this important program. In recent weeks, I have strongly protested what I believe are false economies in the proposed cutbacks in Federal funds for medical research. Once again, with the closing of the Framingham heart study, we see the high price we are paying for the war in Vietnam abroad and the fight against inflation at home.

The closing of the Framingham heart study is especially difficult to justify in light of reports that eminent scientific review panels have repeatedly recommended continuation of the study. The sole reason for the termination, as stated by the National Heart Institute, is the lack of about $400,000 and about 20 staff positions needed to continue the study.

Since its inception in 1949, the Framingham heart study has established an international reputation for its detailed investigation of heart disease in the 5,000 members of the Framingham population group who have participated in the study. In the 20 years of its existence, a remarkably low number of the participants—only 2 percent—have dropped out of the study. The data accumulated over the years now represent an unparalleled source of information on the etiology not only of heart disease, but also of a wide variety of other conditions, such as stroke, arthritis, diabetes, lung disease, high blood pressure, and blood cholesterol. Indeed, as described by Dr. Abraham Lilienfield, professor of chronic diseases at Johns Hopkins University and the head of a review panel that recommended a 10-year continuation of the project, the Framingham study population is a "national research resource."

At the time the closing of the Framingham heart study was first announced, I wrote to the Director of the National Heart Institute, urging him to restore the funds for the study. Since the original announcement, the plans to terminate the program have attracted wide concern. Yesterday's Washington Post, for example, contains an excellent and informative article by Mal Schechter on the history of the program and its potential for the future. I am hopeful, therefore, that the decision to phase out the program will be reviewed, so that this important national health resource will not be lost to the Nation.

Mr. President, I believe that Mr. Schechter's article will be of interest to all Members of Congress who are concerned with our Nation's health priorities.

I ask unanimous consent that it be printed in the RECORD. I also ask unanimous consent that a news report published in the New York Times of October 3, 1969, announcing the closing of the Framingham program, be printed in the RECORD.

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

[From the Washington (D.C.) Post, Oct. 25, 1969]

PURSE STRINGS STRANGLING A MAJOR HEART OPERATION

(By Mal Schechter, free-lance medical writer)

In 1949, some 5,200 men and women aged 30 to 62 joined the federal government in an unusual undertaking: the study of heart disease as it would develop in a defined population apparently healthy at the start. The dropout rate among the 5,200 has been an amazingly low 2 percent; only 100 or so have given up. But a single additional dropout threatens to end the project. That quitter is the federal government.

Obeying orders from on high to economize on money and manpower, the National Institutes of Health have quietly ordered a phasing out of the work, with termination in mid-1971. The $400,000 and 27 "slots" it takes to run Framingham annually will be deployed at NIH's home campus in Bethesda. To keep Framingham going would hurt core functions, NIH says.

To kill Framingham would be "criminal," says Dr. Abraham Lilienfeld. The professor of chronic diseases at Johns Hopkins University headed one of several NIH review groups that recommended continuation of Framingham on grounds of scientific merit and promise. "Framingham is a national research resource," Dr. Lilienfeld declares, saying that the study population has implications in other research than heart disease. His group urged NIH to continue Framingham for another decade as a stroke study and possibly as a study of senile dementia, pulmonary disease, arthritis, diabetes and hearing and sight impairment. Indeed, Framingham could serve in a general study of aging; many of its participants are entering the 50-to-80 age range.

"If the program were to be terminated and studies of these important areas of human biology and public health were to be initiated elsewhere, the costs would be many times greater than that necessary for the continued maintenance of this study population," said the Lilienfeld report, made available by a government source. "More important, there

would be a long delay in obtaining the necessary data."

A PREVENTIVE ROLE

Framingham's record gives weight to the Lilienfeld perspectives. The big harvest of the 20 years study has been the definition of factors that predispose an individual to having a heart attack. The "coronary-prone" person has high blood cholesterol, has high blood pressure, smokes cigarettes heavily and lives a sedentary life. These are a few of the factors that must be considered by a physician working to lower the probability of an attack in a coronary-prone person. In this way, Framingham holds an enduring place in the research underlying preventive medicine.

Framingham provided a model for studying chronic diseases in general. Classic epidemiology, which is the study of disease in a population, was devoted to the acute infectious diseases such as malaria, typhoid and diphtheria. A defined infectious agent could be detected by the illness it caused as it moved through a population. By eliminating a source of infection (such as polluted water) or the vector of the infectious agent (such as mosquitoes), the disease could be prevented.

The epidemiology of chronic diseases is different, if not more complex, because often no infectious agent is seen. There is no single obvious cause. Probably there are several interacting factors, none predominating. Some may be biological but some may be psychological and behavioral. And it is hard to find the beginning of a disease process that takes many years to reach a dramatic expression, such as a heart attack.

ISOLATING THE FACTORS

In revolutionizing the epidemiology of heart disease, Framingham demonstrated the power of what scientists call a prospective study. A population in which heart disease had yet to become epidemic was picked. Its members were studied in many ways, not just biologically. The periodic examinations build up baselines for various psychobiological functions. These were watched for changes.

When an individual had a heart attack, he could be compared with his peers in the study group—both those who had had an attack and those who had not. The factors making for heart attacks could be ferreted out.

This kind of study is prospective because no one knows who will be a heart attack victim. In a retrospective study, the victim is the starting point. He is studied intensively after the attack. But preattack measurements of, say blood components may be not available. Moreover, if they are available, they probably are not available on a standardized basis. Not only comparison between victims but also comparison between victims and nonvictims is impossible for lack of data systematically collected beforehand.

Framingham can do this. In its refrigerators, containing 34,000 frozen blood specimens, Framingham has the capability of going back to blood first stored in 1951 to see if a constituent discovered or first deemed important in 1969, for example, existed in a volunteer's blood a decade before he had an attack. NIH once described Framingham's files as containing baselines for "irreplaceable" experiments of nature.

Some 22 volumes of data and analysis have been put out by the Framingham investigators. They cover heart disease and some other diseases, for Framingham found, as time marched on, that it had marched beyond coronary heart disease. In addition to the 334 volunteers who suffered heart attacks, some 160 have had strokes.

"The study of stroke itself," said the Lilienfeld review group, "would be of sufficient importance to justify continuation of the follow-up of the Framingham cohort for another 10 years." Looking even further, it recommended consideration of the feasibility of monitoring the deaths of offspring and siblings of volunteers as part of an attempt to define familial patterns associated with chronic diseases.

A DOUBTFUL ALTERNATIVE

All of this suggests that Framingham has outgrown its 1949 origins in the National Heart Institute as a coronary disease study. If this is true, as Dr. Lilienfeld thinks, then NIH's argument for the phaseout—that Framingham has pretty much accomplished its original mission—is beside the point.

The NIH administration says it would be happy to have a Boston medical school take Framingham under its wing as a stroke study, but the school would have to win a grant priority from an NIH study section composed of nongovernment scientists. Would a study section be inclined to vote support for a project on a grant basis when that project had been killed as an NIH intramural function?

NIH grants are on short fiscal rations. Even if a grant priority were obtained, it probably would not be high. Typically, NIH gives low priority to epidemiology studies, Dr. Lilienfeld says.

The possibility of a consortium of intramural sponsors has been raised. The National Institute of Neurological Diseases and Stroke, the National Institute of Mental Health and the National Institute of Child Health and Human Development might be able to put together enough money to continue Framingham. However, all institutes are said to be short of "slots" because of government-wide restrictions on replacing departing employees. (The heart institute was particularly hard hit on this score.)

NICHD, for example, is hard put to fund and staff adequately its own prospective study at the Gerontology Research Center in Baltimore. A House appropriations subcommittee recently noted that this study of aging in more than 600 men is conducted in a specially built structure that is one-third unused because of budget austerity.

A PRESIDENTIAL PREROGATIVE

In sum, then, Framingham's future appears "iffy." The study population seems likely to outlive the study unless Congress steps in. Under Sen. Warren Magnuson (D-Wash.), a Senate appropriations subcommittee may heed cries of Dr. Lilienfeld, the American Heart Association, the American College of Cardiology and the American Patients Association to keep Framingham alive.

In the long run, however, Framingham's fate is up to President Nixon. He can refuse to spend the money even if Congress earmarks it. Although emphasizing a need for preventive services to minimize high-cost hospitalization, the Nixon administration apparently has been unimpressed by the relationship of Framingham to the development of preventive medicine.

In testifying before Sen. Magnuson, Secretary Robert H. Finch of the Department of Health, Educaton and Welfare loosely referred to Framingham in his prepared text as "a long-term study of heart disease among middleage males." Actually, Framingham is the largest study of heart disease in women as well as men.

Finch said the decision to phase it out was NIH's. But that decision was not made until the Nixon administration decided last spring to pare $38 million from the Johnson NIH budget of $1.484 billion. In addition, the hold on staff replacements became tougher at that time. All told, NIH ends up with $217 million less than it asked for fiscal 1970. And its staff is 5 per cent under the June, 1968, level.

Dr. Lilienfeld says that "in terms of national priorities and its own role in research, NIH has a great contribution to make in epidemiology. It should do those things that other institutions cannot do as well—the conduct of expensive, long-term studies." These require long-term commitments from staffers and from the funding source, he adds.

"These studies are more within the province of NIH than are laboratory research projects that academic institutions can handle. Nobody else can do these epidemiology studies as well as government," he says. "But government wants to drop out."

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[From the New York Times, Oct. 3, 1969]

BIG STUDY PROGRAM ON HEART ATTACKS TO CLOSE BECAUSE OF FUND SHORTAGE

(By Harold M. Schmeck Jr.)

WASHINGTON, October 2.—A major study program of the National Heart Institute, which has collected invaluable data on heart attack, rests for almost 20 years, is being closed down for lack of about $400,000 and about 20 staff positions.

The program, the Framingham heart disease epidemiology study in Framingham, Mass., is internationally known for its work. Stringent budget and manpower limits are forcing the institute to close it down, a spokesman confirmed today.

The decision was made recently in the course of budget reviews.

Since 1949 the program's scientists have been collecting data on about 5,000 men and women in their 30's, 40's and 50's who live in Framingham.

It is believed there is no comparable study population in the United States on which a like amount of data has been collected. There are other community studies of heart disease, but most of them concentrate on men in specific occupation groups.

The Framingham study had provided important data on such factors as high blood pressure, cigarette smoking, obesity and the concentration of cholesterol in the blood as indexes of the risk of serious heart disease.

Generally speaking, the risk of heart attack and death from coronary heart disease rises with these factors and with combinations of them. This kind of information has helped doctors identify high-risk patients early so that corrective measures can be taken.

For example, if a middle-age patient smokes heavily, has high blood pressure and is seriously overweight, the doctor can tell him what the odds of a heart attack are and how they may be improved.

Much of the data that could be expected on heart disease have been obtained by now. In recent years, data of the same sort have been accumulating on stroke and other circulatory problems because strokes tend to occur later in life than heart attacks.

The Framingham program is scheduled to be phased out by June 30, 1970.

After that, a small staff will be maintained to compile records on members of the study population who die or are hospitalized, but it will not be possible to collect the thorough data obtained in the past.

Since 1949 each person in the group of Framingham residents has been given a thorough physical examination every two years so that the scientists can observe the progression of health and disease as the individual grows older.

The closing seems to preclude the possibility of collecting data on stroke comparable to those collected on heart disease since 1949.

Dr. Robert L. Ringler, deputy director of the Heart Institute said today that the study would be a source of valuable information on strokes, which kill an estimated total of 200,000 Americans every year.

"Our position is that we recognize this," he said in answer to a query, "but we also recognize the dollar and personnel constraints."

Dr. Ringler said it cost roughly $400,000 a year to operate the program, which has a staff of about 27. He said the Federal ceiling on manpower was at least as important in the institution's decision as the limit on funds

The plan to close the program was not announced formally, but was noted briefly today in a newsletter called American Patient, published by the American Patents Association, a consumer group. Officials at the Heart Institute confirmed the report.

## IMPROVED OPERATION OF FEDERAL-STATE-LOCAL SYSTEM OF GOVERNMENT

Mr. HUGHES. Mr. President, we are all aware that if our federal system is to function at the optimum level and adapt satisfactorily to changing times and needs, our concept of it must be continually reexamined and renewed. There is no more useful commentary than a thoughtful analysis of what is required to improve the operation of our federal-state-local system of government.

One of the most thoughtful recent statements on this subject was made by William G. Colman, Executive Director of the Advisory Committee on Intergovernmental Relations, in an address before the meeting of the American Bar Association Section of Local Government Law at Dallas, Tex. I ask unanimous consent that this provocative address be printed in the RECORD.

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

MAKING OUR FEDERAL SYSTEM WORK: A CHALLENGE FOR THE 1970'S

(By Wm. G. Colman, Executive Director, Advisory Commission on Intergovernmental Relations, Washington, D.C.)

"We shall be as a City upon a Hill, the Eies of all people are upon us"—From a sermon by John Winthrop, aboard the *Lady Arbella*, 1630.

Our ideal from the beginning was an exemplary system, a "City upon a Hill." But many of our inner cities at present are little better than mudsills of our society. Indeed, they have become the great mirror reflecting much—if not most—of what is ugly, urgent, and fearful in our governmental system.

The crisis of our cities in truth has become the crisis of our federal system, for the agonizing agenda facing us domestically faces our cities initially and most insistently. Seething racial unrest and civil disorder, burgeoning crime and delinquency, alarming differences in individual chances for a good education, and wide variations in housing and employment opportunities—these are the big issues being fought out at the local level. Yet, the manner in which we meet these challenges in the long run will largely determine the fate of the American political system. It will determine if we can maintain a form of government marked by partnership and wholesome competition among national, State, and local levels. It serves as the great "Challenge for the 70's."

Because these problems are so deep, complex, and intertwined with one another; because they involve more than the fate of our localities but that of federalism as well, it is proper at the outset to look briefly at the range of issues that beset local America—especially urban America.

THE AGONIZING AGENDA

The basic intergovernmental problems besetting urban localities form a five sided pattern. *First and foremostly*, political and fiscal fragmentation at this level has resulted in a monstrous mismatch of needs and resources. Yet, as Mr. Justice White noted in the *Midland County, Texas*, case, ". . . In a word, institutions of local government have always been a major aspect of our system, and their responsible and responsive operation is today of increasing importance to the quality of life of more and more of our citizens . . ."[1]

Within metropolitan areas, over 80 percent of the nation's bank accounts are located; over three-quarters of Federal personal income taxes are collected; and 80 percent or more of the value added by manufacture occurs. At the same time, in these same areas local government faces its fiercest challenge with increased crime and delinquency; schools that are becoming jungles of terror; neighborhoods that are blighted; poverty and disease that are rampant and with millions of our citizens feeling completely alienated from their local government. Above all, in these metropolitan areas, the doctrine of ordered liberty is most seriously challenged. How many of our urban citizens, in fact, accept the soundness of Charles Evans Hughes' precept that:

. . . Liberty in each of its phases has its history and connotation. But the liberty safeguarded is liberty in a social organization which requires the protection of law against the evils which menace the health, safety, welfare, and morals of the people. Liberty under the Constitution is thus necessarily subject to the restraints of due process, and regulation which is reasonable in relation to its subject and is adopted in the interest of the community is due process . . .[2]

When historically tested tenents like this are in doubt then meaningful freedom is in doubt. Overall then, most of America's wealth and most of America's domestic problems, including a frontal challenge to freedom itself, now reside side by side in metropolitan areas.

Why then cannot this vast wealth be applied through vigorous social measures to meet the growing problems? Because, as every local, State, and Federal official knows, the resources exist in metropolitan jurisdictions other than those having most of the problems—or they exist in forms that localities cannot reach. Through a large portion of the country, this gap between needs and resources is a gap between central city and suburbs. Here the fact of jurisdictional fragmentation accentuates the problem of fiscal disparities. Local governments typically denote the power to tax and the power to spend for public purposes. With a jungle of jurisdictions in most metropolitan areas, we achieve a parallel pattern of fragmentation of the local tax base. Since the major source of revenue for most local functions is the property tax—especially for education—the fiscal disadvantage for the core city is all too clear. Increasingly populated by low income, nonwhite people, marked by a continuing exodus of businesses and moderate and upper income people to the suburbs, America's central cities are faced with the necessity of spending abnormal amounts per pupil for education and abnormal amounts per capita for such functions as sanitation, law enforcement, and welfare.

*Second*, the overall pattern of urban development generally has followed a disorderly, destructive, and distasteful course. It is a product of a relative *laissez-faire* land use policy on the part of larger jurisdictions and a generally potent but parochial interventionism or a purposive abstentionism on the part of local jurisdictions. The overall result of these policies, if such they can be called, has been a passivity on the part of government with respect to the migration of people, the concentration and location of industrial development, and the forging of urban growth policies.

Local governmental activities are marked largely by economic competition, exclusionary zoning, and building code anarchy. State governments usually have been indifferent to urban needs and rarely willing to challenge the parochial land use practices of their localities. The Federal role has been wholly confused and ambivalent. On the one hand, Congress enacts areawide planning requirements, strengthens representative regional bodies, adopts programs to assist the rehabilitation of central cities. On the other hand, the Federal-State highway program, FHA's activities, the failure to adopt an equitable relocation program, and various location decisions of the Department of Defense and other Federal agencies have not always given adequate consideration to overall urban development policies (and that is an understatement).

The result of all this at all levels has been to accentuate wrong-way migrational patterns of people and business; to forge a white- and high-income noose around increasingly black and poor inner cities; and to chain much of the rural America to a continuing course of gradual erosion.

*Third*, most, but not all, State governments have been hesitant if not fearful in grasping the urban nettle. As the road to the present urban hell was paved, many major sins of omission and commission can be ascribed to the States. Cities and suburbs, counties, townships, and boroughs alike are, after all, legal creations of the State. The deadly combination of restricted annexation and unrestricted incorporation; the chaotic and uncontrolled mushrooming of special districts; the limitation of municipal taxing and borrowing powers; the abdication of the all important police powers of zoning, land use and building regulation into the hands of thousands of fragmented and competing local governments—these are but a few of the byproducts of decades of State government's nonfeasance and malfeasance concerning urban affairs.

Some describe the States as "the great arch" in our federal system. In a strictly legal sense, this is an accurate description—insofar as localities are concerned. Yet more often from the local vantage point, the State has appeared like an infrequent visitor, slinking through back alleys, and blind to the real problems marching up the zesty thoroughfare of municipal life. A decade ago, Earl Warren explained all too well the results of State inaction and ineptitude:

"When the state governments fail to satisfy the needs of the people, the people appeal to the Federal Government. Whether the question is one of the advancement of human knowledge through research, of law and order, or the right of all persons to equal protection of the law, the Federal Government need become involved only when the states fail to act."[3]

*Fourth*, the imbalance of the intergovernmental revenue system has further complicated the life of local government officials. Yes, even State officials are not without this worry. Both the States and localities have been laboring under increasing handicaps as more of them strive to meet their growing responsibilities. The Federal income tax has funded a rapidly rising scale of domestic expenditures from the Federal budget since 1950 despite net decreases in rates over this period. State governments, dependent upon consumption taxes and moderate-to-low rate income taxes, have had to raise rates and impose new taxes time after time in order to keep abreast with increasing education and other domestic expenditures. Local governments have had to do likewise with property taxes and miscellaneous nuisance taxes. The political landscape has been strewn with defeated Governors, mayors, and county officials courageously committing suicide at the polls in doing what had to be

[1] *Avery* v. *Midland County*, No. 93, October Term, April 1, 1968.

[2] *West Coast Hotel Co.* v. *Parrish*, 300 U.S. 379 (1937).

[3] Mason and Beaney, *The Supreme Court in a Free Society*, page 310 (1959).

done to increase the resources of government to meet, in part at least, the escalating service demands from an insatiable (and unappreciative) public. Yet, as former Governor Terry Sanford has observed: "Taxes, so unpleasant and so politically hazardous, constitute the red corpuscles of government."

*Fifth and finally,* a phenomenal growth in what we might call "functional" government has occurred in recent years as a result of greater intergovernmental activity in areas like welfare, health, housing, education, and transportation and of a static or supine position on the part of top policymakers at the Federal-State-local levels vis-a-vis the administrators and pressure group supporters of the individual programs. Functional government reached its zenith in the mid-and late 1960's when Federal categorical grant programs passed the 400 mark. With each new category and subcategory, a new crop of specialists and subspecialists was spawned to administer and propagandize and few, if any, counterbalancing efforts were made to strengthen the position of the department secretaries, the governors, or mayors.

Functional specialists in each aided field typically consult with one another in the formulation of regulations for the aided program. Similar consultations produce draft amendments to enabling legislation and draft bills for completely new programs. The bypassing of general political leadership is not so marked at the Federal level because plans of the specialists must receive the approval of Cabinet officers and the Budget Bureau before transmittal to the Congress. In State and local government the story is different—with political executives being told that a grant is available if matching money can be raised and the accompanying package of regulations adopted. The lure of "50 cent dollars" is usually impossible to resist.

A MULTI-FACETED PROGRAM WITH A SINGLE PURPOSE

These then are five major factors that have generated an incredible and seemingly insoluble array of difficulties for local governments generally and especially for those in urban areas. These factors, however, also reveal the overall institutional agony of our entire intergovernmental system. Moreover, they serve as a stark reminder that even in this age of lunar exploration we have yet to enshrine the precepts of Jefferson's Declaration of Independence within the firm foundations and practices of Madison's constitutional order. From a historical, sociological, political, and certainly a legal vantagepoint, the quagmire of our cities is the major problem of the hour and each of these disciplines has its contribution to offer.

Let us focus then on the governmental and specifically the intergovernmental aspects of the problem. Over the past nine years, the Advisory Commission on Intergovernmental Relations has grappled with these and many other tension-ridden topics that impede effective Federal-State-local relations. As a bipartisan Commission, composed of 26 members from the public-at-large and all levels of government, it is actually a national body representing all levels and is not dominated by any one level of government.

In its several probes of the urban crisis, the Commission has developed an interrelated program of new intergovernmental initiatives—in short, a "Program for the Seventies." This program involves recommendations that seek to civilize local government's jurisdictional jungle; to restore fiscal balance in our federal system; to achieve a strong State urban commitment; to curb the vertical "functional autocracies"; and to achieve explicit overall national and State urbanization policies.

*1. Facing up to fragmentation*

Only the States have the power to rationalize and to render less harmful the complex array of overlapping governments found at the local level. To discharge this Herculean assignment, a wide variety of State and Federal statutory changes will be necessary, along the following major lines:

*An "Arsenal of Weapons" in Permissive Authority Should be Provided to Local Governments* to permit them to cope with the spread of population beyond jurisdictional boundaries. Such an arsenal should include authority to establish metropolitan area charter commissions, regional councils of government and multi-purpose areawide functional authorities; to annex more easily unincorporated territory; and to authorize counties to perform urban functions and to establish subordinate urban and rural service and taxing areas.

*States Should Take Direct Action and Control* to modernize local government, such as reducing numbers of special districts, arbitrating local boundary conflicts and regulating new incorporations. State or regional agencies should be empowered to order the dissolution or consolidation of local units of urban government that fail to meet certain statutory standards of economic, geographic, and political viability. Of the various proposals relating to improving the structure and pattern of urban local government, none is as far-reaching as this, and none spells out more clearly the State's responsibility for bringing greater order to the chaotic map of metropolitan America. The Federal Government, after all, can do little in this field. The Fourteenth Amendment stretches far but it seems doubtful that it extends quite this far.

*Federal Incentives* for local government modernization in the form of requirements for regional or metropolitanwide review of applications from individual local governments for Federal grants and bonus percentages in Federal matching where projects are tailored to a regional rather than a strictly local need.

*2. Building fiscal balance in the American Federal system*

Turning to the matter of money, the Commission finds that a massive rearrangement in the scale of fiscal resources available to the three levels of government is absolutely essential if the federal system is to remain viable. A strong partnership, after all, requires each of the partners to be strong, and this condition cannot be met if one partner has the bulk of the resources and the other two have the bulk of expenditures to meet. The realignment proposed by the Commission has four key elements:

*Sharing of a percentage of the Federal personal income tax base with States and major localities* (at a current scale of $5 billion annually) and with distribution according to population and tax effort. This would "federalize the Federal income tax," and is basically reflected in Title I of the Intergovernmental Revenue Act (S. 2483—91st Congress).

*Assumption by the Federal Government of all costs of public welfare and medicaid* ($6 billion in additional Federal costs). Welfare has become so interstate in nature and so dominated by Federal policy that only complete Federal financing makes sense.

*Assumption by State governments of substantially all local costs of elementary and secondary education.* This would help assure equality of educational opportunity, would release the local property tax for use in meeting growing noneducational costs, would halt much of the existing interlocal competition for industry and would mitigate exclusionary zoning practices directed against large, low-income families.

*Encouragement of a high-quality, high-yield State tax system through a Federal income tax credit for State income taxes paid* (at a current Federal cost of $4–6 billion annually). This would provide a strong incentive for more intensive use of the income tax by State governments and for a better integrated State-local tax system resting upon a strong income tax, a strong sales tax and an equitable and productive local property tax.

The cost in Federal revenues for restoring fiscal balance to the federal system would approximate $15–20 billion at current levels of expenditure. Federal categorical grants have risen by this amount over the past eight years. The Commission's proposals favor a restoration of balance and restoring a strong Federal-State-local partnership over a further willy-nilly massive growth in increasingly narrow categorical grants which already have become so dense a jungle that only the most sophisticated "grantsman" in State and local government can enter with any confidence. All this is not to say that revamped categorical grants have no place in the system. They do, and our strong sponsorship of the Intergovernmental Cooperation Act of 1968 (P.L. 90–577) as well as the proposed ICA of 1969 (H.R. 7366) underscore this belief.

*3. More State muscle for solving metropolitan problems*

A major part of the Commission's concern since its establishment in 1959 has been to urge an awakening by the States of their inescapable responsibilities for urban affairs, an awakening by the Federal Establishment to the fact that the country simply cannot be run from Washington, and recognition of the inescapable necessity of increased reliance upon those States ready to move ahead on the urban front.

Specifically, we have sought *Establishment of State Departments of Urban or Community Affairs.* Only by first providing administratively for a continuing concern and activity regarding urban affairs can the State government hope to manage a large-scale involvement in the problems of its cities. Such departments can also provide a focus of technical assistance to smaller municipalities and counties within the State. Some 20 States now have established such an administrative unit.

We have sought State Financial Underwriting of Urban Functions. The States must begin to pay part of the bill for urban redevelopment, housing code enforcement, mass transit, and other major urban functions just as they have been paying for years a part of the bill for State agricultural experiment stations, county agents, and rural roads. This, of course, requires a politically painful realignment of expenditure priorities within the State, but until it is done, "one man-one vote" is an empty phrase, and the chances for a strong State role in the federal system diminish.

—We have called for *Channeling of Federal Urban Grants Through the States* under certain circumstances. The Congress and the Federal executive branch must become selective in laying down patterns of intergovernmental relations surrounding Federal grants and must stop treating States like New York, Pennsylvania, and California in an identical fashion with Alabama, New Hampshire, and Wyoming. The Commission has proposed that Federal funds for urban purposes flow through the State where, and only where, two basic conditions are met: the provision of adequate administrative machinery and the provision from State general revenues of at least half the non-Federal share of the required funds. If the State chooses not to meet these two conditions, a Federal-local relationship should obtain with respect to the particular program. If it chooses affirmatively, then the existing Federal-local relationship would be changed to a Federal-State relationship.

—We have sought *Revitalization of State Legislatures.* In order for States to take time-

ly and effective action on urban problems, highly important, complex, and controversial legislation must be enacted and continually amended. Yet relatively few legislatures are equipped constitutionally or administratively to do this, although progress in the past few years has been considerable. The Commission's proposals (paralleling those of several other organizations) call for annual sessions, year-round professional staffing and adequate facilities and compensation. Strong legislatures are an absolute prerequisite for strong State government and strong States are essential if the nation itself is to be strong.

More than a half a century ago, a great constitutional lawyer, Elihu Root declared:

"I submit to your judgment, and I desire to press upon you with all the earnestness I possess, that there is but one way in which the States of the Union can maintain their power and authority under the conditions which are now before us, and that way is by an awakening on the part of the States to a realization of their own duties to the country at large. Under the conditions which now exist, no State can live unto itself alone and regulate its affairs with sole reference to its own treasury, its own convenience, its own special interest." [4]

The Advisory Commission, in its various proposals relating to strengthening the States, has simply been applying this Root doctrine in a later period.

*4. Political and functional autocracies: Seedbed of a new federalism?*

A common theme associated with many of the Commission proposals is a move away from categorical programs and functional, and special purpose governmental institutions toward stronger general purpose government and political executives and legislators at Federal, State, and local levels. This theme is characterized by recommendations for revenue sharing and grant consolidation at the Federal level; shortening the ballot and strengthening the budget and planning processes at the State level; and curbing and consolidating special purpose districts and authorities at the local levels. It is also marked by proposals for a reorganization authority for the Governor, local planning staffs responsible directly to political governing bodies instead of independent commissions, and channeling of State aid funds in such a way as not to prop up or perpetuate small special purpose units of government.

The overall theme of strong legislative branches also relates to this attack on the New Feudalists. The call for periodic Congressional review of grants-in-aid, increased capability of State legislatures in the fields of legislative oversight and State planning—while directed primarily to other objectives—are also geared to ensuring that functional specialists discharge their responsibilities in a governmentwide and agencywide context.

All of these steps and more are necessary if top policymakers at all levels—the President and the Congress, the Governor and the legislature, the mayor and the council—are to be strengthened in a fashion that will permit them to withstand the mounting, parochial pressures that swirl around them. Top policymakers at all levels must be empowered to plan, pass, implement, and fund the vital programs that this and future generations of Americans demand. Effective Intergovernmental management innovations are crucial to both the executive and legislative branches and efforts to strengthen them on an interbranch, interagency, and interlevel basis should and must be examined, debated, and where meritorious enacted and executed.

[4] Elihu Root, address delivered December 12, 1906, before the Pennsylvania Society of New York.

*5. Hammering out national and state urbanization policies*

Increasingly apparent to political leadership and the business community is the necessity for some conscious public policies within which can be accommodated the tremendous scale of urbanization and redevelopment bound to occur in the final third of this century. To leave this pattern to chance—to competitive and contradicting policies of thousands of local governments—is to invite economic and social chaos. The Advisory Commission has proposed a large variety of individual measures at all levels of government to begin to fill this vacuum. They can be summarized as follows:

*Formulation of a National Urbanization Policy.* Institutional responsibility would be vested in the Executive Office of the President with an annual urbanization report from the President to the Congress and the people. At a minimum, such a policy would assure that individual Federal programs did not operate converse to national goals. Some possible new components for such a policy are suggested including: Financial incentives for industrial location in large city poverty areas and rural growth centers; migration allowances to facilitate population movement from labor surplus to labor shortage areas; preference in the award of Federal contracts to areas to which it is desired to attract population and similar preferences in the location of public buildings and other facilities; expansion of governmental assistance for family planning information to low income families; and initiation of new types of Federal support, under certain conditions, to large scale urban development and to the creation of new communities.

*Formulation of an Urbanization Policy by Each Industrial State.* State urbanization policies would be expected to include components comparable to those suggested for a national policy with the critical addition of a State land development agency empowered to acquire, hold, site develop and sell off land to private developers for use in accordance with a State's urbanization policy and with State, regional, and local land use plans.

*Federal and State Action for Equitable Relocation of People and Businesses Displaced by Governmental Activity.* One of the fuses leading to social explosion in urban ghettos has been the ruthless bulldozing of homes and small businesses for highway, urban renewal and other public works projects without adequate provision for relocation. Federal and State legislation is needed to assure the availability of standard housing, prior to the beginning of demolition and to provide adequate financial assistance and advisory services to those being relocated.

*Increased State Rule in Building Regulation.* The States must begin to bring order out of chaos in building codes through such means as State model codes available for local adoption without deviations, by licensing and training of building inspectors and by State assumption of these functions where qualified local personnel are not available.

*Escalation to County Level of Local Zoning Authority.* Authority to zone is quite often a major incentive to governmental fragmentation in metropolitan areas and use of this State police power by small local units has often resulted in widening fiscal and social disparities between central cities and suburbs.

CONCLUSION

A great act of collective affirmation placed us on the moon. A comparable series of acts—of even greater affirmation and involving far more people and officials—will be necessary if this "Challenge for the 70's" is to be surmounted. The multi-faceted agenda for the future of federalism—that I have laid before you—will test the creativity, the credibility, and the courage of this and future generations of American policymakers.

Whether their response will match those invoked in the Apollo program depends in large measure on whether professions and associations like yours make this national challenge their top priority problem. To put it another way, let us join:

In revising radically the meandering maps of local governmental America;

In achieving substantial balance in our intergovernmental fiscal arrangements;

In converting our States into genuine commonwealths;

In curbing the parochialism of program specialists, pressure groups, and special purpose government and agencies; and

In beginning the tough task of devising relevant, realistic, and farsighted urban growth policies.

When grappling with this arduous assignment, let us be mindful that though we may never have been—nor ever will be—a "City upon a Hill," visualized by John Winthrop "the Eies" of succeeding generations of Americans certainly will focus on how well we face this urban challenge. Given what we know now of the spirit of the next generation, there is absolutely no reason to believe that they will be charitable in their assessment, if we falter, temporize, or stand frozen in fright.

Indeed, why should they? If, in this era, we can reach the moon, why can we not reach agreement on at least a minimum program to salvage Urban America? Our individual and collective response to this question will—in the long run—determine whether our constitutional heritage of ordered liberty, balanced government, and a geographic division of power can endure.

## INDIVIDUAL RIGHTS AND INTERNATIONAL LAW

Mr. PROXMIRE. Mr. President, one of the most profound developments in 20th century international law is the increasing recognition of the human rights of the individual in international law. As the world has grown smaller through the development of rapid means of transportation and communication, concern for guaranteeing human rights all over the world has grown. The recent growth of concern for human rights in international law can be traced to the political developments attending the end of World War I.

In the Allied Powers' treaty of peace with Poland, that country resolved to protect certain racial, religious, and linguistic minorities within its boundaries. This was required of Poland as part of the Allies' determination to advance friendly relations between nations. Mistreatment of minorities by a state might antagonize its neighbors or other states, and thus provoke unnecessary wars. The most important precedent set by this treaty was that it recognized the obligations undertaken by Poland to protect its minorities were "obligations of international concern," not simply of national concern.

The pattern of the Polish Convention was followed in other peace treaties formally concluding the First World War and in several similar declarations and conventions. The responsibility for implementing the minorities treaties was lodged with the Council of the League of Nations.

Following World War II and the establishment of the United Nations, concern for human rights became even greater. The Universal Declaration of Human Rights became the cornerstone for the promotion of international human rights by the United Nations. The importance of this declaration has been considerable. In the peace treaty with Japan signed in 1951 Japan promised to strive to realize the aims of the Universal Declaration. In 1954, Italy and Yugoslavia undertook to govern Trieste in accordance with the provisions of the Universal Declaration. More than 30 countries have adopted sections of the declaration as a part of their constitutions.

Mr. President, the United States cannot afford to stand in the way of further progress in promoting human rights. Great strides have already been made, but new guarantees are needed. Ratification of the three conventions covering genocide, forced labor, and political rights for women will represent a great advance. The United States cannot allow itself to be labeled as unconcerned about human rights. We can seize the leadership in this area once again if the Senate acts now. Further delay is simply unjustified.

## THE DAVID LAWRENCE COLUMN ON VICE PRESIDENT AGNEW

Mr. THURMOND. Mr. President, the dean of American columnists, Mr. David Lawrence, published some extremely interesting remarks in the Evening Star of October 23, 1969, about the Vice President's right to free speech. Mr. Lawrence writes:

> Some of the so-called "liberals" may unwittingly be creating the impression that, while their kind of dissent comes under the heading of "free speech," the outspoken remarks of Vice President Agnew in recent days are not covered by the same kind of Constitutional privilege.

Mr. Lawrence has come right to the point. There is a kind of double standard prevailing today. Leaders of the Vietnam demonstrations have made the most extreme expressions of hatred and hostility toward the United States, statements which are lauded by their elders as mature and significant statements of dissent, as veritable outpourings of just moral indignation. Anybody who disagrees with this evaluation is characterized as somehow lacking in moral principles and social consciousness. According to this view, one is supposed to sympathize emotionally with the protesters, even if he does not accept their statements fully.

In my judgment, the shrill minority that has been played up by much of the news media does not represent the opinion of the majority of our youth. The Vice President, in his remarks about the protesters, was careful to distinguish between the hard-core militants and the misguided followers. His critics do not care about distinctions. They apparently wish to make it appear that the minority of deviants truly represent our American youth. Moreover, the Vice President's critics appear to identify with this adolescent protest themselves. They object to his characterization of the protesters because they like to think of themselves as part of the self-appointed elite which he is criticizing. I find it difficult to understand what grown men think they can accomplish by aiding and abetting adolescent rebellion.

In this morning's newspaper, an article says that the Vice President refused permission to his 14-year-old daughter Kim to participate in the October 15 marches. The Vice President is quoted as saying that she got over her displeasure in a day or so. Thousands of other adolescents would have gotten over their displeasure in a day or so if their parents had displayed a like assertion of their proper parental authority. Psychologists tell us that many rebellious adolescents are actually rebelling against the lack of firm authority which they need for proper development. I commend the Vice President for his example, and I would hope that more parents would follow it.

Nevertheless, the adult supporters of the youthful protesters are in the same position as parents who abrogate their proper role. How can our youth respect an authority which shirks its duty? When we have national leaders encouraging mindless rebellion, and indeed manipulating it for purely political purposes, without regard for this Nation's welfare, then we can have no reason to expect either superficial peace in the Nation, or the enduring law and order which is the free and voluntary expression of the human heart.

I, for one, believe that the Vice President's remarks generated such an emotional reaction in some quarters simply because he was accurate and correct in his observations. In other words, he hit the nail on the head. Those who took exception to them were strangely offended and left revealed by his candor and perception.

Mr. Lawrence's column discusses the double standards involved with great precision. I recommend it to all Senators.

Mr. President, I ask unanimous consent that the David Lawrence column entitled "Agnew's Right to Free Speech," published in the Evening Star of October 23, 1969, be printed in the RECORD.

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

AGNEW'S RIGHT TO FREE SPEECH
(By David Lawrence)

Some of the so-called "liberals" may unwittingly be creating the impression that, while their kind of dissent comes under the heading of "free speech," the outspoken remarks of Vice President Agnew in recent days are not covered by the same kind of constitutional privilege.

One Democratic senator now says that when Mr. Agnew, in a speech in Mississippi, declared that school officials had made "a strong case" for delaying desegregation in certain districts, this was an "unwarranted, unethical and grossly improper" attempt to influence the Supreme Court. He suggests that the vice president should devote his time to his "only constitutional duty"—namely, presiding over the Senate.

But the vice president of the United States has additional duties. He has the task of understudying the President and training himself for a job that fate may suddenly require him to take over.

Spiro Agnew announced immediately after election that he was an independent-minded person who would say what he believes, whether or not it agreed with the views of the President. He has the right, of course, to make speeches, and surely it will be conceded at least that he can talk on any subject that a senator can tackle in a public speech.

Only this week, Sen. Sam J. Ervin Jr., D-N.C., declared that constitutional government would perish in the United States if trends set by the Warren Court are not reversed. He prepared a detailed criticism of the legal course set by the Supreme Court and made a public address about it.

The vice president, as presiding officer of the Senate under the Constitution, would seem to be permitted the same rights as any member of the upper house. Senators have never put a limit on the topics they discuss in public speeches, and the vice president certainly has a similar privilege to delve into any subject, however controversial it may be.

Agnew made a speech, for instance, in New Orleans last week that aroused nationwide attention. He condemned the proponents of the Vietnam "Moratorium" and said that the demonstrations were encouraged by "an effete corps of impudent snobs who characterize themselves as intellectuals."

The vice president, speaking at a fund-raising dinner for the Republican party, was endeavoring to defend the Republican administration against the attacks of political opponents. Agnew said that today "subtlety is lost and fine distinctions based on acute reasoning are carelessly ignored in a headlong jump to a predetermined conclusion." He added:

"Thousands of well-motivated young people, conditioned since childhood to respond to great emotional appeals, saw fit to demonstrate for peace. Most did not stop to consider that the leaders of the Moratorium had billed it as a massive public outpouring of sentiment against the foreign policy of the President of the United States.

"Most did not care to be reminded that the leaders of the Moratorium refused to disassociate themselves from the objective enunciated by the enemy in Hanoi."

Agnew is the kind of man who doesn't mind criticism. But he also doesn't hesitate to respond as he pleases to those who make what he deems fallacious and ill-founded attacks on the foreign policy of the United States.

As for "putting pressure" on the Supreme Court through public speeches, many senators have expressed themselves frankly about the departure of the high court from the proper exercise of judicial authority. President Nixon himself said recently there is a need for justices who will interpret the Constitution strictly and not assume legislative functions.

President Franklin D. Roosevelt in the 1930s not only discussed what he felt were the shortcomings of the Supreme Court of that period, but sought from Congress the enactment of legislation which would enlarge the court from nine to possibly fifteen members and enable him to pick justices whose views were in accord with his own and thus attain a "liberal" majority.

It hardly seems consistent for the "liberals" today to deny either Vice President Agnew or anybody else the right to discuss public issues on which the Supreme Court may have to rule or the right to make speeches denouncing protest movements, especially those which have the effect of giving aid and comfort to the enemy in the midst of a war.

## CYCLAMATES AND MONOSODIUM GLUTAMATE

Mr. McGOVERN. Mr. President, I ask unanimous consent to have printed in the RECORD a number of news items published recently relating to the Food and Drug Administration's regulation of food additives, particularly the cases of cycla-

mates and monosodium glutamate in baby food. During hearings of the Select Committee on Nutrition and Human Needs this past summer, extensive testimony was heard about the FDA's management of its Generally Regarded As Safe—GRAS—food additive list and about the uses of cyclamates and monosodium glutamate.

After the testimony had been taken, I expressed considerable concern to the FDA Commissioner, Dr. Herbert Ley, that the question of using monosodium glutamate in baby food should be further examined as quickly as possible and that until the question was resolved that the substance be removed from baby food either voluntarily by the companies or at the request of the FDA. The Commissioner responded that the question would be studied by the National Academy of Sciences but that no immediate action would be taken. The companies also responded that they would await the findings of the Academy.

During the last several weeks, however, the situation changed. First, there was Secretary Finch's action to remove cyclamates from the GRAS list. Then there was extensive coverage—by the major television networks and some of our leading daily papers—of the question of monosodium glutamate in baby food. This resulted, last Friday, in an announcement by the FDA and the major baby food companies that they were removing monosodium glutamate from their products until tests on its safety were completed. I applaud that action by the FDA and the companies. I only wish it had come sooner. I also applaud the television and press people for the public service they rendered.

I hope that these actions in regard to cyclamates and monosodium glutamate and the GRAS list in general, mark the opening of a whole new approach to the issue of food additives. From now on, I hope that the FDA will follow a policy of approving additives for use only after they have been tested and proved safe. This is a matter of great importance affecting the health and well-being of all Americans. It is a matter to which the select committee will continue to give attention and on which I feel certain that it will make some important recommendations.

I also ask unanimous consent to have printed in the RECORD, along with the news article, a statement I made on the GRAS list last Friday.

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

FDA TO RESTUDY FOUR SUBSTANCES—SACCHARIN, SALT, MSG AND STARCH TO BE EXAMINED

(By Harold M. Schmeck, Jr.)

WASHINGTON, October 22.—The Food and Drug Administration is restudying saccharin, monosodium glutamate and two components of baby food in the aftermath of the decision to halt general use of the cyclamates, widely used artificial sweeteners.

The drug agency has asked its experts to go through the entire list of food additives that are generally regarded as safe and report, as soon as possible, whether further testing will be needed on any of them.

Saccharin, the only remaining nonnutritive sweetener on the list now that cyclamate has been removed from it; monosodium glutamate, a flavor-enhancer, and modified starch and common salt, which are used in baby foods are high-priority items on the second-look roster.

When the announcement was made last week that cyclamate would be withdrawn from general use, Dr. Herbert L. Ley, Jr., Commissioner of Food and Drugs, noted that very little valid information was available on saccharin, although it has been in wide use for about 50 years.

Today, Winton B. Rankin, deputy commissioner, said it seemed probable that some further testing would be needed to insure that saccharin merits its present clean bill of health. This will not be determined, however, until the F.D.A. experts have gone through all the scientific literature pertaining to the substance to see what testing has been done already and what gaps in knowledge may exist.

NEW DIET ADDITIONS

He said that monosodium glutamate and modified starch were more recent additions to the American diet and it was possible that all the necessary testing had already been done on them. Again, the drug agency staff will search the literature to find out whether or not this is true.

Modified starch is ordinary starch that has been altered chemically to modify such properties as its thickening or jelling characteristics. It is used in prepared foods for adults as well as in baby food, but the F.D.A. is particularly concerned over its safety in the latter use.

Mr. Rankin said some of a baby's organs were not entirely developed and could be affected differently from those of an adult. Furthermore, giving any food item to a baby raises the possibility that it will be used throughout his entire lifetime. Such potential long-term use raised safety issues distinct from those of shorter-term adult use.

Opponents of the use of salt in baby food have argued that babies cannot taste the salt and that it is put in the product to make the food taste better to the mother. Some nutritionists believe that Americans use more salt than is good for their health and that starting to consume it in babyhood simply makes the situation worse.

In recent years there has been some controversy over the safety of monosodium glutamate. It is used widely in oriental foods and has been linked to the so-called Chinese restaurant syndrome—burning sensations, a tightness in the head, occasional headaches and chest pain experienced sometimes by some persons who eat in Chinese restaurants.

Altogether there are several hundred items on the F.D.A.'s lists of substances generally recognized as safe for their intended use. These range from aluminum calcium silicate, used as an anticaking agent in table salt, to caffeine and ordinary sodium bicarbonate.

NUMBER IS NOT KNOWN

The drug agency is uncertain how many of the items will have to undergo further testing. Mr. Rankin said he expects that the number will be small. Not until the newly started literature search has produced some results will it be known what kind of tests will be required or who will do them.

One standard procedure is to feed the substance being tested to at least two species of laboratory animals during the animals' normal lifespan and compare their health and growth with animals fed the same diets minus the key item.

What does seem clear, however, is that any new nonnutritive sweetener that becomes a candidate to replace the cyclamates will have to undergo thorough and extensive testing before it goes into use. Several artificial sweeteners have been under development in recent years. At least two such items have been developed from citrus fruit extracts, according to an article in Chemical and Engineering News.

One of these was developed from a bitter substance in grapefruit. Far more powerful, however, is the other one extracted from Seville oranges. It is said to be 2,400 times as sweet as ordinary table sugar.

The article, by Howard J. Sanders, a senior editor of the magazine, said more than a dozen artificial sweeteners had been the subject of active research. None could be used in food without long and expensive safety testing first.

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DOSES OF MONOSODIUM GLUTAMATE FOUND TO AFFECT BRAINS OF MICE

(By Harold M. Schmeck, Jr.)

WASHINGTON, October 23—A scientist in St. Louis said today that he had fed infant mice monosodium glutamate in amounts greater than those in baby food and had produced brain damage in the portions of the mice's brains regulating appetite.

Monosodium glutamate is a food enhancer.

The area in the rodents' brains that was affected, according to the scientist, was the hypothalamus. Among other things, the hypothalamus has the function of controlling the desire for food and water.

Dr. John W. Olney, assistant professor of psychiatry at the Washington University School of Medicine, said this new evidence, added to research he has done previously, had convinced him that the widely used substance should be removed from baby food. The same view was expressed independently today by Dr. Jean Mayer, internationally known nutritionist.

However, two executives of companies that manufacture baby food entered demurrers.

The first, Imri J. Hutchings, general manager for research of J. H. Heinz Company, said he doubted that Dr. Olney's research was applicable to man.

Daniel F. Gerber, chief executive officer of Gerber Products Company, also expressed doubt that monosodium glutamate had any potential harm for human beings.

Dr. Mayer is director of the first White House Conference on Food, Nutrition and Health. It will be held here in December.

Asked about monosodium glutamate at a luncheon today at the Women's National Press Club, he said that there had not been any evidence that the flavor enhancer, usually called MSG, had any dangerous effects on man. High concentrations of it do have effects on baby animals, he said, causing damage to the part of the brain called the hypothalamus. Among other functions this regulates food and water intake.

The scientist, a professor of nutrition at Harvard, said he would favor taking the substance out of baby food if there was the "slightest presumption of guilt," even though unproven. In answer to a question, he said bluntly: "I would take the damn stuff out of baby food."

During a telephone interview, Dr. Olney said he had tube-fed mice an amount of sodium glutamate about five times as great as that found in a 4½ ounce battle of baby food and he found brain damage in seven of nine animals.

At higher dosages he got substantially higher percentages of brain damage.

CELLS ARE KILLED

Specifically, he said, cells were killed in the hypothalamus. If this kind of damage occurred in a human infant, he said, it might pass unnoticed, but later the individual might have obesity problems or impaired fertility.

Dr. Olney said he had been attracted to research in this area by the observation that infant animals injected with MSG often become obese later in life. Last spring he re-

ported that injections of the substance under the skin of baby mice produced brain damage. Testimony on this point was presented to the Senate Select Committee on Nutrition and Human Needs.

A logical step was to see whether or not the same effect could be produced in a primate, because these animals are far closer to man, genetically, than are mice. Dr. Olney and a co-worker, Lawrence G. Sharpe, published a report confirming that this can be done, in the current issue of Science, weekly journal of the American Association for the Advancement of Science.

Damage to nerve cells in the hypothalamus of an infant rhesus monkey were produced after an injection of a relatively heavy dose of MSG, the report said.

The details of the production of similar lesions by the feeding of infant animals has not yet been published although it has been submitted to a scientific journal. Dr. Olney said the research had already been reviewed by a pathologist of the Food and Drug Administration.

Today this was confirmed by the pathologist, Dr. Howard Richardson of the F.D.A. Bureau of Science. He said the evidence he was shown clearly showed brain damage.

Dr. Richardson said the fact that the effect was attributed to a single feeding of the substance was particularly interesting because it showed that "a single insult" to the infant animal body from the chemical could produce such a result.

Dr. Olney said the 10-day-old mice were tube fed because they had not yet been weaned. He said their development age is about that of a three-month-old human infant. The dose of MSG with which he produced nerve cell death in seven of nine of the baby animals was one half gram per one kilogram of body weight. This is a small amount that he said is about five times the amount of monosodium glutamate to be expected in a 4½ ounce jar of some baby foods.

This afternoon Mr. Hutchings said he was familiar in general with Dr. Olney's research, but did not consider it at all applicable to man.

He said infants were not likely to get baby food that contained MSG before the age of five months because the substance is used primarily in vegetable and meat mixture. At that age, he said, the human brain is far more developed and thus, presumably is less likely to be harmed.

Furthermore, even at that age, he said, the amount of MSG a baby would eat would be extremely small in relation to the amounts the animals received.

Mr. Gerber also expressed doubt that the substance had any potential for harm to human beings.

"We want to find out the truth whether it is harmful or not," he said. "If we find that it is harmful we certainly will eliminate it. We don't feel, at the levels we are now using, that there is any indication that it is harmful."

Mr. Gerber said he thought industry in general would stop using the substance if there was any valid evidence that it is harmful.

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[From the New York Times, Oct. 25, 1969]

MAKERS OF BABY FOODS CURTAIL USE OF MONOSODIUM GLUTAMATE

(By Sandra Blakeslee)

The makers of Gerber, H. J. Heinz and Beechnut baby foods announced yesterday that they would no longer put monosodium glutamate, a popular food flavor enhancer, into their products pending further study of the chemical's safety.

The safety of monosodium glutamate was called to question Wednesday by Winton B. Raskin, deputy commissioner of the Food and Drug Administration. At that time Mr. Raskin announced the agency's intention to review at least four food additives, monosodium glutamate among them, that have been widely regarded as what are known as GRAS food additives—"Generally Recognized As Safe."

It may be that monosodium glutamate is not so safe after all, Mr. Raskin said. A St. Louis researcher has found that large doses of the substance fed to infant mice causes damage to that part of the rodent's brain that controls appetite.

In announcing their moratorium on the use of monosodium glutamate, the three largest producers of baby food in the United States were all critical of recent publicity about the substance. They said that the public had been unnecessarily alarmed and confused by the "unconfirmed body of evidence" against the chemical's use.

The Heinz Company, for example, said it planned to discontinue the use of monosodium glutamate in current packs "in full confidence that industry practice will be vindicated by scientific findings of a more valid order than those that have been used to promote the current controversy."

The study implicating monosodium glutamate and brain damage in mice was carried out by Dr. John W. Olney, an assistant professor of psychiatry at the Washington University School of Medicine.

A further criticism of the chemical was voiced yesterday by Senator George S. McGovern, who heads the Senate's Select Committee on Nutrition and Human Needs.

"MSG does not serve any nutritional purposes in baby food," the Senator said, "and there is no need to take any risk with a child's health until it has been proven safe."

It is generally recognized that monosodium glutamate is added to baby food to make it more palatable to the mother.

Senator McGovern also criticized the Food and Drug Administration for taking a "timid" approach to the question of the safety of food additives.

"Food additives are permitted for use without advance proof of safety and manufacturers are allowed to decide for themselves whether they have to prove products are safe before selling them," he said.

"What we really need," the Senator said, "is to change the name of the GRAS list to the PAS list instead—Proven As Safe."

SIX HUNDRED EIGHTY INGREDIENTS ON LIST

There are currently 680 food ingredients, including monosodium glutamate, on the GRAS list. That is, they are considered safe enough by the F.D.A. to be used by food manufacturers in any desired amount. Other GRAS additives are salt, pepper, cinnamon, cloves and a wide range of spices and organic chemicals.

Another 2,000 food additives are liberally used in food production but must meet Government regulations and minimum standards after a long testing procedure.

Monosodium glutamate was put on the GRAS list nine years ago when the F.D.A. revised its system of reviewing food additives. Experts reviewing the list of GRAS additives at that time believed the chemical to be a harmless substance that had proved itself to be safe after thousands of years of use by cooks throughout the world.

No one knows when monosodium glutamate was first found to enliven the taste of foods—especially meat and vegetables—although the Chinese have cooked with it since antiquity.

FOUND IN SEAWEED

Then, in 1908, Dr. Kikunae Ikeda of Tokyo University recognized that a chemical he had isolated from a certain type of seaweed—monosodium glutamate—was the active agent that enhanced food flavors. The Japanese had been crushing the seaweed for centuries to obtain the flavor enhancer.

After Dr. Ikeda made his discovery, scientists began to look for ways to extract the substance from natural foods, generally found in those rich in carbohydrates, and purify it for later addition to foods.

A process of extraction was used for many years and then replaced by a fermentation process, which is how most of the monosodium glutamate is manufactured in the United States today.

American housewives and food manufacturers purchased approximately 43 million pounds of monosodium glutamate last year, which is only a small part of the total world consumption of 180 million pounds. The average American ate less than the two ounces of the chemical last year, which is one-fourth the amount consumed in a year by most Asians.

Monosodium glutamate, which is a naturally occurring chemical substance that a chemist also calls a sodium salt of an amino acid, has baffled scientists trying to figure out precisely how it works to enhance food flavor. What they know is that when it is added to food, food tastes better.

According to many experts, it might be that the substance stimulates sections of the taste buds or that it stimulates saliva flow.

Although monosodium glutamate is tasteless in small amounts, it can have a slightly meaty flavor when eaten in larger doses. The flavor may result from impurities in processing but the scientists are not even sure of this. Perhaps the meaty flavor, some scientists have said, that causes the substance to make food taste better.

Researchers know that monosodium glutamate works best to enhance the flavor of foods high in protein, and it is fairly useless in starchier foods. They guess that the chemical acts to replace glutamate, which is found in highest concentrations in high protein foods, when it is cooked or processed out of such foods.

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BABY-FOOD MAKERS HALT USE OF ADDITIVE—GERBER, BEECHNUT, HEINZ RESPOND TO DEMAND BY MCGOVERN ON MONOSODIUM GLUTAMATE

WASHINGTON, October 24—Senator George S. McGovern (D., S.D.), chairman of the Senate Committee on Nutrition, today recommended an overhaul of government practices which permit sale of more than 680 everyday food additives without requiring safety tests.

The special, government-exempt list of additives included cyclamates until last week, when this type of artificial sweetener was banned because of a high incidence of animal cancer found in laboratory experiments.

EXPECT VINDICATION

Gerber Products Company, the nation's largest maker of baby foods, said it is discontinuing the use of monosodium glutamate, "because a tremendous amount of unwarranted publicity has served to confuse the consumer."

Meanwhile, Beechnut, Inc., announced it had discontinued the use of monosodium glutamate in all products "pending the outcome of the studies just initiated by the Food and Drug Administration." A spokesman for the firm said only a minimal amount of the substance was included in a few of the company's baby foods.

The H. J. Heinz Company announced that "in deference to public concern" it would discontinue the use of MSG "in the limited number of its baby-food products" in which it was used. A company spokesman said the firm had "full confidence that the industry use of MSG will be vindicated by more accurate and scientific findings than those now available."

In making his recommendation, Senator McGovern termed the exempt list of additives "a never-never land of non-regulation."

"Food additives are permitted for use with-

out advance proof of safety," he said in a prepared statement. "And manufacturers are allowed to decide for themselves whether products are safe before selling them."

ALL TYPES OF ADDITIVES

The long used additives on the list—ranging from the well-known monosodium glutamate to the little-known preservative butylated hydroxytoluene—enjoy congressional exemption from animal safety tests required for government approval of most new additives.

Representative Paul G. Rogers (D., Fla.), a ranking member of the House public health subcommittee, said today and added that a panel of the World Food and Drug Administration examination of the list is insufficient.

He called instead for an "immediate and systematic review in clinical testing of all chemicals" on the exempt list. And the Health Organization has reported "possible harmful effects" from two color additives now on the exempt list—benzyl violet and Ponceau SX or Red No. 4, used in maraschino cherries.

Benzyl violet is possibly linked with cancer, Mr. Rogers claimed.

SPICES NO DANGER

The safety of most additives on the list, some of them century-old cooking aids such as spices, never has been seriously challenged. But cyclamates were on the market for 17 years before tests showed they increased the incidence of cancer in rats.

A high-ranking official of the Food and Drug Administration agreed with Senator McGovern's description of the exempt list.

"The list is indeed a land of non-regulation," the official said.

"It is bad first because it permits additives in foods without advance proof of safety, and second because it allows additive makers to decide for themselves whether they must prove their products safe before they sell them."

Commissioner Herbert L. Ley, Jr. of the FDA followed up last week's cyclamate ban with a promise to examine the special additives list and conduct any laboratory tests that seem necessary.

The FDA will focus on MSG, the widely used taste-enhancer found in baby foods, among other places. MSG in high dosage has been found to cause brain damage in infant animals.

Earlier, Senator McGovern * * * about MSG are resolved, it "should be removed from baby food or the amounts in baby food drastically reduced."

Dr. Jean Mayer, President Nixon's chief nutrition adviser, has said yesterday that the "stuff should be removed" from baby food.

Mr. Ley, however, believes MSG still has a place in baby food: "Our present position is based on the lack of adequate data that would implicate MSG as being harmful to human infants when ingested in amounts currently in use."

Senator McGovern said the action against cyclamates "opened a Pandora's box in the food additive field.

PROVE ALL SAFE

"Now that the box is open it should not be closed until every food additive in it is proven safe beyond doubt for human consumption," he said.

"If the FDA needs more authority or resources to do that job, Congress should give either or both.

"In the last analysis, the FDA should apply the same test to food additives as to drugs. They should be proven safe before they are approved for public use."

The National Academy of Sciences estimates that 2,000 chemicals are employed as additives. They are generally intended to retard spoilage, add nutritives, enhance flavor and make foods look better.

RISE AND FALL OF CYCLAMATES

(By Morton Mintz)

*Cyclamates have been "more widely and thoroughly studied than any of the . . . food additives in present use . . . more widely studied than any other food substance—natural or synthetic—with the possible exception of the amino acids."*

—Joseph C. Lowey, an Abbott Laboratories marketing executive, at a seminar on nonnutritive sweeteners, Oct. 8, 1969.

*"If there is slightest presumption of guilt" about a food additive, "I just would not put it in the food."*

—Dr. Jean Mayer, special consultant to the President on nutrition, at the Women's National Press Club, Oct. 23, 1969.

The bittersweet saga of cyclamates began in 1937 when Michael Sveda, a chemistry student, decided to satisfy his curiosity about why there was a sweet taste in a cigarette he had laid down on a laboratory bench at the University of Illinois. Eventually Sveda traced the sweet taste to the salts of what came to be called cyclamates.

About 1950—a time when pre-marketing clearance for safety was not required for additives under the food and drug law—Abbott Laboratories, a North Chicago, Ill., firm which would become far and away the largest producer of cyclamates—introduced the first commercial cyclamate product. This was a 125-milligram tablet for sale by druggists.

With this cyclamates became a competitor to saccharin, the first synthetic sweetener, which was discovered in 1879. Although saccharin has a sweetening power 350 times that of sugar (and more than 10 times that of cyclamates), its popularity was limited by the objectionable after taste it left in the mouths of some users.

During the 1950s, cyclamates became popular in commercially produced foods and beverages intended for patients with diabetes and high blood pressure.

Not until about 1963, however, did the cyclamates—by then freely available for general use—achieve wide acceptance among the general public. In 1963 about 5 million pounds were produced. Last year, with 12 million pounds produced, cyclamates were in three out of four households.

Sales of products containing cyclamates soared, exceeding $1 billion last year.

A week ago, the whole structure toppled. At a press conference, Robert H. Finch, Secretary of Health, Education and Welfare, confirmed earlier rumors with a stunning announcement: He was ordering an immediate stop to production of cyclamate-sweetened products.

He also set deadlines for a phased recall of such products from distribution pipelines: Jan. 1 for beverages (which contain the highest levels of cyclamates), Feb. 1 for foods (ranging from frozen desserts to pickles) and July 1 for vitamins (so casual has the attitude toward cyclamates been that the Food and Drug Administration admits it failed to enforce requirements that the presence of cyclamates be disclosed on the label of vitamin containers) and drugs (mainly antibiotics).

CANCER IN RATS

The reason was a surprise discovery of bladder cancer in rats treated with massive doses of the chemicals.

The cyclamates are only one among possibly hundreds of food additives whose safety has been taken for granted. But there are troubling reports about others, particularly monosodium glutamate (MSG). The concern has focused on the use of MSG to enchance the flavor of processed baby foods, which may please mother but is a matter of indifference to infants with undeveloped tastebuds.

A key date in the cyclamate study in the late 1940s when three FDA scientists began to feed a large number of rats a mixture of cyclamates and saccharin over their two-year lifespan.

In a report published in 1951, the scientists—Drs. O. Garth Fitzhugh, Arthur A. Nelson, and John P. Frawley—concluded that there was no cause for concern. This study is of special interest because of the reliance placed upon it in the succeeding two decades.

In a report last November, for example, the Ad Hoc Committee on Non-Nutritive Sweeteners, a unit of the Food Protection Committee of the National Academy of Sciences-National Research Council, termed the study "wholly satisfactory." And went on to conclude that there was "no evidence" that either cyclamates or saccharin are carcinogenic (cancer-producing).

It now turns out that the NAS–NRC had never been given data on the incidence, variety and other specific findings involving possible tumors in the rats.

In contrast, anyone wishing to market an additive not on the GRAS list must provide extensive safety studies, including, if the FDA deems it necessary, feeding trials in man.

In 1962, the NAS–NRC Committee, in a second review, noted that there was "no clear justification for the use of artificial sweeteners by the general public as a weight-reducing procedure.

NO HELP FOR DIETERS

This observation has been bolstered by clinical evidence that cyclamates commonly stimulate the appetite.

In 1965, the FDA in a public statement said there was no evidence that cyclamates are a hazard to health.

In 1966, two events, superficially unrelated, raised warning signals about additives:

In Quebec City and in Omaha, Neb., 38 long-time and very heavy beer drinkers died. Their hearts were found grossly enlarged. The cause was a mystery. Finally, Canadian scientists traced the deaths to the use of cobaltous salts, an additive that controls the gushing of beer from containers and foaming. The threat, apparently, was only to certain vulnerable individuals. All brewers in the United States and Canada that had been using the pink powders immediately abandoned the practice.

RATS AND CHICKS

In Japan, two scientists at Kunamoto University reported that cyclamates are converted in the digestive tracts of some persons at a rate of about 0.8 per cent into a toxic "breakdown" or metabolic byproduct called cyclohexylamine (CHA).

The significance of the Japanese finding remains disputed and uncertain. However, about a year ago, the FDA's Dr. Marvin S. Legator reported that unlike cyclamates, CHA caused breakage in rat chromosomes. These contain the genes, the transmitters of heriditary characteristics.

CANCER IS KEY

Under the Delaney legislation enacted a decade ago, the government is required to stop production of foods containing an additive only if the chemical has been demonstrated to cause cancer in animals or humans. That law was the basis for the order of Oct. 18 with which HEW Secretary Finch stopped production of products containing cyclamates.

However, the government is not required to act on the basis of animal studies indicating a threat from diseases other than cancer.

The law governing the regulation of medicines puts the burden of proof on manufacturers, who must demonstrate—before their products go on sale—that they are safe in the uses to which they are to be put.

The food industry, in contrast, generally has preferred to put the burden of proof on government—make the regulators show that a product is unsafe.

In March, 1968, the FDA requested the

NAS-NRC's Ad Hoc Committee take yet another look at the evidence on the safety of cyclamates.

In a report last November, the committee concluded that there was no basis for prohibiting use of the synthetic sweeteners.

NEW LOOK AT OLD DATA

But just a couple of weeks ago, Drs. Howard L. and Mary E. Richardson, a husband and wife team of pathologists in the FDA's Bureau of Science, concluded from a new analysis of the original data and microscopic tissue slides that there had been, after all, reason for concern about a possible cancer potential in cyclamates.

Challenges by the sugar industry contributed to decisions to undertake periodic reviews of the evidence of safety for the cyclamates, according to a comprehensive report prepared by the FDA's Bureaus of Science and Medicine for a recent meeting of the NAS-NRC's Food Protection Committee.

Thus, in 1955, the Committee took a look at available data and concluded that there was no hazard in the carefully regulated use of cyclamates in special purpose foods.

Only if a person's daily intake exceeded five grams—the equivalent of 100 tablets of the type used to sweeten coffee—would there be a problem, and the problem would be merely a softening of the stool, the NAS-NRC scientists said.

In 1958—over strong opposition of the chemical industry—Congress enacted food additive legislation sponsored principally by Rep. James J. Delaney (D-N.Y.).

Under this law, the FDA compiled a list of food additives, ranging from salt and pepper to cyclamates and saccharin, that it proposed to classify legally as GRAS (generally regarded as safe).

The proposed GRAS list was circulated among about 900 outside experts. Of the 355 who commented to the FDA, none objected to cyclamates. And so they were locked into the GRAS list from Nov. 20, 1959, the date it became legally effective, until last Tuesday, when the agency published an order to remove them in the Federal Register.

The presence of an additive—there are an estimated 680—on the GRAS list confers a wondrous advantage on the manufacturers. Safety is presumed. "Periodic review of the list is not a present feature of our implementation of this program."

By last December, Dr. Jacqueline Verrett, also an FDA scientist, had gathered data showing a "very firm" cause-effect relation in chicken embryos between CHA and severe deformities at rates approaching 100 per cent. The rates for unconverted cyclamates were in the 15 per cent range.

Adding to the concern is a recent national survey in which the FDA, using newly developed, sensitive detection techniques, found that CHA was, mainly as a result of processing, present in 174 out of 232 samples of cyclamate-sweetened products.

Neither the Legator nor the Verrett findings could be extrapolated to man.

At the same time, no one could say with certainty that the findings of the FDA scientists ultimately might not be proved to be pertinent to human beings.

Even if the scientific implications were obscure, the regulatory implications, in the eyes of many scientists inside and outside of FDA, were clear: The cyclamates should have been removed from the GRAS list, so as to halt sales until Abbott Laboratories and other producers demonstrated safety with scientific evidence.

MSG IN BABY FOOD

Precisely the same point was made about MSG after its safety as a flavor-accenter in processed baby foods became suspect.

As late as last July, FDA Commissioner Ley was telling the Senate Select Committee on Nutrition and Human Needs that MSG was safe for this purpose, which, as has been noted, appealed to the tastes of mothers, not infants. In support of his position, Dr. Ley cited four scientific studies.

Last month, consumer advocate Ralph Nader charged that two of the studies did not exist in the form claimed and that the other two were preliminary. Dr. Ley, in a letter to Committee Chairman George S. McGovern (D-S.D.), then acknowledged that there indeed had been grievous errors in his testimony.

On Thursday in St. Louis, Dr. John W. Olney, a Washington University psychiatrist, reported that infant mice fed MSG, in quantities proportionately greater than in baby foods, suffered brain damage. He urged Commissioner Ley to remove MSG from the GRAS list.

The same day, by coincidence, Dr. Mayer, President Nixon's nutrition adviser, told a questioner at the Women's National Press Club, "I think the damned stuff should be removed."

But on Friday, the leading producers—Gerber Food Products, H. J. Heinz and Beech-Nut—reacted to the heat with an announcement that they no longer will add MSG to baby foods.

CRITICAL REPORT

Although it had not been known until now, the NAS-NRC report was sharply criticized in a detailed, eight-page analysis prepared for Commissioner Ley by Drs. John J. Schrogie of the Bureau of Medicine and Herman F. Kraybill of the Bureau of Science.

In an internal memo dated last Dec. 11, which was obtained by James S. Turner, director of a "Nader's Raiders" task force on FDA, the agency scientists said that the ad hoc committee report suggests a level of knowledge of many aspects of this topic which simply does not exist.

"It should have pointed more critically to the current deficiencies in information as a basis for further action," the scientists said.

However, Drs. Schrogie and Kraybill particularly exempted from criticism the NAS-NRC judgment that the data on CHA and possible cancer-causing potential were inadequate, despite the committee's praise for the FDA rat study reported in 1951.

The committee said that cancer studies of cyclamates in species other than the rat "are either incomplete, or of relatively short duration, or involved too few animals."

Publicly, the FDA said merely that consumers should use cyclamates in moderation.

IMMEDIATE ACTION ASKED

Last January, Dr. Legator, the FDA scientist whose laboratory studies revealed chromosomal breakage, said in an internal memo, "The use of cyclamates should be immediately curtailed pending the outcome of additional studies."

This sentence, it is revealed in documents obtained by James Turner of Nader's Center for Study of Responsive Law, was deleted by Dr. Edwin L. Hove, acting director of FDA's Department of Nutrition, before it was passed up to top echelons of the agency.

In April, citing the acknowledged potential of mild diarrhea, the FDA formally proposed a regulation intended to encourage limits on the intake of cyclamates.

The reports offered evidence that, in addition to causing deformities in chick embryos, chromosome breakage in test-tube cultures of rat germs, and circulatory disease in hamsters, cyclamates in humans could interfere with the action of oral antidiabetic drugs, make insulin more toxic, decrease normal absorption of an antibiotic called Lincocin, and distort laboratory tests so as to cause erroneous medical diagnoses.

And in June, experiments at the University of Wisconsin showed that pellets combining cholesterol and a high content (20 per cent) of sodium cyclamate produced abnormally large numbers of tumors in the bladders of Swiss mice. Because the technique used—injection of the pellets into the cavity of the bladder—was controversial, the significance of the findings is obscure.

DR. VERRETT ON TV

On Sept. 30, Dr. Verrett was interviewed by NBC-TV about her chick-embryo studies. This set off a new wave of concern which resulted, three days later, in Commissioner Ley asking the NAS-NRC to review not only her data, but all other evidence as well. For this purpose, the agency's Bureaus of Science and Medicine assembled a report that Dr. Ley would later call "magnificent."

On Oct. 3 at a Chicago hotel called Hyatt House, Abbott Laboratories convened a seminar on non-nutritive sweeteners for 200 representatives of food and beverage makers.

"The American housewife need have no hesitancy about using artificial sweeteners," Dr. Karl Beck, an Abbott marketing executive said.

A colleague, Joseph C. Lowey traced the "alarm" about safety principally to the sugar industry. "Cyclamate sweeteners are safe," he said.

But by an apparent, sheer coincidence, a phone call came to company's offices in North Chicago on the very morning of the seminar that completely undermined the assurances being given at Hyatt House.

According to Dr. Jesse L. Steinfeld, HEW's Deputy Assistant Secretary for Health and Scientific Affairs, the phone call was made by Food and Drug Research Laboratories in Long Island, N.Y.

This company, under contract with Abbott, had started experiments in May, 1967, primarily to determine the effects of long-term feeding of mixtures of cyclamates and saccharin.

The principal concern was with possible ill effects on the liver, kidney and blood supply. But because of the Swiss mice studies, the FDA and the National Cancer Institute requested the Long Island researchers to focus on the bladder. This organ had been considered so unlikely a site for cancer that microscopic examination of tissues from it almost never was undertaken by researchers.

In the phone call to Abbott Laboratories, the Long Island firm reported finding bladder tumors in six of 12 rats that were alive at the end of the experiment.

At the recent press conference called by Secretary Finch, Dr. Steinfeld gave this account of subsequent events:

On Friday, Oct. 10, Abbott scientists went to Long Island to examine the slides. Confirming the findings, they alerted the FDA on Monday. On Tuesday, Dr. Steinfeld asked for a review by Cancer Institute specialists Umberto Saffiotti, Roger O'Gara and Catherine Snell. They were joined on Thursday by a world-famous authority on bladder cancer, Dr. Gilbert Friedell. All agreed the rats had bladder tumors.

Meeting with reporters, Dr. Steinfeld said, "I must emphasize that this result was obtained only by feeding at high dosages for the entire life of the animals." The dosages were 50 times normal maximums.

On Thursday, while the Cancer Institute review was being completed, the Ad Hoc Committee of the NAS-NRC began a previously scheduled two-day meeting.

The committee had before it the summary prepared by the FDA's Bureaus of Science and Medicine. A major part of it was the review of data and slides gathered in the agency's rat study of 1948-49.

The initial impetus to this "re-look" had come several months earlier from Dr. Kraybill, assistant director of the Bureau of Science for biological science research. But when the new report of bladder cancer came in Commissioner Ley put the Drs. Richardson—the husband-and-wife team of pathologists—on a seven-day "crash" project which ended when they wrote up their work just in time for the Ad Hoc Committee meeting.

OLD SLIDES RE-EXAMINED

The Richardsons discovered a highly suspicious frequency of lung tumors in the old data—a discovery made possible by the relatively recent, sophisticated analytical tools, such as the electron microscope, and to today's warier, "different philosophy."

The Ad Hoc Committee did not regard the "re-look" as sufficient in itself to warrant a conclusion that cyclamates could cause cancer in rats. But one member, Dr. F. R. Blood of Vanderbilt University, said that against the unexpected backdrop of the report on bladder cancer, the Richardsons' work assumed significant back-up importance.

On Oct. 17, the Ad Hoc Committee unanimously recommended removal of cyclamates from the GRAS list.

On Saturday morning, Oct. 18, Secretary Finch convened a press conference to announce his order halting production of general purpose cyclamate-sweetened products.

Dr. Steinfeld emphasized that there is "no indication that human bladder cancer from whatever cause is increasing to any significant degree." At the same time, he noted that this form of cancer has "an extremely long latent period" of up to 20 years.

Commissioner Ley told the press conference that the FDA was beginning an urgent new review of additives—including saccharin—on the GRAS list. Secretary Finch said that "if we had greater manpower and more dollars from the Congress, we could accelerate those efforts . . ."

Immediately, Sen. Warren G. Magnuson (D-Wash.), chairman of the Senate Appropriations subcommittee for HEW, announced that he expected Finch to submit a request for funds to review the GRAS list.

Finch pointed out that his action on cyclamates was required not only by the Delaney law, but also "because it is important to follow a prudent course in all matters concerning public health."

This "prudent" view has far-reaching implications, because the possible hazards in the chemical environment of man exist not merely in certain food additives, but also, for example, in pesticides.

Finch may have jolted the public into awareness that human beings have been possible—and unintended—victims of what consumer advocate Nader called "chemical and biological warfare" in the food supply.

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[From the office of Senator GEORGE MCGOVERN, Oct. 24, 1969]

MCGOVERN CALLS FOR COMPLETE OVERHAUL OF ADDITIVE REGULATION

The removal by HEW Secretary Robert Finch of cyclamates from the Generally Regarded As Safe Food additive list has opened a Pandora's Box in the food additive field. Now that the box is opened, it should not be closed until every food additive in it is proven safe beyond doubt for human consumption.

Hearings last summer of the Select Committee on Nutrition and Human Needs raised serious questions about this GRAS list and the procedures that the Food and Drug Administration uses in approving food additives. Perhaps the most disturbing aspect, as shown in the case of cyclamates, is that the FDA has apparently been following the line of "approve for use now and test later."

This is obviously not the best way to proceed when dealing with matters affecting the health and well-being of all Americans.

The truth about the GRAS list, as it is presently managed, is that it is a never-never land of non-regulation. Food additives are permitted for use without advance proof of safety and manufacturers are allowed to decide for themselves whether they have to prove products are safe before selling them. What we really need to do is change the name of the GRAS list to the PAS list—instead of Generally Regarded as Safe, it should be *Proven as Safe*. If this situation cannot be corrected administratively within the Executive Branch, then some legislative action is obviously in order.

One question that the Committee probed deeply in its hearings was the use of additives in baby food, particularly monosodium glutamate. A number of independent investigators, including Dr. John Olney, testified in regard to MSG that there were reasons to doubt its safety. That doubt has not been resolved.

I think until it is resolved that, at the very least, it should be moved from baby food or the amounts in baby food drastically reduced. Either the FDA should ask the companies to do this or the companies should do it on their own initiative. I agree fully with the President's Consultant on Nutrition, Dr. Jean Mayer, that MSG doesn't serve any nutritional purpose in baby food and there is no reason to take any risk with a child's health until it has been proved safe.

Whether it should be removed entirely from the GRAS list is less clear. This obviously needs further investigation as quickly as possible. In the future it would be far better to investigate before the fact of public concern, rather than after. It isn't fair to the public or the manufacturers or the companies that use these materials to wait until after they have gone on the market to fully investigate their safety.

Finally, I think, this whole system needs to be reformed. The FDA, I believe, has been timid in attacking this problem despite the urging of some of the very best scientists within it. If the FDA needs more authority or resources to do the job then I think the Congress should provide either or both. In the last analysis, the FDA should apply the same test to food additives that it applies to drugs; they should be proved safe before they are approved for use.

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## MORATORIUM DAY ADDRESS BY SENATOR McGOVERN

Mr. HUGHES. Mr. President, among the powerful statements made by public leaders of the recent Vietnam moratorium day, one of the most memorable and moving was made by the distinguished Senator from South Dakota (Mr. MCGOVERN).

Senator MCGOVERN delivered versions of these remarks from three platforms on October 15—American University, Washington, D.C.; Boston Common, Boston; and the University of Maine, at Bangor. I need not remind anyone that the Senator from South Dakota was in the vanguard of those pressing for disengagement from the Vietnam war, years ago. He is properly recognized as one of the Nation's foremost spokesmen for peace.

I ask unanimous consent that his address be printed in the RECORD.

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

ENDING THE WAR IN VIETNAM

(Moratorium Day remarks of Senator MCGOVERN, Democrat, of South Dakota)

We meet today for the purpose of putting an end to the most tragic mistake in our national history—the cruel and futile war in Vietnam. We meet today to call our government away from folly into the paths that lead to peace.

This is a day both of regret and affirmation. This is a day not of name calling or violence or destruction. This is a day that calls not for the politics of revenge; but the politics of reconciliation—both at home and abroad.

We seek not to break the President, but to lift the terrible burden of war from his shoulders and from the American people. To do that we must accelerate the agonizingly slow pace of withdrawal from this hopeless conflict. That withdrawal will not be entirely free from pain and embarrassment, but it will be no easier a year from now or two years or five years after more thousands have died and our own society has been further eroded. The President has described Vietnam as our finest hour; it is not, it is our worst hour. The most urgent and responsible act of American citizenship in 1969 is to bring all possible pressure to bear on the Administration to order our troops out of Vietnam *now*. We are here to assert the claims of life over the further claims of death.

I think if Charles Dickens were writing today, he might say of our age as he did of an earlier age: "It is the best of times; it is the worst of times." He would see in Vietnam the tragic loss of some 40,000 young American lives, another 250,000 maimed or wounded; perhaps 2 million Vietnamese slaughtered, another 3 million driven out of their homes into miserable refugee camps, and they too are the children of God. He would see all the tragedy, the heartache, the bloodshed of that war, and he would say this is indeed the worst of times. But perhaps the American people are looking beyond this war to some of the painful lessons it has to teach us. As the first United States Senator to take issue with the sending of American troops into Southeast Asia—in September of 1963—I nevertheless think there may be one enduring benefit that could come from that involvement, if we meet our responsibilities of learning what that war has to teach us. Perhaps it can prevent an even more costly and hopeless venture elsewhere in Asia or the developing world.

My thoughts today are especially with the young Americans still tied to that bitter jungle and those who have left their blood there. We owe it to these brave young men to learn well the lessons purchased with their lives. Otherwise, their all too great sacrifice will have been for naught.

The great historian, Charles Beard, when asked to cite the most profound lesson he had learned in a lifetime of historical study replied: "The sky is darkest just before the stars come out."

Vietnam has taught us that we are capable of wandering away from the great traditions of our nation. But we have also demonstrated that we cannot surrender the ideals of Jefferson and Lincoln and the great moral principles of our society without setting in motion the forces of dissent and redemption.

So perhaps out of the blood-soaked jungles of Southeast Asia will come the humility and the national wisdom that will lead us into the light of a new day. This is the faith that brings us together this moratorium day—a day of conscience and commitment.

The President has said that his concern at this point is not how we got into Vietnam, but how we bring the war to an honorable conclusion. To me the most honorable way to end the war is to relax our embrace of General Thieu and begin the systematic withdrawal of our troops. But I think a community of moral men have a further responsibility to know how we became drawn into this conflict, to learn what lessons that experience has for us, and to apply that wisdom to produce a new foreign policy more calculated toward peace and less likely to involve us in hopeless ventures of this kind that destroy others in the name of freedom while poisoning the well springs of our own national life. We must learn that it is madness—not security—to devote 70% of our controllable federal budget to armaments and only 11% to the quality of life. It is not national defense to spend $25 billion for a worthless Anti-ballistic missile defense and then render 15 million Americans defenseless by malnu-

trition. We must stop permitting the economy of death to starve the economy of life. We must stop trying to be the policeman of a revolutionary world!

Any understanding of the forces that brought us to where we are today, with half a million young Americans still fighting and still dying in Southeast Asia, must go back at least 25 years. For nearly a century prior to the second world war, this area was a colony of the French and had been ruled and exploited to that purpose. With the Japanese invasion of 1940, French power was temporarily shattered.

Unfortunately, a new American president coming into office in the closing weeks of World War II, concentrating his major attention on seemingly more urgent questions, permitted a gradual drift in American policy to support the French effort to restore their colonial control over French Indo-China. That effort, in spite of the sacrifice of the cream of the French army and an expenditure of some $2½ billion in American funds in 8 years of bloody struggle, ended in disaster at Dien Bien Phu.

That was the first tragic mistake on the part of our government—the desertion of our time-honored commitment to self-determination and anti-colonialism. We supported instead a self-defeating French effort to reassert empire in an area where empire was doomed.

Mistake number two occurred between 1954 and 1956 when we joined with the Saigon regime—largely our own creation—to block the election called for by the Geneva Accords to decide the future of North and South Vietnam.

We blocked the election of 1956 for one reason. We were afraid Ho Chi Minh would win it. Indeed, President Eisenhower said Ho would have received 80% of the vote in both North and South Vietnam. How ironical it is that 15 years later, President Nixon is now saying that the one issue we will not negotiate is the right of the Vietnamese to determine their own future. The hypocrisy of all this is that so long as our men and money are in Vietnam they prevent—not advance—self-determination.

Mistake number three came when after conditioning our aid on the necessity of substantial reforms, we permitted the Saigon regime to ignore the necessity of those reforms.

With each new failure, with each new corruption of South Vietnamese generals and politicians, we tried to compensate by increasing inputs of American military power.

If there is one dominant lesson from this bitter experience that we ought never to forget, it is this: we do not have the right or the capacity to save a political regime abroad that lacks the respect of its own people.

There are problems around this world that we cannot solve with military power—even with napalm and B–52's.

I served along with millions of my generation in World War II, in my case as a bomber pilot operating against the Nazi war machine. But what is one to say about the tangle of Southeast Asia, where on one little jungle strip we have dropped more bombs than all the bombs that fell on Japan and Germany in World War II—where a war that began as a struggle over the minds and the hearts of the people of that area has degenerated into a massive bombardment on a scale seldom seen in the history of warfare. Does anyone, even the most ardent hawk, still believe that all of this effort has increased the chances for dignity and freedom and peace. We went in, after all, to reduce the terror in the countryside, to reduce the isolated incidents of guerrilla terrorism that was evident in the 1950's. And we ended up with a young American Major saying sadly after the destruction of a South Vietnamese city of 35,000 people. "We had to destroy the city in order to save it."

And this, it seems to me, underscores the self-defeating nature of our military operations in Vietnam.

Mistake number four—perhaps the most costly of all—is not what we have done to Vietnam but what we have done to ourselves. While we have fought the Viet Cong, we have neglected the enemies within our own society—the blight of our cities, the ugly scars of racism, the pollutions of air, water and land, the joblessness, the bad housing, the ill health, the dull schools, and the hungry of the poor. In short, we have waged war abroad while surrendering to those enemies seizing our own land.

Our plea today is that our government get out of this war that breeds violence both at home and abroad. The Thieu-Ky regime is not worth the 40,000 young Americans who have died. It is not worth the 8,000 who have died in 1969. It is not worth the scores who will die this week. It is not worth one additional young life. Let's stop saving face and begin saving lives. Let us stop killing Asians and begin the healing of our own land.

In his fine play, *"Incident at Vichy,"* Arthur Miller has von Berg express his deep guilt over the terrible atrocities of the Nazis toward the Jews; he threatens to commit suicide. But recognizing that von Berg, while deploring the atrocities, is doing nothing to stop them, Leduc replies indignantly: "It's not your guilt I want, it's your responsibility."

And so it is with Vietnam. It is not enough to beat our breasts, to confess our guilt—we must *act* as responsible men and women.

I believe that the students and citizens across the land who have declared this peaceful moratorium deserve the active support of us all.

This is the highest patriotism. It is carried out by Americans who love their country enough to call her to a higher standard. I regret that the President has said he will pay no attention to this effort. If he holds to that course, he will learn as his predecessor learned, that American foreign policy cannot be formed in defiance of the conscience and the common sense of the American people. We have been requested instead to maintain silence for 60 days. But we need not a moratorium of freedom of speech in America but a moratorium on killing in Vietnam. If we are to recapture the American dream, we need not a conspiracy of silence; we need to hear a new call to "life, liberty and the pursuit of happiness."

So I support the moratorium and whatever similar events follow, so long as the war continues. Having fought against our war policy for six years, I don't intend to quit fighting this evil until we have ended it once and for all. And there is no way to end it except to remove our troops! To those who say this will cause a bloodbath in Vietnam, I say there is a bloodbath now. But let us and other friendly countries around the world open our borders to any Vietnamese who might feel threatened by our disengagement. Let us arrange for the mutual exchange of prisoners and provide for the defensive deployment and security of our troops. And then let us remove every last American soldier from Vietnam. Let us bring our youth home from the bloodshed in Asia to join us in the redemption of our own beloved but deeply troubled land.

To challenge the mistaken policies of our country is to pay it a high compliment—because it is based on the faith that we can do better.

"This," said Camus in one of his *Letters to A German Friend,* "is what separated us from you; we made demands. You were satisfied to serve the power of your nation, and we dreamed of giving ours her truth."

So let us do our nation the high honor of serving not her power, but condemning her evil and giving her the truth. For it is still the truth that sets both men and nations free.

## IRS CONDONES SHELL'S ABUSE OF EMPLOYEES' RIGHTS

Mr. PROXMIRE. Mr. President, the Shell Oil Co. has been forcing its employees to listen to its views on oil depletion and oil imports, and the Internal Revenue Service is apparently going to allow Shell to deduct the cost of this lobbying from its taxable income.

Shell has been requiring its employees during working time to attend lectures at which the company's position on the oil depletion allowance and the oil import program was presented. Not only were the employees forced to listen to the oil industry's position, but Shell, apparently with the blessings of the Internal Revenue Service, is going to deduct the cost of these brainwashing sessions.

I am all for well-informed citizens, but forcing a group of employees to listen to only one side of an issue is surely not the hallmark of a free democratic society. Communist China may believe in forced indoctrination, but we in the United States certainly do not. What possible use of this information can the employees of Shell make except to write to their Congressmen?

Section 162(e)(2)(B) of the Internal Revenue Code is quite clear that such lobbying activities are not deductible expense. Yet the IRS wrote to me that such "lectures" did not "appear" to be lobbying activity. If these propaganda sessions are not, to use the code, an "attempt to influence the general public or segments thereof, with respect to legislative matters," I do not know what is.

I am going to request the IRS to reconsider its decision and am going to call upon Shell to pledge not to indulge in any further propaganda sessions unless they allow opposing views to be heard.

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## THE READER'S DIGEST ARTICLE ON AMERICAN PRISONERS IN VIETNAM

Mr. THURMOND. Mr. President, in the recent Vietnam demonstrations, little concern was exhibited for the 401 American servicemen known to have been captured by the enemy. We do not know whether most of them are dead or alive. Hanoi has signed the Geneva Convention on Prisoners of War, but refuses to acknowledge that these men are prisoners of war. Hanoi will allow no international inspection team to visit the prison camps or to make inquiries about the welfare of the men involved.

In the November Reader's Digest, released yesterday, the plight of these prisoners—and their families—is detailed with great feeling. The article cites examples of mistreatment and inhuman conduct. For example, Reader's Digest says:

> Prisoners are fed little but rice, and many suffer from malnutrition. Some are afflicted with intestinal parasites. Except when allowed out to empty toilet pails, prisoners are confined in huts, often locked in wooden foot blocks or handcuffs. Barbaric treatment is not unusual. In Hanoi's prisons, men have been kept in a pitch-black room for more than a year, hung from ceilings by their arms, tied with ropes until they developed infected scars, and burned with cigarettes. At least one has had his fingernails ripped from his hands. The broken bones of another, set by communist doctors and still in casts, were rebroken by guards.

Mr. President, these barbarities were performed by the same enemy whose flag has been adopted by many American protesters.

However, such sentiments are expressed by only a handful of Americans. The vast majority want to know what they can do to help. Reader's Digest has come up with a plan. The article urges that an avalanche of letters should descend upon representatives of foreign nations, the Congress, and the chief North Vietnamese negotiator in Paris. The Digest reasons that continuing exposure of the plight of the Americans held prisoner will create a wave of indignation that the North Vietnamese cannot ignore.

Accordingly, the Digest has offered to send to its readers a list of Washington, D.C., addresses, of Ambassadors of the foreign nations whose assistance could be particularly vital; and a list of selected foreign newspapers. Anyone who wants this list need only send a postcard to Reprint Editor, The Reader's Digest, Pleasantville, N.Y. 10570.

Mr. President, I commend the Reader's Digest for its excellent plan, and I urge all Americans to follow it as far as they are able.

Mr. President, I ask unanimous consent that the article entitled "What You Can Do for American Prisoners in Vietnam," published in the November Reader's Digest, be printed in the RECORD.

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

[From the Reader's Digest, Oct. 26, 1969]

WHAT YOU CAN DO FOR AMERICAN PRISONERS IN VIETNAM

(By Louis B. Stockstill [1])

Once a month from her apartment in Arlington, Va., Gloria Netherland walks down 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 round the world. The letter begins "Dear Dutch." Whether Dutch will receive it is impossible to say.

Gloria and Dutch have been married 18 years, but she doesn't know whether he is alive or dead. For more than two years she has written the monthly letters—six lines each, according to current communist rules. None is answered; none is returned. But, in the pattern of "dreadful uncertainty" that characterizes her life, she never fails to write.

Capt. Roger M. Netherland, shot down over North Vietnam in May 1967, is officially "missing in action"; fliers reconnoitering the site where his plane plunged to the ground believe they heard his voice, but no word has come through since.

Gloria Netherland is but one of hundreds of American wives and parents whose husbands and sons are the forgotten men of the Vietnam war—approximately 1,400 men captured or missing and possibly in enemy hands. Most of the known captives are imprisoned in North Vietnam. Others are held by the Vietcong in the South. A few are interned in Laos and Red China.

On the shoddy pretext that these captives are "criminals," not POWs, Hanoi will not allow neutral inspections of its prisons—inspections required under the Geneva Conventions, ratified by North Vietnam in 1957 and by 119 other governments since the origination of the Conventions in 1949. In blatant disregard of international rules, Hanoi refuses even to identify the prisoners it holds, to release the sick and wounded, or to allow proper flow of letters and packages, though the Red Cross has tackled the problem again and again.

Evelyn Grubb's only knowledge of her husband, for example, has come from a Hanoi propaganda gesture. An unarmed reconnaissance aircraft, piloted by Maj. Wilmer "Newk" Grubb, was shot down in January 1966. Hanoi gloatingly publicized his capture. Each time Evelyn writes, she sends photographs of their four sons—stapled to the letter so that Newk will know if they have been removed. She doesn't know whether he has received a single photograph or letter. In almost four years, she has received no further official word of her husband.

Until recently, the American public has been provided scant information about American POWs in Vietnam. Now, for the first time, our officials are waging an open fight for the prisoners. The diplomatic maneuverings which previously shielded many aspects of the situation from public view—although perhaps right for that period—have been partially cast aside. The United States is speaking out. Yet, in order for the tough and forthright new policies to produce desired results, citizens must join the attack. Our assistance could be crucial.

Here, then, are the sobering facts about the prisoners—the way they are used and abused by Hanoi.

MISERY AND MALNUTRITION

The armed forces have been able to positively identify 401 men as captured (Air Force, 192; Navy, 140; Army, 46; Marine Corps, 23). Some intelligence about these men must be kept secret or couched in guarded language to protect them. Nevertheless, accounts of inhumane treatment have emerged. Consider Navy Lt. (j.g.) Dieter Dengler, who was taken by the Pathet Lao in 1966 and turned over to North Vietnamese soldiers. He was spread-eagled by his captors and left at night to the mercy of jungle insects, repeatedly beaten with sticks for refusing to sign a statement condemning the United States, and tied behind a water buffalo and dragged through the bush. The once 157-pound flier weighed 98 pounds following his escape and rescue.

Other escaped prisoners have told of similar maltreatment in Pathet Lao and Vietcong jungle camps. Prisoners are fed little but rice, and many suffer from malnutrition. Some are afflicted with intestinal parasites. Except when allowed out to empty toilet pails, prisoners are confined in huts, often locked in wooden foot blocks or handcuffs. Barbaric treatment is not unusual. In Hanoi's prisons, men have been kept in a pitch-black room for more than a year, hung from ceilings by their arms, tied with ropes until they developed infected scars, and burned with cigarettes. At least one has had his fingernails ripped from his hands. The broken bones of another, set by communist doctors and still in casts, were rebroken by guards.

Prisoner treatment varies, of course. North Vietnam operates its best-known prison camp—known as the "Hanoi Hilton"—in central Hanoi. Here prisoners are wakened between 5 and 6 a.m. by a gong, followed by a 30-minute Radio Hanoi English-language broadcast of propaganda piped into their cells. At mid-morning they are taken out to empty toilet buckets. At 11 a.m., as much as 19 hours after they last ate, they are fed. Food—picked up on a wooden tray and eaten in the individual cells—consists mainly of pumpkin or squash, pork fat, a vegetable resembling wild onion tops, and bread or rice. Then, prisoners may "nap" on their bare board bunks until two in the afternoon, when their cells are flooded with another half-hour Radio Hanoi broadcast. Between 4 and 6 p.m. they are fed the second and final meal of the day.

Prisoners generally are isolated from communication with more than one or two other prisoners. Many are kept in solitary. Certain prisoners have been allowed on occasion to write to their families, but few letters ever reach home. U.S. officials, with reasonable suspicion, regard the "Hanoi Hilton" as a propaganda showplace. It is the lone prison that foreign journalists have been allowed to enter.

PATTERNED RELEASE

To date, only a handful of Americans have been released: 16 by the Vietcong, nine by Hanoi. The releases by Hanoi—on two occasions last year and one this August—have all followed a disturbing pattern. First, just three men have been let out at a time, and always accompanied by blatant propaganda. Second, the names of the men to be freed have been withheld for periods of more than a month after the intention to release was announced, thus creating untold agony for thousands of hopeful next of kin. Third, releases are carried out via dissident Americans instead of through the International Committee of the Red Cross.

The release last August illustrates how completely Hanoi milks the prisoner situation for its own purposes. To begin with, it was carried out via a group of eight dissenting Americans—a pacifist, two members of the Students for a Democratic Society, a member of anti-war organizations, a man who had served a stockade sentence for refusing to fight in Vietnam, and three cameramen from an underground movie-making outfit. All but one went to North Vietnam, where they were solicitously entertained for a couple of weeks.

Finally, on August 4, Hanoi named the men who were to be freed. Two were Navy men (Lt. Robert F. Frishman, captured 21 months earlier; and Seaman Douglas B. Hegdahl, imprisoned for two years and four months); the third was Air Force Capt. Wesley L. Rumble, a prisoner for 15 months.

At an airport press conference in Vientiane, Laos, U.S. newsmen described the men as "pale and gaunt." Lieutenant Frishman, acting as spokesman for the prisoners, selected his words carefully. He said only that he was "happy to be returning home."

"How was the treatment you received while a prisoner?" he was asked.

"I received adequate food, clothing and housing," Frishman replied.

VIEW FROM THE SIDE

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 as they disembarked was deeply saddening. Frishman and Hegdahl were first off the plane. 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 were ashen. Their eyes were deep, hollow circles of darker gray, much like the exaggerated eyes of starving children. Frishman 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. It hung at his left side, the loose sleeve of his jacket emphasizing that the arm was terribly wasted.

A reporter asked Hegdahl how much weight he had lost. He had "no comment." But then Frishman addressed the microphones: "I lost 45 pounds. Seaman Hegdahl lost 60 pounds."

What about the welfare of the other prisoners still held by Hanoi?

"No comment."

As Frishman turned to leave, I saw him for the first time from the side. His shoulders

[1] Louis R. Stockstill, in researching this article, talked to dozens of government officials and numerous wives of Vietnam prisoners. A free-lance writer in Washington, D.C., Stockstill was for 22 years a reporter for the *Armed Forces Journal*, covering Congress and the Department of Defense.

were incredibly thin. The collar of his shirt hung loosely about his neck. The lines of his nose, his cheeks, his chin were sharply drawn, haggard. So were Hegdahl's. Their tightly stretched, almost translucent skin had a corpse-like pallor.

Their "escorts" had nothing but praise for what they had seen in North Vietnam, including Hanoi's "humane" treatment of prisoners. "How many prison camps did you visit?" I asked. After repeated evasions, their leader admitted that he had "no information at all" about any of the prison camps. Nor had they brought any hint that North Vietnam might consider changing its policy on prisoners.

THE PRISONERS TALK

Twenty-five days later, I saw Frishman and Hegdahl at Bethesda Naval Hospital in Maryland. 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 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. When he passed out, he 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; so 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."

Hegdahl, too, had been subjected to solitary confinement for more than a year. He was permitted occasional mail, but the letters were rifled of enclosures (including money) sent by his parents. The lone package he was allowed had been plundered before he got it. 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 was cautioned before his release not to forget that "we still have hundreds of your buddies." But those still imprisoned want the facts out in the open, he said. As one prisoner said to him, "Don't worry about telling the truth. If it means more torture, at least we'll know why we're getting it. It will be worth the sacrifice."

Plan for Action. Hanoi's continued lack of compassion has brought rising anger in Congress. In August, 42 Senators banded together in a strong statement condemning North Vietnam for its cruel treatment of the prisoners and their families. The declaration, sponsored by two opponents of our Vietnam policies, Charles Goodell (R., N.Y.) and Alan Cranston (D. Calif.), says that 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." Those signing the statement included both Democrats and Republicans, and represented 33 of the 50 states.[2]

This sort of initiative is 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, is likely to produce action. A business-as-usual attitude on the part of the American public can only indicate to Hanoi that these men who have given so much to their country have indeed been forgotten.

In my interviews with numerous government officials, with representatives of the Red Cross, members of the armed forces and next of kin of the prisoners, I have asked each person what would be the most effective attack that could be launched. They agreed that dramatic results could come from a vigorous letter campaign directed to 1) representatives of foreign nations and the press of those nations; 2) your Congressmen; and 3) Xuan Thuy, chief North Vietnam negotiator in Paris.

The mail to the foreign 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 make the same demands. And those individuals who are not in sympathy with the war itself should make it clear that proper treatment of the prisoners is an overriding consideration. All should note that continued intransigence on the part of Hanoi will stiffen the resolve of the American public, not weaken it.

Letters to members of Congress should call for a joint resolution demanding proper treatment for the prisoners and missing men.

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," says Secretary of State William P. Rogers. "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 whom many Americans have forgotten, you can. Your letter could be the one that spells the difference.

NOTE.—If you want to help, send a postcard to Reprint Editor, The Reader's Digest, Pleasantville, N.Y. 10570, giving your name and address; you will be mailed a list of Washington, D.C., addresses of ambassadors of the foreign nations whose assistance could be particularly vital; and a list of selected foreign newspapers. Letters to Xuan Thuy can be addressed to: Xuan Thuy, North Vietnam Delegation, Paris Peace Talks, Paris, France (airmail rate, 20 cents).

[2] On August 21, the North Vietnamese delegation in Paris vehemently rejected the protest as "slander" and an attempt "to deceive public opinion."

## ADDRESSES BY GALO PLAZA ON LATIN AMERICA

Mr. KENNEDY. Mr. President, on successive days at the beginning of this month, Mr. Galo Plaza, Secretary General of the Organization of American States, delivered two major addresses on American policy toward Latin America and on the future of the Alliance for Progress. Mr. Plaza's remarks have special significance because of the close relationship between Mr. Plaza and Governor Rockefeller, who headed the administration's specific study missions to Latin America earlier this year. Indeed, a number of commentators have suggested that the addresses may be a partial preview of the major policy statement on Latin America that President Nixon will deliver at the end of this week.

In his statements, Mr. Plaza speaks eloquently of the needs of Latin America and discusses many of the recommendations that political and diplomatic leaders of Latin America have made in urging the United States to adopt a more progressive policy for the hemisphere. Mr. Plaza places special emphasis on more enlightened American trade and aid policies toward Latin America, including special trade concessions, more extensive public assistance programs, and greater private investment.

Mr. President, when Governor Rockefeller embarked last May on the first of his four study missions to Latin America, President Nixon emphasized that the purpose of the trip was to listen to the leaders of Latin America and bring back recommendations for new policies. In spite of the turbulence surrounding some aspects of the missions, many experts believe that the Governor was able to gather a broad range of meaningful impressions.

Because of the continuing concern of many of us in Congress for improving U.S. policy toward Latin America, I believe that Mr. Plaza's remarks will be of wide interest. I, therefore, ask unanimous consent that his recent addresses in New York City and in Hamilton, Bermuda, be printed in the RECORD.

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

EXCERPTS FROM THE ADDRESS BY GALO PLAZA AT THE ANNUAL AWARD DINNER OF THE AMERICAS FOUNDATION, NEW YORK CITY, OCTOBER 6, 1969

I recently came across a sharp indictment of the trade and shipping policies of the developed countries written by an articulate young statesman of an underdeveloped country. He said that the states of his region of the globe must unite against certain powers which are naturally bent on—and I quote—"fostering divisions among us, depriving us of an active commerce in our own bottoms, . . . monopolizing the profits of our trade, and clipping the wings by which we might soar to greatness."

The words sound like they might be those of a nationalistic Latin American accusing the United States of economic aggression, but they were actually written in 1787 in *The Federalist* by Alexander Hamilton. The underdeveloped nation in danger of having its wings clipped was the United States.

Today the shoe is on the other foot. History has been kind to the United States, bringing it to a position of unparalleled economic preeminence, in which its action—or inaction—has repercussions around the globe. This position places a gigantic burden of responsibility on the United States.

Today it is the Latin America nations and the other developing nations of the world that are calling upon the United States for greater financial cooperation and trade liberalization, while at the same time seeking to assert their economic independence. On the basis of its own history, the United States should have no difficulty in understanding this position.

The most recent Latin American statement of the problems in inter-American economic relations is the Latin American consensus of Viña del Mar. It was approved by the Special Committee for Latin American Coordination (CECLA) in May of this year and subsequently presented to President Nixon and to the Inter-American Economic and Social Council at its meeting in Port-of-Spain. This significant document reflects a growing tide of nationalism, regional cohesion, and solidarity in Latin America.

Shorn of its diplomatic amenities, the Consensus declares that the United States should make a greater effort to fulfill its obligations and commitments in the inter-American system.

The Consensus reiterated the Latin American countries' conviction that economic growth and social progress are basically their own responsibility, but that they need the support of the developed countries.

Among the major obstacles which the Consensus cited as a brake on Latin American economic growth are the conditions on trade

and aid. In the area of trade, the main concern is with tariff and nontariff restrictions that impede access to the principal world markets under equitable or favorable conditions for Latin American raw, semi-processed, and manufactured products. In the area of aid, the Consensus cites the progressive deterioration of the volume, terms, and conditions of international financing assistance.

During the period of the Alliance for Progress Latin America has been contributing to a significant extent to strengthening the United States balance of payments position. When all factors are taken into account, including debt service, last year there was a net inflow of funds from Latin America to the United States of about $500 million. This naturally raises some questions in Latin America about who is aiding whom.

What is it that the Latin American countries expect from the United States? In the area of trade policy, they call for:

Reduction or elimination of tariff and non-tariff barriers to Latin American exports of all types.

Establishment of a system of generalized trade preferences for manufactures and semi-manufactures.

Consultation prior to the imposition of measures affecting Latin America's trade.

Establishment of national or inter-American systems of export credit.

Elimination of discrimination against Latin American vessels and cooperation in the creation of Latin American merchant fleets.

Stabilization of market fluctuations through commodity agreements, buffer stocks, and supplementary financing.

In the area of aid policy, the Latin American countries seek:

Expansion of the volume of financial cooperation so that Latin America can achieve a net inflow of funds of reasonable magnitude, rather than net outflows as at present.

An easing of lending conditions, with longer grace periods and lower interest rates, subsidized where necessary.

The untying of United States aid, at least within the Latin American region, and more concerned efforts within OECD to achieve an untying of credits by all industrialized countries.

Cooperation in achieving a shift in policy of international financial institutions to permit program or sectoral lending and the financing of local currency costs where needed.

None of these objectives in trade and aid is new. They have been reiterated time after time in the inter-American meetings of the past decade. Many of them are reflected in the economic standards of the amended Charter of the Organization of American States, which has been ratified so far by thirteen countries, including the United States. Latin America is calling upon the United States to put the principles of inter-American economic cooperation into full practice.

There is certainly no lack of excellent studies to assist the United States in formulating a new Latin American policy. There are even studies on the studies.

The studies are valuable, but they are no substitute for action. That is why the recent mission of Nelson Rockefeller is so important. It is not just one more study. It is a reflection of the actual needs and aspirations of the Latin American countries, and President Nixon has announced that a number of its recommendations will be adopted. This is a promising sign.

I believe that multilateralism deserves a much more substantial vote in inter-American relations. The political pitfalls of bilateral economic cooperation have been all too clear in recent years. It is difficult for any powerful country to avoid charges of intervention when it decides unilaterally which countries should get aid, how much they should get, and under what conditions it should be granted.

The multilateral framework for economic cooperation in the Americas already exists in the inter-American system. The organization of American States is a tried and tested vehicle for reconciliation of United States and Latin American views in the political sphere, and it is perfectly capable of performing the same function in the economic sphere, if the parties are willing.

The Inter-American System is stronger and more vigorous than ever. That vigor is reflected in the reform of the OAS Charter, the launching of massive new programs in the fields of education, science, and technology, and the settlement of the recent conflict between El Salvador and Honduras.

The General Secretariat of the OAS has been revitalized with the introduction of modern administrative techniques in order to provide more effective service to member states in accordance to each country's needs.

In other words, the Organization of American States can serve as both the forum for the elaboration of inter-American economic policy and the machinery for carrying out that policy, largely obviating the need for bilateral programs.

Two important inter-American meetings in the coming weeks will give the United States an opportunity to indicate the extent to which it is willing to revamp its Latin American policy and move toward multilateralism. In a few weeks a special Committee of the Inter-American Economic and Social Council at the expert level will meet in Washington to draft a new enocomic policy for the Americas.

The committee's recommendations will then come before a meeting of the IA-ECOSOC at the ministerial level in Caracas in December. The importance of these meetings cannot be overstressed. Let us hope, for the future of the Americas, that they achieve their objective.

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## Inter-American Cooperation for Development

(Address by Galo Plaza, Secretary General of the Organization of American States, at the National Conference of UPI Editors and Publishers, Hamilton, Bermuda, October 7, 1969)

In both the United States and Latin America there are symptoms of dissatisfaction with the current state of inter-American relations. This should alert us that the time has come to forge news bases for inter-American cooperation for development.

There are—to be sure—those who doubt that there is or should be any special relationship between the United States and Latin America. To me that is an unrealistic view, because the fate of the nations of the New World has become increasingly intertwined over the years and it is destined to become even more so in the future. This is recognized in the treaties of the inter-American system. It is a matter of geography and history.

I do not suggest that the unique relationship that links the United States and Latin America should be at the detriment of commercial, cultural, and political relations with other countries or regions. I merely suggest that United States cooperation in the development of Latin America should be a priority consideration for that country, based on considerations of enlightened self-interest rather than moral responsibility alone.

Hasn't the United States been doing more than its share? This is the attitude of many aid-weary Americans. The answer is no. It is true, as the Chairman of the Inter-American Committee on the Alliance for Progress has said that the contributions of the United States have been a real and noteworthy factor in advance made during the decade in all countries of the region, and without that cooperation Latin America would be in worse economic shape than it is.

### THE NATURE OF U.S. AID

But let us take a closer look at U.S. aid. Since 1965 United States financial cooperation with Latin America has been shrinking, while the conditions on loans have become more onerous. Humiliating amendments have been made to the aid authorizations, inspired by internal political considerations. These have soured inter-American relations. The Hickenlooper Amendment, a supposed deterrent against nationalization, is a case in point.

Much is heard, even in sophisticated circles, of the crushing burden of aid on the American taxpayer. Those who lament the burden usually overlook three basic facts:

First, only one third of a cent of each taxpayer's dollar goes for economic cooperation with Latin America.

Second, around 80 percent of all official capital flow have been in the form of loans—not grants—and most of them are repayable in dollars. Fully half of the amount loaned during the sixties has already come back to the United States in the form of payments of principal and interest. Interest alone in the first seven years of the decade amounted to $734 million.

Third, of the loans made bilaterally by the United States Government as well as a large part of those extended by the Inter-American Development Bank, more than 90 cents of each dollar that is lent is spent in the United States, on United States goods and services. Tied loans mean the borrowing countries have no flexibility to shop around for the best buy.

The fact of the matter is, in other words, that the aid burden largely rests on the receiver rather than the donor.

In terms of net capital flow, Latin America is actually aiding the United States. In 1967 there was a net inflow of capital and service payments from Latin America to the United States amounting to some $500 million. Taking into account this fact, and the fact that United States aid has remained fully tied, it is clear that Latin America made a positive contribution to reducing the balance of payments deficits of the United States. Latin America, in effect, shared with the United States some of the sacrifices needed to safeguard the latter's external accounts.

It is imperative that these facts be brought out and publicized widely in the United States. The ignorance that has prevailed on this issue is a source of annoyance to Latin Americans whose debt repayment burden currently eats up about one third of their gross capital inflow. The bulk of the burden is on them, not the U.S. taxpayer.

### LATIN AMERICA'S RECORD

Let us examine Latin America's record in the past decade.

Average annual growth in GNP per capita was 1.6 percent during 1961 to 1968. This is far short of the 2.5 percent goal of the Charter of Punta del Este. The 3.1 percent annual expansion of the population has prevented better results.

Between 1964 and 1968 government revenues increased 30 percent. Taxes as a percentage of GNP increased, reflecting the rising mobilization of domestic resources. More than 90 percent of the resources applied to development came from domestic sources.

In the countries plagued by inflation, the rate has tended to slow down in the past two years, especially in Argentina, Brasil, and Uruguay.

In the agricultural sector performance has been good, but not brilliant. Agricultural output increased markedly, keeping abreast of the population increase. Both the diversity of output and yields improved with more

widespread use of fertilizer and improved technology, and some reforms in land tenure systems.

Industrial production has consistently outpaced total output during the sixties. In twelve countries industrial production rose by an average of nearly 50 percent. In Panama and El Salvador production more than doubled; in Peru and Mexico it increased about two-thirds.

The illiteracy rate is dropping as school enrollment has doubled in this decade, but the population has grown so fast that there are more school-age children without schools today than there were in 1960.

Considerable gains have also been recorded in health, particularly in the expansion of urban water supply systems and sewerage.

Apart from the quantifiable elements, there have been noteworthy institutional and administrative changes in Latin America. Economic growth in quantitative terms does not tell the full story of a nation's progress in the struggle for development. Some countries with high growth rates owe these mainly to fortuitous weather conditions or windfalls in export prices. On the other hand, some countries show lower growth rates because of the amount of resources being channeled into health or education, or because income is being redistributed more equitable and stabilization programs are in force. So we must consider not only the growth figures but the facts that modern management techniques are being introduced into the private and public sector, that economic development planning is becoming increasingly efficient and operational, and that institutions are being founded to mobilize savings, promote exports, stimulate industrialization, and strengthen agricultural extension. These institutions are having their effect on the framework of Latin American society.

PRIORITIES FOR THE NEXT DECADE

The number-one economic objective of Latin America in the seventies will be to penetrate foreign markets and increase and diversify its exports. Expansion of exports should be on the order of 6 or 7 percent per year—almost double the rate actually achieved in recent years. Without this, it will be impossible for Latin America to achieve economic growth rates required for adequate living standards, reasonably full employment, and industrialization. Granted, expansion of exports at the rate I have suggested is no easy task. It will require the concerted internal efforts of the Latin American countries, and it will also require a more liberal and far-sighted attitude on the part of the world's major industrialized powers, particularly the United States and the European countries.

If the United States were to relax its tariff and non-tariff obstacles to imports from Latin America this would have a tremendous impact on Latin America's overall capacity to import. It would do far more to boost U.S. sales to Latin America than tied aid.

Closely related to the problem of exports is the problem of unemployment. At least 25% of the labor force was unemployed or underemployed in 1960 and the figure today is believed to be even higher. No development policy can fail to take this into account. We must find ways to reconcile the need for technological innovations with the need to create jobs. I submit that one step in this regard would be a policy of intra-regional migration to match the labor force with the labor requirements of the region as a whole.

The farm people also deserve high priority in Latin America in the seventies. In most of the countries, agricultural policy should pursue not only increased efficiency in production but an increase in the area under cultivation. Rural unemployment and underemployment is every bit as serious as urban unemployment, and must be attacked with equal vigor. We must modernize our marketing techniques, integrate our markets, and ensure adequate remuneration for farm workers. Only by raising farm income can we hope to create the demand needed to sustain competitive industries, particularly in manufactured products.

As for direct foreign private investment in Latin America, there is a need for a clearer definition—without rigid or formal rules or codes—of the terms under which it is welcome. Latin America needs the capital, technology, and market connections that the foreign investor can offer, but it needs them on terms that provide maximum possible stimulation to its own future development and at least cost in terms of the balance of payments.

We must examine new forms of private foreign investment and create what I would call "naturalized" rather than nationalized enterprises—companies that would operate in the full interests of national development and conform to local conditions.

Even presuming more favorable international policies on trade and private investment, there will still be a substantial need in the seventies for public external financial cooperation for Latin American development. What part should come from the United States? The General Secretariat of the Organization of American States, in a technical study presented to the Inter-American Economic and Social Council in June, has suggested that the United States might furnish $1.1 billion to Latin America annually from 1970 through 1975. Although this is more than double the amount made available in recent years, it would not be unrealistic in terms of the commitment made by the United States at Punta del Este. The OAS proposal suggested that of that $1.1 billion, $475 million be reserved for bilateral programs. The rest, $650 million, would be a nonreimbursable contribution to the Inter-American Development Bank. It would enable the Bank to mobilize more funds elsewhere, and increase its Latin American lending operations to $1.3 billion per year and soften the terms for those loans. Adoption by the United States of a policy of this nature would be a tremendous boon to Latin American development. It would be a revolutionary breakthrough in inter-American relations.

MULTILATERALISM VERSUS BILATERALISM

To put inter-American relations on a new level of cohesion and solidarity, I would call for a major new forward step toward multilateralism, with decisions in the hands of multilateral bodies in which the national interests of each Latin American country are properly represented—bodies with the authority to assess the performance of the borrowers as well as the donors.

If the flow of aid is to be rationalized and performance monitoring is to become more meaningful and nonpolitical, an increasing share of external assistance must be multilateral rather than bilateral. Bilateral cooperation is a natural source of friction and annoyance, and whatever political advantages have been scored by the lender on occasion are generally more than offset by the disadvantages. The chances of abuse in aid and the imposition of myriad terms and conditions are infinitely less under multilateralism than under bilateralism.

I believe that the next phase of inter-American cooperation for development should be largely multilateral. To eliminate purely political considerations from the process, financial allocations in Latin America could be made in accordance with the Inter-American Committee on the Alliance for Progress—CIAP—on the basis of each country's performance. This was the intent of the Fulbright Amendment, which should be given more widespread application with emphasis on the multilateral approach. CIAP is the ideal organ for the job. It has no weighted votes, and only one of its ten members represents the United States. It has shown its competence in making annual assessments of internal and external resource needs and availability, and it has the technical backing of the OAS General Secretariat.

Multilateralism in technical assistance is equally as important as multilateralism in financial assistance. The OAS Program of Technical Cooperation, which was recently reorganized to meet the member states' designated priorities more effectively, is an ideal vehicle for this purpose.

LATIN AMERICA'S GOALS

Relations between the United States and Latin America in the seventies will have to take into account an emerging unity of purpose among the Latin American nations. Today Latin America is more united and more cohesive than ever before. The countries recognize an identity of interest and the need to negotiate and cooperate with the United States on the basis of equality, dignity, and reciprocity.

The hammering out of a common bargaining position by the Latin American countries acting in unity, as was done in the recent Consensus of Viña del Mar, can make negotiation within the inter-American system more meaningful. It can lead to a stranger partnership between the United States and Latin America, within the OAS. It is the OAS that offers the best possible means for solution of common problems. The OAS can be the cushion or shock absorber for reconciling the various interests and forces at play.

In the weeks ahead there is an excellent opportunity to lay the basis for a new era of multilateral economic cooperation in the Americas. A special committee of the Inter-American Economic and Social Council at the Expert Level will meet in Washington within a few weeks to work out details of the new policy. The Committee's recommendations will be acted upon by a special meeting of the Economic and Social Council in Caracas in December.

The Latin American countries seek cooperation, not charity; dignity, not dependence; and interest, not intervention. These desires are just and reasonable, and I firmly believe that they should guide our actions in the Americas in the coming decade. Action is what is called for now. The time for studies and resolutions is past.

## AIR AGE EDUCATION

Mr. PEARSON. Mr. President, I recently had occasion to read a statement by Dwane L. Wallace, chairman of the board of Cessna Aircraft Co. in Wichita. I found Mr. Wallace's statement to be significant and extremely interesting. Mr. Wallace spoke on the relations between air age education and the future of aviation and particularly general aviation. Because his remarks are appropriate and worth while I ask unanimous consent that this statement by Mr. Wallace be printed in the RECORD at this point.

Mr. President, I also ask unanimous consent that a reprint of an article from the Wichita Eagle of March 23, 1969, be printed in the RECORD. This article relates how the introduction of a course in aeronautics at the Osage City High School ultimately had an impact on the redevelopment of the Osage City Airport.

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

THE IMPORTANCE OF AIR AGE EDUCATION, THE PRESENT STATUS, AND FUTURE NEEDS FROM AN ENGINEERING STANDPOINT

(By Dwane L. Wallace)

When we think of a pioneer, we usually think of someone who has been around for ever and ever.

But this isn't necessarily true.

We can quickly think of people who qualify as pioneers in some field or another, but are still quite young.

The most obvious example is an astronaut. There just aren't any old astronauts as yet, but they all have to be classified as pioneers.

You know, we have a lot of young pioneers in the engineering side of general aviation.

There are a number of us who have been tinkering with airplanes for quite a while, but for the most part, we would have to say that any engineer who has been involved in general aviation for even twenty years would still have to be considered a pioneer. He's a guy who has really been around in this business, because it actually wasn't until the mid-1940's that general aviation began to take shape from a product engineering standpoint.

But no matter how long this pioneering engineer has been around, he has just been laying the groundwork for what is yet to come.

Even if a man is one of those 20-year pioneers in our business, he is still working on what we would have to call the early designs of general aviation vehicles.

And if that sounds strange, let me remind you that right now the year 1990 is the same distance away from us as the year 1948. And I submit to you that progress in our business will be multiplied between now and 1990 when compared to our progress since 1948.

Let me remind you also that most of you have children who will spend the most productive years of their lives in the 21st century.

We can't help but try to project ourselves over the next few years to 1990—or 2000—or 2010.

And we can't help but ask some questions: What will our general aviation products look like? How will they be powered? What human engineering factors will determine cabin design and layout? What affect will further development of electronics and guidance systems have on aircraft design and the operation of those airplanes?

These, of course, are engineering type questions—questions that you and I are likely to ask one another in business conversations or in meetings such as this.

But there are other questions we need to be asking also: Who is going to be *buying* our products in these years to come? What attitude is the public going to have about our business? How can we best *educate* people to the advantages and purposes of general aviation?

This last question—the one relating to education—has become a matter of great concern in our industry in recent years.

Most of the general aviation companies have become involved to one degree or another in the matter of air age education.

We aim our educational messages at a wide variety of audiences, but certainly one of the most important of these audiences consist of our young people.

The attitudes these people are forming right now during their schooling will determine the shape of our world for many years to come. Their opinions about business, science, technology, government, social programs—all are being determined by what they are studying today.

Likewise, their attitudes about aviation.

Our job is to help influence those attitudes favorably.

In speaking to these young people, we are trying to relate aviation to the world as it will be in their time. We are trying to show how aviation will affect such things as human communications, social traditions, cultural structures, economic principles, and business practices in years to come.

In short, we are trying to put aviation into the mainstream of their lives instead of letting them think of it as something apart from their normal activities.

To do this job, we have air age education programs aimed at all levels of schooling.

In literally thousands of elementary schools throughout the country, teachers are using special kits which help them work aviation examples into such diverse subjects as science, social studies, geography, and mathematics.

In hundreds of high schools, students are taking credit courses which not only cover the history of aviation but also give them enough practical study of airmanship that they are qualified to take an FAA private pilot's written examination at the end of the semester. Many of these high school courses also include some type of actual flight experience for the students.

In growing numbers of junior colleges and vocational schools, students are being taught the practical aspects of some career within aviation.

All of this air age education activity isn't just happening. It takes time, effort, money, ideas and people.

And you and I should be a part of this activity. You and I already know the story of aviation. If we *really* believe in it, then we have an obligation to help see that today's young people have the proper knowledge with which to put aviation in their own future.

And in the process of doing this, you and I will also be helping to educate ourselves. The fact that we are an integral part of the air transportation system—the growth of which will 'key' the economy of the 1970's.

We will be helping to remind ourselves of the great potential of the general aviation business.

We will be helping ourselves avoid the problem of tunnel vision, so that we can understand the big picture of general aviation.

We will be helping ourselves see through someone else's eyes that we are in an exciting, dynamic industry which needs new ideas and new ways of doing things, helping to inoculate ourselves against that costly disease—"Hardening of the Altitudes."

Air age education is a never-ending process for all of us—and involvement in it will be stimulating and rewarding.

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[From the Wichita Eagle and the Beacon, Mar. 23, 1969]

HIGH SCHOOL COURSES HELP AIRPORTS

It was a similar bent prop incident that helped spark the people of Osage City, Kan. to action on their airport.

Seems a distinguished visitor landing his own plane at the airport for the first time had difficulty determining exactly where the runway was.

The wrong choice resulted in minor damage to the airplane and considerable local embarrassment.

It was about the same time that local school officials were organizing an aeronautics course in the high school after attending a summer workshop on the subject at Wichita State University.

That was a year ago, and through what was termed a "total commitment—a total community effort," the "Osage City Farm" is fast being reverted to its original status and use as the "Osage City Airport."

Following the minor mishap on the field, several concerned citizens—again mostly non-pilots—used the local chamber of commerce as a platform and expressed a desire to improve conditions at the airport.

"We wanted something we could be proud of and that would be safe," recalled Jack French, local optometrist and airport sparkplug.

"I spoke out too loudly at the chamber one day and they made me chairman of the committee," he said.

From the chamber, French and company went to the city council, which promptly agreed to spend some $4,000 that had accumulated from growing crops on the airport.

The real test, however, came when businessmen contributed another $5,000 for the airport improvement program.

Equipment and labor was donated by Clem Thompson, local earth moving contractor, whose son just happened to be a student pilot.

WEATHER MAJOR BAR

Only the weather is now holding up completion of the new runway—2,650 feet by 50 feet with a six-inch base. An oil surface is being used to avoid the expense of asphalt and the special equipment required to lay it.

"We hope it will keep its resiliency by reworking it every three years," French explained. City fathers have agreed to begin collecting that optional ½-mill levy this year for airport maintenance.

According to French, between 90 and 95 per cent of all the merchants in the community donated some funds and the board of education also chipped in as did a number of people from the farming community.

Federal funds were never sought since federal standards would have required about 3,800 feet by 60 feet of runway and the cost would have been much higher.

Much of the success of the Osage City project has been credited to the high school aeronautics course.

"I don't think the airport would be what it is without the course," commented Kenneth Kern, Osage City High School principal.

Fifteen students are enrolled in the course, started last year by science teacher-pilot Jim Buller and five adults are taking an adult education private pilot ground school class from Buller at night.

In addition, five high school students and four adults currently are taking flying lessons. Prior to the start of construction on the new runway, an Emporia, Kan. flying instructor would fly up to Osage City twice a week to give instruction.

Although there are now only two aircraft based on the field, Osage Citians are thinking of attracting aircraft owners from Topeka—25 miles north—with new T-hangars and improved facilities.

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## SENATOR HARRIS ON "MEET THE PRESS"

Mr. HART. Mr. President, I ask unanimous consent to insert in the RECORD at this point the text of NBC's "Meet the Press" of October 19, 1969, at which the distinguished Senator from Oklahoma (Mr. HARRIS) was the guest.

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

MEET THE PRESS, OCTOBER 19, 1969

(Produced by Lawrence E. Spivak)

Guest: Senator FRED R. HARRIS, Chairman, Democratic National Committee.

Moderator: Lawrence E. Spivak.

Panel: Peter Lisagor, Chicago Daily News; Robert Semple, Jr., the New York Times; Paul Duke, NBC News; Russell Freeburg, Chicago Tribune.

Mr. SPIVAK. Our guest today on Meet the Press is the Chairman of the Democratic National Committee, Senator Fred R. Harris of Oklahoma. Senator Harris served as co-chairman of the Hubert Humphrey presidential campaign.

Now we will have the first questions from Paul Duke of NBC News.

Mr. DUKE. Senator Harris, the man who is generally regarded as the leader of the Democratic party, Hubert Humphrey, recently said that he believes President Nixon is proceeding on a right path in Vietnam. Do you share that belief?

Senator HARRIS. Well, I don't have any right to speak for Vice President Humphrey or anyone else. I simply have felt, as we said in a bipartisan resolution which I co-sponsored with Senator Church and Senator Hatfield the other day, the President has indicated that this war is unwinnable militarily and that, therefore, we think he ought to get about getting us out of it on a much more rapid and systematic basis. That is my own personal view and, of course, I am the only person I am entitled to speak for.

Mr. DUKE. Well, about a year ago, Senator, you were regarded as a one hundred per cent supporter of Lyndon Johnson and his policies regarding Vietnam. Does this mean a change in your own personal position?

Senator HARRIS. Yes, it does, and I would just say this: I didn't change my mind, however, about this war during this administration. I spoke out against the war during the previous administration.

In August of last year, for example, prior to the Democratic National Convention, I called for, among other things, a unilateral, unconditional bombing halt, and, so, my own feeling about it now, the necessity for us to disengage more rapidly than we are presently doing is not a partisan matter as some would try to make it because, as I said, I spoke out during the last administration.

Mr. DUKE. But isn't it true, Senator, that President Nixon is taking many of the steps which you and other Democrats advocated six, nine months ago, a year ago? He is trying to reduce the level of the fighting, he is bringing the boys home, and there are now reports that the Administration is considering trying to bring home as many as 300,000 troops by sometime in 1970? Doesn't this show real progress?

Senator HARRIS. I think the key to what you have just said is that there are "reports" that the President wants to bring home 300,000 people by the end of 1970. We also saw Melvin Laird, the Secretary of Defense, in what one newspaper has said was somehow a misquoting of him, say something about residual forces and so forth, and we have seen the President of the United States say that he thought President Thieu was one of the four or five greatest statesmen of all time, that Vietnam may be one of our finest hours in history and so forth.

I think that what those of us who are speaking out now are saysing is, "Mr. President, when opposition to this war is at such a tremendous level and when you have had nine of ten months now, going on to ten months, to take a fresh look at this war—and even you have now said it is unwinnable militarily and you are going to get us home—I think we are entitled to more than vague "reports," and certainly more than conflicting statements on one side or another of this issue, and that is why I am so pleased to see the President is going on the air November 3rd, apparently, and I just hope he will articulate a policy, tell us what it is we are doing there and that that will mean a more speedy disengagement.

Mr. DUKE. Nonetheless, Senator Harris, to repeat the question, isn't it true that the President is taking many of the steps which many Democratcs had advocated?

Senator HARRIS. Yes. Yes, I think so, but the problem is about it—for example on withdrawals, it won't do to say "I am going to withdraw 25,000 troops now and then we will wait and see," and there are three or four conditions, what Saigon does and what Hanoi does and this and that before we decide. I think a key word is "systematic." Former Secretary of Defense Clark Clifford, for example, has said we must have systematic troop withdrawals and he laid down a time table for that. And I think the systematic nature of those withdrawals is very important because only then does he believe, and do I believe that President Thieu, for example, will begin to make the decisions in the South that have to be made if that government is going to be supported in the South and if they are to take on more of their own responsibility, and secondly if Hanoi is to feel any greater pressure for negotiations. The systematic troop withdrawal is what is important and I think we haven't seen that to date, plus we have not seen a plain statement for the people of this country of the common sense of what the President is doing or for that matter, what he is doing.

Mr. SEMPLE. Senator Harris, if President Nixon liquidates this war rapidly but fails to achieve an honorable settlement along the way, and the Viet Cong takes over, will he be fair game for Democratic charges of surrender in 1970 and 1972?

Senator HARRIS. Well, I think you have got some charged words there about "honorable" and so forth. Let me just say this: My own involvement in speaking out on this war has been for the reason which comes up in your question. That is, I think we ought to say to the President of the United States that "If you will move in that direction, then we are going to support you." And I think we are helping to create the climate within which the President can more rapidly and honorably disengage.

Mr. SEMPLE. I use the word "honorably" for a very particular reason. It seems to me that there will be a rather substantial counter-reaction in this country if, in fact, he liquidates the war and withdraws precipitously in such a way that the enemy does take over. There is a rather large emotional commitment to our stakes in Vietnam and what you seem to be suggesting is that the Democrats will not criticize him if that happens.

Senator HARRIS. Well, I don't think that has to happen. I do not accept that as what will happen, if he will do what we suggest.

I suggest: (1) A stand-still cease fire, which I earlier suggested we should accept on the death of Ho Chi Minh, and I think it tragic, we didn't do that, and (2) I suggest a more rapid systematic withdrawal of troops.

Now, I would not bind the President to an exact timetable. I think we should hold him to his press conference of June 19th of this year when he said he hoped to beat the schedule advocated by Secretary Clifford, but I just think now is the time when we must transfer more of the responsibility to the South Vietnamese people themselves and there is no time better than the present to do that.

Mr. SEMPLE. Well, isn't the President in effect, embarking on a timetable at the moment?

Senator HARRIS. I hope so.

Mr. SEMPLE. I mean this is the only way I can read his original withdrawals of 25,000 and 35,000 troops. As I understand you, you would have him proceed faster?

Senator HARRIS. Yes, I would, and not only faster, but in a systematic way. I think that is what is important. It is only by that means that we can signal Hanoi and signal Saigon in a meaningful way that we are on the way to allowing the people of South Vietnam to achieve self-determination.

Mr. FREEBURG. Senator Harris, I'd like to ask you about your role in dissent in Vietnam. You were quoted recently as saying it is time to take the gloves off and you favored the moratorium last week.

Looking back to Johnson, President Johnson was sort of run out of office. Your own candidate last year started his lowest point after the demonstrations in Chicago.

Isn't there danger, after President Nixon has only been in office for ten months, of again breaking a President before he—and in this case, before he really has a chance to do something?

Senator HARRIS. I don't think it is a question, Mr. Freeburg, of breaking a President, and I think it is unfortunate that some people can't disassociate the issue from the personalities. You and I know that we got into this war through four administrations. I think there is enough blame to go all the way around, myself included, as I have made clear. I think all of us can take a part of the blame; those of us who supported this war and those of us who remained quiet while the policy unfolded.

What we are trying to do is create the climate within which the President can do the right thing and that is begin to get us out of there at a much more rapid rate, and I think we are doing that, and I just believe enough in the American system that it will respond and I am hopeful that in his statement on November 3d the President will spell out his policy to do that.

Mr. FREEBURG. Have you made up your mind yet whether you will back the November 14th to 15th anti-war demonstrations which are led by more militant people or are you going to wait until after November 3rd to see what he says?

Senator HARRIS. First of all, I am not involved. It is my understanding from the papers that a lot of people and different organizations are involved and apparently there is some disagreement among themselves. I read in the papers today about a disagreement on what they plan in November. I certainly have no plan to be involved in those and I am very interested in what the President does on November 3rd.

Mr. LISAGOR. Senator Harris, just one other question on Vietnam: Why should Hanoi negotiate at all if you want the President—and many people want the President, and even the President wants—to establish a system of systematic withdrawal from South Vietnam? If you were in Hanoi, wouldn't you just sit tight and wait?

Senator HARRIS. First of all, may I say, Mr. Lisagor, that if that is an argument to be made against my own position, it is a better argument against President Nixon's because he has come in now with a fresh look at this war and has decided against military victory and has started us on what I hope and believe is some irrevocable move to disengage.

Mr. LISAGOR. It is irreversible, is it not?

Senator HARRIS. It seems to me it has to be, but it has got to be more systematic and more rapid. At any rate, that is an argument to be made against his position and not against those of us who are calling for more rapid disengagement. But I would say this to you:

First of all, former Secretary of Defense, Clark Clifford, is convinced that only through the announcement of a systematic withdrawal of American troops will we have a chance—and there may not be a chance—but will we have a chance of getting Hanoi to bargain. If they are faced with the prospect that they are eventually going to have to deal with a purely indigenous, purely local, popularly-supported government in the South, that prospect has the better chance of getting them to negotiate.

The second thing is, former Ambassador and chief negotiator at Paris, Averell Harriman, feels that, if anything, the moratorium on balance helped the negotiations because it helped to show Hanoi that we really mean it when we say we are going to disengage.

Mr. LISAGOR. Senator, I'd like to switch you over to the economy. The President made a speech Friday in which he, in effect, blamed the Democrats for inflation, saying that they spent an awful lot more money than they collected in taxes over the past five or so years. Do you believe he has moved vigorously

enough on this inflation front to halt the rise in wages and prices?

Senator HARRIS. I certainly don't. Again, you know, I think you can get into this "blame" business, but the truth of the matter is that the consumer price index on meat and fish and poultry, for example, has gone up during the first eight months of this administration more than in all the previous eight years combined. Interest rates have reached a one hundred year high level. We have seen copper and steel prices go up alarmingly at a time when the President has refused to use the moral persuasion of that office, and now he seems to be willing to try to come through the back door and try to do that, but I think the President of the United States has got to be a leader in working with management and with labor in working out wage-price guidelines and I think it doesn't help at all, when many of us are trying to cut down, for example, on unessential defense expenditures—as, for example, on ABM—it doesn't help for him to come along then and recommend an SST.

Mr. LISAGOR. Do you think we can cure this problem of inflation or bring it into control without an increase in unemployment? We have already seen an increase, but don't you think that unemployment has to go higher than it is now, the rate, and also what should we do about it?

Senator HARRIS. No, I do not think that we have to say that, that some level of unemployment is acceptable. You know, unemployment is a euphemistic term which means that individual people, family heads, are out of work, and I thought it was appalling what Secretary Kennedy said before the committee the other day, that there was some level of acceptable unemployment and he refused to even say that six or seven per cent unemployment was unacceptable.

I think that what the Administration must do, as it tightens up, is to understand that it has to put a net under this fallout. If we are going to begin to tighten up and people are going to fall out of jobs, then we have to have a net to catch them. We have that in a bill by Jim O'Hara in the House, and one being perfected by Senator Gaylord Nelson in the Senate, and I just think that is the No. 1 thing that we need to be doing in this Congress.

Mr. SPIVAK. Senator Harris, you and other Democrats keep talking about a time table. What do you mean by a time table? Have you a time table?

Senator HARRIS. What I have said, Mr. Spivak, is that I think that what Secretary Clifford has recommended is a minimum. He has said that we ought to have 100,000 American troops out by the end of 1969 and all combat ground troops out by the end of 1970.

Mr. SPIVAK. Well, how do you know the President isn't planning to do that?

Senator HARRIS. Well, the President said twice on June 19 in his press conference in answer to two separate questions he hoped to beat that schedule. I just want to hold him to that.

Mr. SPIVAK. Do you want him to announce a monthly time table? I just don't quite understand what you mean by a time table.

Senator HARRIS. Not exactly monthly, but I think he must say what he systematically plans to do. Only by that way will he convince both Hanoi and Saigon that that is what we intend to do and only by that kind of systematic withdrawal will, it seems to me, the other good things that might flow from that occur.

Mr. DUKE. Senator Harris, isn't it possible all this criticism will make it more difficult for Mr. Nixon to extricate us from Vietnam?

Senator HARRIS. No, I think not, Mr. Duke. I think we are going to make it easier for him and that is what I hope to do, and I think that is our responsibility as a responsible opposition party. We have to help to create the climate in which he can do the right thing.

Mr. DUKE. I would like to go back to the economy for just a moment. Granted that we do have inflation today, isn't it also true that the Democrats must share a large part of the blame for inflation because it originated during a Democratic Administration?

Senator HARRIS. I think that is partly true. Nobody denies that. It is so funny to me that when people say "Well, maybe you are right, but you Democrats were just as bad or nearly as bad." Well, you know I like to think of Tennyson's line that Bob Kennedy used for that book "Come, my friend, 'tis not too late to seek a newer world."

Mr. SEMPLE. Senator, I'd like to ask you a couple questions about the Democratic Party, if I may. The McGovern Commission has proposed some rather far-reaching reforms in the party, including the admission of 18 and 19 year olds, younger people to party affairs, even though they can't vote. What is your opinon of some of those proposed reforms?

Senator HARRIS. I think that is a very good idea. The Democratic Platform binds us to try to change the law for an 18-year-old vote. I think in the meantime it is a very good idea to open up the party's processes to those 18 years old or more. That is why, if I could just kind of expand the question to get back to Vietnam slightly, that is why I wanted in a positive way to lend the influence of my office as a Member of the Senate from Oklahoma to these kids who wanted in a peaceful, non-violent, lawful way to show what they thought about this war. Young people are the ones who primarily fight the wars, and yet most of them are too young to vote and I think it was unfortunate President Nixon said he wouldn't be affected by what they did. He later changed his mind, I think, and he is obviously affected, and Rogers Mortor endorsed it and so forth, but I think we have to open up the processes of the party and the country to those who are powerless and a group which is more powerless than some, are the young.

Mr. SEMPLE. Well, as a related question I'd like to ask you whether the Democratic Party isn't moving very rapidly in the direction of becoming a party based largely on Northern liberal intellectuals, the blacks, and as you suggest, some of the young. Now that at least seems to be the direction Mr. Nixon is trying to push you in and I wonder if you are willing to settle for it either in the long run or the short run?

Senator HARRIS. No, we are not willing to settle for it, and I think the greatest comeback this year in addition to the New York Mets, may be the Democratic Party. We have had five Congressional elections, you know, in 1969, and prior to Mr. Nixon's election, four out of those five were held by Republicans and now four of the five are held by Democrats, including the one in Massachusetts where a Democrat hadn't been elected since 1820, and the one that was Mel Laird's old seat, where a great young fellow, David Obey was elected, the first time in all history a Democrat was elected there. I don't think you can overgeneralize from that, but I think if you have good candidates, if you speak to the issues, if you put together a responsible, middle ground—you know that is what we are trying to do, is to get the middle-ground people to respond to these issues that face the country—we can win.

Mr. FREEBURG. Senator Harris, in connection with the party, Governor McNair of South Carolina recently warned the Democratic Party leaders the liberals were trying to force the Southern conservatives out of the party and then you have the new Democratic coalition on the other side.

How do you compare the Democratic Party now to a year ago, has it healed any, do you still have bad splits in the party, as I tried to point out here might be possible?

Senator HARRIS. Well, to coin a phrase or two, I think "we see the light at the end of the tunnel" and "we have begun to turn the corner" and we have seen a few "captured Republican documents" which indicate that we are making some headway. Those races, I said, that we had won this year, already, we have paid off $500,000 on the debt we owed since I became Chairman. We are building back toward the 1970 campaigns and I think that we are making some progress. There are a lot of people that confuse disagreement with hopeless division. I believe there is a great deal of dynamism in the party. For example, in the McGovern Commission, the spectacle of a party—and this is rather unusual—engaged in self-renewal, in reforming and rebuilding itself from within.

Mr. LISAGOR. Speaking of splits in parties, Senator, what should the President do about the Judge Haynsworth appointment now?

Senator HARRIS. I think he ought to accept the advice of members of his own party, such as Senator Ed Brooke of Massachusetts and the Whip on the Republican side in the Senate, Bob Griffin of Michigan, and withdraw that name.

Mr. LISAGOR. I'd like to ask you one other economy question. You are a member of the Senate Finance Committee and the President has said he will veto any tax reform bill that comes out with less revenue than he thinks it ought to contain. Will that bill come out with reduced revenues and what should it be?

Senator HARRIS. I don't know how to answer that because who knows yet what it may do?

I think that, first of all, we have got to have substantial tax reform in this country. We have got to collect more from a lot of people who are not paying their share. We have got to give tax reduction to the over-burdened middle and lower-income people and we are going to do that, but I think as of this moment we can't decide how much tax reduction there will be until we get a final look at that bill.

Mr. SPIVAK. Gentlemen, we have about three minutes.

Senator, may I ask you a question? You endorsed Tom Bradley for Mayor of Los Angeles because you said it was a race of national importance. Where do you stand on the race for Mayor in New York City, which is also of national importance?

Senator HARRIS. I am not going to get involved in the race in New York City. I did not endorse Tom Bradley for the reason you said. I endorsed Tom Bradley because the Los Angeles County Democratic Committee asked me to make a tape for him. I have had no such invitation on the New York race and, as you know, the Democrats are greatly split up there.

My two bosses on the National Committee from New York, the National Committman and woman, are split—well, not really split; the National Committeewoman has endorsed John Lindsay; the National Committeeman has not taken any position and therefore there is not anything that I can do and I don't intend to get involved in it.

Mr. DUKE. Well, if the Democratic nominee for Mayor, Mr. Procaccino, if he asked your help, would you give him help?

Senator HARRIS. It would have to come from others and not just from Procaccino and I don't intend to get involved in that race for the reasons I have just said, but also I would just say I have got a lot of other things to do; we have other congressional races, governors' races, and so forth.

Mr. DUKE. Do you think Senator Edward Kennedy could come back to capture the Democratic presidential nomination, if not in 1972, at some future date?

Senator HARRIS. I think that is certainly an open possibility. I was one of those who said very strongly and early that I thought Senator Kennedy ought to remain in the Senate and that he had been an outstanding leader in the Senate as Majority Whip. He himself has removed himself from the '72 race, but who knows after that?

Mr. SEMPLE. What about your own ambi-

tions in 1972, Senator? There have been a lot of rumors, as you well know.

Senator HARRIS. Right. I am not running for President or Vice President in 1972. That has caused me a lot of trouble and particularly since Ted Kennedy took himself out for 1972. That has put a lot of pressure on me and some people wonder if that is what I am using the Democratic National Committee to do. I would just say that I consulted with people like John Baily and Steve Mitchell and Clinton Anderson and others and they told me that this wasn't a very good stepping stone.

Mr. FREEBURG. Do you see any role for Gene McCarthy in the party's future?

Senator HARRIS. I certainly do. I see Senator McCarthy quite often as a member of the Finance Committee. I have just read his latest book. He is very concerned about the issues that still confront this country and I hope that he will continue to feel that the Democratic party is the proper forum to help do something abut the issues.

Mr. LISAGOR. Senator Harris, you have said that the Administration is like Noah's ark. It has two of everything. What did you mean by that?

Senator HARRIS. For example, on desegregation, you know, we have got the Mitchell line, which is a rather hard line, and we have got the Finch line, which is a line that is on the side of human rights it seems, and the President then took the middle course. As you know, he said he was not for instant integration and he was not for segregation forever—somewhere in between. I don't know how you can compromise a moral issue like that, but that is what has been happening with different kinds of spokesmen within the Administration.

Mr. SPIVAK. I am sorry to interrupt, but our time is up. Thank you, Senator Harris, for being with us today on "Meet the Press."

## EXPRESSION OF SUPPORT FOR PRESIDENT NIXON

Mr. BENNETT. Mr. President, the Vietnam protest movement in the United States tends to give an unfair impression of American public opinion. Last October 15, when a very small group of Americans was marching in protest, a silent majority of our people went about their normal activities. One cannot deny the fact that vocal activists receive much more publicity than the quiet American who does not take to the streets.

However, the protest movement has prompted many Americans to write to their Senator or Congressman, expressing support for President Nixon's Vietnam policy.

I was very impressed when I received a copy of a telegram sent to the President by the Utah Student Body Presidents' Conference, held at the University of Utah, October 17 and 18, 1969. It was signed by seven of the nine college student body presidents in my State. It reflects, I think, the fact that most Americans still support the course being followed by our able President, and also reflects an understanding by these people that this is a very complicated and difficult war to terminate. They realize that the options of all-out war and immediate withdrawal are not acceptable to the American people.

I ask unanimous consent that the telegram sent to President Nixon be printed in the RECORD. In addition to the stand taken by the student body presidents, have received a petition from Frank C. Overfelt, student body president at the University of Utah, signed by many of his colleagues and expressing support for Mr. Nixon.

A third item which I find interesting is a Support-torium signed by 20 persons in the Salt Lake area, expressing a position similar to the students and the student body officers. I ask unanimous consent that the telegram from Frank Overfelt and the Support-torium with the accompanying signatures also be included in the RECORD.

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

[Telegram sent to President Nixon on Vietnam issue]

RESOLUTIONS OF THE UTAH STUDENT BODY PRESIDENTS' CONFERENCE, HELD AT THE UNIVERSITY OF UTAH, OCTOBER 17 AND 18, 1969

President RICHARD NIXON,
*Washington, D.C.*

We, the undersigned Student Body Presidents of the universities and colleges in Utah, commend your efforts towards peace in Vietnam.

FRANK C. OVERFELT,
*University of Utah.*
PAUL NEUENECHWANDER,
*Weber State University.*
RAYMOND W. POLLARD,
*Dixie College.*
NEIL O. GRUWELL,
*Utah State University.*
RICHARD WILLIAMS,
*Snow College.*
DON MARCHANT,
*Southern Utah State College.*
KEN KARTCHNER,
*Brigham Young University.*

[Telegram]

RICHARD M. NIXON,
*President of the United States,*
*White House,*
*Washington, D.C.:*

We, the undersigned students of the University of Utah wholly endorse your plans for peace in Vietnam, and heartily encourage your extended efforts in this regard.

Frank C. Overfelt, Student Body President, Associated Students of the University of Utah; Pete Dixon, James S. Jardine, Galen W. Williams, Craig K. Lambson, Ronald H. Cannegieter, Douglas P. Richards, Lannie Remmons Pace, Dan Hinmon, Andy Tralison.

Michael R. Weiler, Marjorie Meads, Jonathan A. Dibble, James S. Jackson, James Ashley Brinton, Mr. and Mrs. Michael Christensen, Lorraine Shanley, Pat Thomas, Roger Davis, Ted Adams, James M. Schutz, Leah F. Spencer, Harvey P. Cahoon, David F. Evans.

Deann E. Kenipner, Edward D. P. Lunt, Lynon H. Affiect, Stewart Karren, Diana Karren, Robert B. Ingebretson, Randy Kriten, Janet Allen, Jesse F. Cannon, David J. Hippen, Brian G. Mason, Lori Duncan, Gill Mulvay.

Kathy Wood, Debra D. Gardner, Vicki Jean Lewis, George G. Hollis, II, Lynn H. Gillette, John Lever, Shirley Moore, Kaye Lynne Pugh, Tamara Andrew, Brent Evans, Mike Miller, Blaine K. Sebring.

Janet Lee Matthews, Karl C. Rowe, Suzanne Dean, Lorin W. Brown, Alan Van Fleet, Rodger E. Brown, Kevin Brooke Taylor, Margie Faceo, Kent Jaffa, Lawrence Francis Cavanaugh, Jr.

Scott Anderson, Laszlo Preysz, J. Adrian Overlins, Lynette Timmerman, Jeri Rubisch, Richard Mott, Larry Hemingway, Cathy Daines, Steve Lowe.

SUPPORT-TORIUM, OCTOBER 15, 1969

As citizens of the United States, we wish to express our support of President Nixon in an honorably negotiated withdrawal of troops in the Vietnam war. This should be done at the earliest possible time, but at his discretion of a lasting peace, and not by irresponsible pressure groups.

Edward E. Rabiger, Salt Lake City, Utah; June J. Rabiger, Salt Lake City, Utah; Maurice W. Hanks, Salt Lake City, Utah; Alexander L. Fortemoto, Tooele, Utah; Paul B. Masock, Salt Lake City, Utah; Gilbert B. Hamblin, Salt Lake City, Utah; Lt. Leander E. Woods, Tooele, Utah; Hiro Dwasaki, Salt Lake City, Utah; L. Dean Henson, Magna, Utah; Lloyd Gorep, Tooele, Utah.

Dennis R. Orgill, Grantsville, Utah; Terry Anthony, S.L.C., Utah; Donald V. Horrocks, Taylorsville, Utah; Thurmon Lee, Tooele, Utah; Kelland H. Willis, Salt Lake City, Utah; Zeff Burks, Tooele, Utah; Allen L. Taylor, Grantsville, Utah; Diana Jacobson, Tooele, Utah; Harold Ballard, Salt Lake City, Utah; Elizabeth Ballard, Salt Lake City, Utah.

## NATIONAL GALLUP POLL FINDS MAJORITY OF AMERICANS SUPPORT S. 3000; FAVOR TOTAL IMMEDIATE WITHDRAWAL FROM VIETNAM

Mr. GOODELL. Mr. President, for most Americans the subject of the Vietnam war has evoked confusion, complexity, and frustration.

Despite all of the setbacks and disappointments we have suffered since our military involvement in Vietnam began in the early years of this decade, our people have long been optimistic.

They rallied behind a succession of American Presidents committing us to a continued American presence in Vietnam.

Mr. President, this optimism is no longer there. There is now mounting evidence that a growing majority of our people—young and old, from every segment of our society—no longer support the continuation of American military intervention in Vietnam.

An important indicator of this remarkable change in view is the recent Gallup poll released on October 12.

This survey was based on interviews conducted in over 300 localities across the Nation.

A clear majority of our citizens—57 percent—stated that they wanted Congress to enact S. 3000, "The Vietnam Disengagement Act."

Under the terms of this bill, which I introduced on October 7, no funds may be expended to support American military personnel in Vietnam after December 1, 1970.

The withdrawal would not be abrupt, but would be accomplished in an orderly fashion under a schedule determined by the President.

The South Vietnamese Government would then be required to take up the burden of the war on its own. We would continue to supply them with necessary military and economic aid.

Another important indicator of rising popular support for prompt and complete withdrawal of U.S. troops is to be found in the large number of people who rallied to the October 15 moratorium and signed petitions expressing this view.

In assessing the broad impact of moratorium day, the press has consistently reported that persons from all segments of our society participated.

In this connection, I direct the attention of the Congress to an article entitled "Patricia Wall's Enlistment," which appears in the October 24 issue of Time magazine.

Further evidence of the wide base of support for disengagement are two petitions which are currently being circulated in the Harvard Graduate School of Business.

The first, circulated by the Harvard Business School Vietnam Peace Committee, has been signed so far by 508 of the 1,500 students in the school. It "opposes further U.S. military involvement in the war in Vietnam."

The second, circulated by the Harvard Business School Resistance Group is signed by 133 students to date. It calls the war "a grave crime against humanity" and demands "immediate and unconditional withdrawal of all U.S. forces."

The median age of the entering class at the Harvard Business School is 25. About 37 percent are veterans and 41 percent are married.

Another important barometer of public opinion on this, as on other issues, is the mail from our constituents.

To date, I have received 12,873 individual pieces of mail in favor of the enactment of S. 3000. I have received 1,192 letters in opposition. This constitutes 12-to-1 support for the bill.

These expressions of opinion come from virtually every State in the Union. They represent the views of persons of all ages and of many different political persuasions and social backgrounds.

Mr. President, I ask unanimous consent that the texts of the Gallup poll, the Time magazine article, and the two petitions from the Harvard Business School be printed in the RECORD.

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

THE GALLUP POLL: 57 PERCENT BACK GOODELL PLAN TO WITHDRAW ALL TROOPS FROM VIETNAM BY END OF 1970

(By George Gallup)

PRINCETON, N.J., October 11.—A majority of citizens sampled throughout the nation—57 per cent—say they would like to have Congress pass the bill proposed by Sen. Charles Goodell to withdraw all U.S. troops from Vietnam by the end of 1970 and turn the fighting over to the South Vietnamese.

However, a sizable proportion of Americans—43 per cent—say they would like the proposed bill defeated or have yet to make up their minds about it.

A view commonly held by those who favor the bill is one expressed by a young construction worker from Pennsylvania: "We've started the ball rolling and pulled out some of our troops—why don't we go all the way?"

A 23-year old housewife said: "We have obligations to South Vietnam, but we're spending too much money and giving up too many lives for something that is not that important."

PLAN SEEN AS "UNREALISTIC"

Opposed to the bill is a youth worker from Red Bank, N.J., who commented: "The plan is unrealistic. You can't just pull out overnight and leave the South Vietnamese defenseless. The situation will have to be greatly improved before we can take all our forces out."

An Army captain from Georgia also opposes the bill: "It would limit the alternatives possible in Vietnam and tie the President's hands."

DETAILS OF SURVEY

Results of the current survey are based on interviews begun Friday, Oct. 3 and represent the views of a nearly completed sampling of 1478 adults interviewed to date. Interviews in the study are being conducted in person in over 300 localities across the nation. Each person is asked this question:

A U.S. Senator has proposed legislation to require the withdrawal of all United States troops from Vietnam by the end of next year. The fighting would be turned over entirely to the South Vietnamese, with the U.S. providing military supplies and financial help. Would you like to have Congress pass or defeat such a proposal?

Here are the results:

GOODELL PLAN

| | Percent |
|---|---|
| Like to see Congress pass it | 57 |
| Defeat it | 31 |
| No opinion | 12 |

Persons with a college background are less favorably disposed toward the bill (49 per cent express support) than are persons with less formal education. A larger proportion of Democrats (62 per cent) than Republicans (52 per cent) favor passage.

BASIC ATTITUDES ON VIETNAM WAR

Nationwide surveys in recent weeks have revealed these basic facts about U.S. public opinion on the Vietnam war:

1. As the war has continued, a growing number of Americans, now at a peak of 58 per cent, believe it was a mistake to have become involved in Vietnam with troops. The proportion who hold this opinion now clearly exceeds the proportion who in the early fifties felt our involvement in the Korean war was a mistake. This reached a high of 51 per cent in April, 1952.

2. The majority of Americans believe the war is primarily South Vietnam's and not ours and, for the last four years, have favored a policy of training and equipping more South Vietnamese soldiers and the phasing out of American troops as soon as the South Vietnamese could take over.

3. Despite these feelings about our military involvement, the public has at no time favored an abrupt and total withdrawal.

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[From the Time magazine, Oct. 24, 1969]

PATRICIA WALL'S ENLISTMENT

Patricia Wall is not an activist. She is a Democrat of center-stripe conviction, a Roman Catholic, a young (31) suburban (Evanston, Ill.) mother of two and wife of a vice president at the First National Bank of Chicago. Her joiner's urge has been satisfied by participation in the 4–H Club. When she told her husband Bernard that she planned to attend a Moratorium observance at Mundelein College, he had a surprise for her too: he had decided to take part in a businessmen's discussion of the war at his downtown bank.

A year ago, Mrs. Wall, a petite, college-educated brunette, would have hung back. She was not a hawk, but neither was she a participant in the peace movement. "The whole problem is so complex," she explained, "that for a while it overwhelmed me. But then I began to realize that the complexity of a problem shouldn't be a reason not to do anything." There was another influence working as well: "As my husband and I have grown older, we have become increasingly aware of our Christian responsibilities and more deeply committed to our moral obligations, and this, too, led to my decision to participate."

Early Wednesday morning, Pat packed her children off to school and boarded the train to Mundelein, a Catholic girls' school run by the Sisters of Charity of the Blessed Virgin Mary. She entered Coffey Hall, picked up a black crepe armband and some pamphlets in the lobby and went inside to sit down.

About 100 people had shown up for the observance, including teachers, students, nuns and visitors like Pat Wall. They listened intently as Sister Ann Ida Gannon, the school's president, greeted them: "This day will be a failure if most of you let it stop at 4 or 5 o'clock. Today is only a beginning." It was a thoughtful group, not one inclined to swallow any spoon-fed dogmatism. When a bearded teacher began to criticize "our corrupt society" and "our bankrupt electoral system," one woman in the audience objected quietly but firmly that she was there to protest the war in Viet Nam, not the state of society or the electoral system.

Though silent during the discussion, Pat Wall was going through an internal process of decision. Soon a petition was passed around. One woman pointed out that it called for complete and immediate withdrawal of U.S. troops, and refused to sign. She argued that such precipitous action was impractical. When the petition reached Pat, she hesitated, started to pass it along, then got it back and signed.

Later she reflected: "When I went to that meeting this morning, I believe that I was emotionally committed. Now it is more than that. I've enlisted." How would she serve? "I really don't know what we might do next. I just can't tell. We are not the sort of people who picket and hand out pamphlets. But I do think we might have some of the people who spoke this morning over to our home. I'd like to have some of our neighbors in to hear them talk."

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HARVARD BUSINESS SCHOOL VIETNAM PEACE COMMITTEE

We, students at the Harvard Business School, oppose further United States military involvement in the war in Vietnam. Our government has shown itself time and again unwilling to extricate itself from a fight which has never been curs. It has thus demonstrated a remarkable insensitivity to the wishes of many millions of Americans representing virtually every segment of our society. This constitutes in our belief a clear abdication of governmental responsibility that seriously impairs the ability of the United States to act effectively in its domestic crisis.

We therefore call upon the leaders of our private sector to marshal every resource, exercise every pressure, and implement every lawful means to make our government stop this war. We urge the leaders of industry and finance to take these steps in the long-run interest of the free enterprise system and of all Americans.

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HARVARD BUSINESS SCHOOL RESISTANCE GROUP

We, the undersigned students at the Harvard Business School, are opposed to the American war in Vietnam. The foundation of our opposition does not lie in "practical" arguments of economic expediency.

Our opposition is rooted in our moral conviction that the war is a grave crime against humanity.

We condemn the systematic attacks against the Vietnamese people, the indiscriminate destruction of defenseless villages and the ruination of the countryside. The Vietnamese people have demonstrated, through a quarter century of struggle, that they are not intimidated by foreign powers and that they will not tolerate the rule of landlords and military cliques.

We demand the immediate and unconditional withdrawal of all U.S. forces from Southeast Asia.

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## WEST VIRGINIA UNIVERSITY PERCUSSION ENSEMBLE

Mr. BYRD of West Virginia. Mr. President, so much publicity has been focused on demonstrations and disorder on col-

lege and university campuses that constructive achievement by students may sometimes be overlooked.

Among outstanding achievements that deserve recognition and commendation, I believe, are those of the West Virginia University Percussion Ensemble, a 13-member group of unusually accomplished student musicians which is carrying the name of West Virginia and its university far beyond the borders of the Mountain State.

This ensemble—which recently performed in the Washington area and has other out-of-State performances scheduled for this season—was selected by the U.S. State Department to be the first percussion group in the United States to tour Latin America.

As a result of this outstanding honor, the ensemble, which is directed by Philip J. Faini, visited nine Latin American countries during the past summer and won high critical acclaim for its music. It is the only performing student group from West Virginia University ever to go abroad on such a mission.

The ensemble visited Haiti, Trinidad, Panama, Colombia, Ecuador, Paraguay, Uruguay, Argentina, and Brazil. It gave about six performances each week during its 8-week tour, made radio and television appearances, and conducted music workshops.

The group, a part of the WVU Creative Arts Center, was selected for the cultural tour by the Office of Cultural Presentations, Bureau of Educational and Cultural Affairs, U.S. Department of State. Traveling from June 26 to August 20, it performed at government embassies, theaters, universities, and cultural centers.

The honor given the ensemble, Mr. Faini said, was "recognition of the people of West Virginia who have supported a university in which the arts, along with other disciplines, are allowed the freedom and resources to research and develop new programs."

The State Department's cultural presentation program, started in 1954, I am told, annually sends abroad about 30 to 35 performing groups and individuals, both professional and academic, to increase international understanding through cultural exchange. In selecting performers to be sent abroad, panels of experts recommend groups in the fields of music, dance and drama to the State Department. The WVU unit was one of only six academic groups chosen in 1969.

Nearly 100 instruments, plus WVU's unique collection of African drums and other native instruments acquired by Faini on an African trip last summer, were taken along by the ensemble.

The group last winter presented a concert at WVU featuring authentic African music performed for the first time in concert in the United States. Mr. Faini tape-recorded the African music during a trip to Africa in the summer of 1968 and transcribed it into musical notation for the ensemble. Some of the selections were incorporated into the tour program. Although percussion instruments are as old as man himself, music written especially for this medium is a development of the 20th century.

The group has performed in the rotunda of the West Virginia State Capitol, at the Governor's Mansion for the State Legislature, and at schools and colleges throughout the Eastern United States. It has premiered 20 new works for percussion as well as being one of the few, if not the only, percussion ensemble in the Nation to perform the authentic African music as part of its repertoire.

It has also made an album, entitled, "Protest in Percussion," which is now in its third pressing.

Mr. Faini is a graduate of West Virginia University with high honors. He received his bachelor's degree in music in 1959, and his master's degree in theory and composition in 1966.

He attended the university on a Board of Governors scholarship, and was the recipient of a Presser Foundation award for excellence in music. While a student at WVU, he was one of the three original members of the first percussion ensemble at WVU, formed in 1956.

Mr. Faini has studied percussion with Roy C. Knapp, Jose Bethancourt, Irvin Honsa, Harvey Biscun, and Frank Lorince, and he has been a staff member of the Fred Waring Music Workshop at Delaware Water Gap, Pa., and has worked professionally in radio, television, with symphony orchestras, and with a number of name bands and singers.

A native of Masontown, Pa., Mr. Faini was a high school band instructor for 3 years prior to joining the staff of Potomac State College at Keyser, W. Va., in 1959 as an instructor in band and instrumental music. He joined the WVU faculty in 1961.

He is West Virginia chairman of the National Association of College Wind and Percussion Instructors, State chairman of the Percussive Arts Society, a member of the Music Educators National Conference, and a member of Phi Mu Alpha, professional music society.

Mr. President, it is a pleasure for me to add my commendation to the plaudits this fine group has already received. On its Latin America tour it performed to capacity crowds, received standing ovations, and was given excellent reviews, from some of which I quote the following excerpts:

"Excellent concert," La Tribuna, Asuncion, Paraguay; "U.S. Percussion Group Great," Evening News, Port of Spain, Trinidad; "Magnificent performance," El Universo, Guayaquil, Ecuador.

"A great musical experience," El Tiempo, Quito, Ecuador; "An extraordinary event in Haitian musical life," Le Nouvelliste, Port au Prince, Haiti.

"The two performances were a veritable artistic banquet offered by the cultural ambassadors from the United States," Le Matin, Port au Prince, Haiti.

"These students display magnificent musical training and instrumental skill," Panorama, Buenos Aires, Argentina.

"The utmost in interpretative facility and versatility—the group impressively showed their elan and nimbleness," Buenos Aires Herald, Argentina.

I am happy to be able to add this recognition for Mr. Faini and his students. There is little doubt in my mind that this is one of the outstanding college groups of its sort in the United States, and I think West Virginians should be extremely proud of it. The Percussion Ensemble is one more evidence of the high quality educational opportunities West Virginia University offers in many fields.

## WEST FRONT OF CAPITOL

Mr. CASE. Mr. President, last Tuesday the Senate struck down by 53 to 24 the recommendation of the Appropriations Committee that $1.75 million be provided for planning the extension of the west front of the U.S. Capitol.

I was glad to join in the successful effort to deny these funds which, I believe, would have been a downpayment on a large, expensive and probably unnecessary addition to our Nation's most important shrine.

Before any permanent work on the admittedly deteriorated west front is undertaken, we must know whether restoration is possible. The proposed extension would bury forever the last remaining walls of the Capitol that date back to the founding of the Republic.

Fortunately, the legislative appropriations bill as it passed the Senate does contain $250,000 for a needed study of restoration.

The Senate action now goes to conference with the House which, by contrast, provided $2 million solely for planning the west front extension.

The better than 2-to-1 Senate vote for delaying extension while the question of restoration is explored is a mandate to Senate conferees to hold fast to the position taken by our body in this matter. I am confident they will do so.

## DAVIS AND ELKINS COLLEGE NAMES ITS LIBRARY JENNINGS RANDOLPH HALL IN HONOR OF SENATE COLLEAGUE

Mr. BYRD of West Virginia. Mr. President, it is infrequent that we in public service have the opportunity to serve with a man who possesses the rare qualities of my senior colleague from West Virginia.

Senator JENNINGS RANDOLPH has now added nearly 11 years of dedicated, energetic service in this body to a notable and helpful career, that included 14 years as a Member of the House of Representatives as well as achievements as an educator, writer, editor, and business executive.

JENNINGS RANDOLPH certainly must be regarded as one of the great humanitarians of the U.S. Senate. His interests range far beyond the vital concerns of the Committee on Public Works which he chairs with distinction and wisdom. Wherever there is an issue that affects people, there you will find Senator RANDOLPH as their advocate.

It was, therefore, immensely proper, Mr. President, for Davis and Elkins College in Elkins, W. Va., to name its library "Jennings Randolph Hall" in recognition of the many contributions to State and Nation made by this most distinguished former member of the college faculty.

The dedication of the Davis and Elkins Library took place on October 20 in con-

nection with the college's Founders Day program at which Senator RANDOLPH received the Founders Award.

Many friends and associates were in Elkins that day to join in tribute to Senator RANDOLPH. The Honorable James E. Allen, Jr., U.S. Commissioner of Education, Assistant Secretary of Health, Education, and Welfare, and a former student of the Senator at Davis and Elkins, delivered a thoughtful address at the Founders Day program.

Dr. L. Quincy Mumford, Librarian of Congress, was the principal speaker at the library dedication.

The board of trustees of Salem College, Senator RANDOLPH'S alma mater, which he still serves as a trustee, sent its own citation in appreciation of his work. Telegrams were received from many persons, including Gov. Arch A. Moore, Jr., West Virginia; the Senator's colleagues on the Public Works Committee; Senator RALPH W. YARBOROUGH, chairman of the Committee on Labor and Public Welfare, and Senator CLAIBORNE PELL, chairman of its Subcommittee on Education. Senator RANDOLPH is the ranking majority member of the committee and an active member of the subcommittee.

A bronze plaque in the library summarizes, succinctly and without embellishment, the inspiration for the college's action in these words:

Jennings Randolph—Educator, Journalist, Orator, Corporation Executive, College and Foundation Trustee, Distinguished Public Servant. Member of the United States House of Representatives (1933 to 1947). Entered Senate of the United States in 1958.

The events of the Founders Day program and the dedication of Jennings Randolph Hall were reported in depth by the Elkins Inter-Mountain under the direction of its capable editor, Eldora M. Nuzum.

Mr. President, so that his colleagues may be aware of the esteem and affection which is felt for Senator RANDOLPH in West Virginia, I ask unanimous consent that articles and an editorial from the Elkins Inter-Mountain, the citation from Salem College, and excerpts from the addresses of Commissioner Allen and Dr. Mumford, be printed in the RECORD.

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

AN ELKIN'S INTER-MOUNTAIN EDITORIAL

A benchmark in the history of Davis and Elkins College was reached this week when the college trustees bestowed a double honor on U.S. senator Jennings Randolph, one of its more illustrious former faculty members and today an honorary trustee.

At the annual Founders Day Convocation, Sen. Randolph was given the coveted Founders Award, and immediately thereafter the college library was renamed Jennings Randolph Hall. This dual event was a fitting tribute to the senator. No single West Virginian, either past or present, has worked more tirelessly for the greater glory of his state and nation.

The list of Randolph's accomplishments are almost limitless. Starting with his post college days, when as athletic director he gave a special aura to D&E in the sports pages of the big city press and put Elkins on the map of touring America, to his present eminence in the Senate, where as floor manager of special legislation for Appalachia he brought new hope to the impoverished of 13 states, he has built a solid and enviable record of accomplishment.

In education, in aviation, in public welfare, in road building, in human rights, and in public health the name of Jennings Randolph is synonymous with "I will overcome." He is considered one of the great liberals of the past half century, and, as such, he has spent the greater part of his public career crying out against the apathy and indifference which have kept so many Americans trapped beyond the pale of first class citizenship. His has been a clear, incisive voice advocating dignity, equality and a full share in the American bounty for everybody, regardless of color, creed or station in life.

But on Monday, when Davis and Elkins College paused to honor him, it was typical of Jennings Randolph that he did not talk of past accomplishments in the time allotted him as speaker. He chose instead to speak of his mother, father and friends, and of the special parts they played in his life. While greatness has touched him, he is essentially a modest man who has never forgotten those who helped him along the way.

He was fittingly and eloquently eulogized by such illustrious compatriots as James E. Allen, U.S. commissioner of education, and Dr. L. Quincy Mumford, Librarian of Congress. But despite everything that was said, Randolph cannot be placed in any particular mold. His public and private works are so varied and complex, so diverse and diffused that when one speaker characterized him as "Mr. Small College," we suddenly realized Jennings Randolph is a man of all seasons and many descriptions.

Monday was a homecoming for him, a day of greeting old friends and recalling fond memories. But while it could easily have been the high point of an enviable career, we suspect it was a day of rededication for this man of high spirit and boundless energy. In spite of his years, he constantly toils at setting his sights on new goals, and undoubtedly Monday was one of those days of looking upward toward the new and brighter horizons.

We want to take this means of adding an amen to everything said about Jennings Randolph on Monday. But lest our efforts at commendation be construed as a valedictory, we hasten to say, "Hurry to it Jennings. For a man of your productive capacities, there are yet more mountains to cross and other streams to ford."

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[From Salem (W. Va.) College]

The Honorable Jennings Randolph, distinguished son of the town of Salem, West Virginia, reared in Salem, graduated from Salem Academy and Salem College, is proudly recognized and warmly greeted this day of October 20, 1969, by Salem College, its students, faculty and Board of Trustees, on this Fourth Annual Founders' Day observance at Davis and Elkins College.

Whereas, the Honorable Jennings Randolph, a man of successful careers—practicing journalist, editor and newspaper owner; author; learned educator; business executive; and now public servant, has brought honor to Davis and Elkins College, which he served as professor for six years and as trustee several terms, and to his Alma Mater, Salem College, which he continues to serve as trustee;

Whereas, the Honorable Jennings Randolph has honored and served his fellowman through his unselfish devotion as a state official, his courageous and forthright leadership in the United States Congress as Congressman and now as Senior Senator of his beloved State of West Virginia;

Whereas, Senator Jennings Randolph has strived constantly for opportunity for all citizens and for social and economic progress for West Virginia and our nation, as evidenced by the many meaningful programs in health, education, training and public facilities, he has authored and floor-managed in the Senate of the United States;

It is my great privilege and honor as Chairman of the Board of Trustees of Salem College, by action taken by the Trustees assembled during the regular Board meeting of October 14, 1969, to recognize the honor this day accorded to Senator Jennings Randolph by Davis and Elkins College, which has named the college library, *Jennings Randolph Hall*, and to convey to our learned and honorable trustee, our expression of recognition and deeply-felt best wishes.

Signed, this 20th day of October, 1969.

HARRY R. HENSLEY,
*Chairman, Board of Trustees.*

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DAVIS AND ELKINS AND THE FUTURE OF HIGHER EDUCATION

(By James E. Allen, Jr., Assistant Secretary for Education and U.S. Commissioner of Education)

It is a privilege to be here today. This is, of course, a standard opening for a speech, but on this occasion I can say it with a depth of meaning that far transcends the mere politeness of good manners.

For me, coming to Davis and Elkins College, and to Elkins, is coming home—coming home with all the joy and satisfaction of one who considers himself to have had here the happiest and best of childhoods and youth, in the most beautiful of surroundings.

Those who planned this program could, I am sure, have chosen better speakers, but I am equally sure that they could not have chosen anyone—except perhaps one of my four brothers—for whom a Founders Day Convocation of this College could have more genuine personal meaning.

A part of this meaning lies, of course, in the fact that Davis and Elkins is my Alma Mater. But even more it springs from the fact that my Father was the second President of Davis and Elkins, assuming that office only six years after the founding of the college in 1904, and holding it for twenty-five years.

There were only two buildings then—the College itself, completely housed in one building on the hill, and the President's home just below on the river. My Father was not only president and professor, but also had a hand in providing food for the students, gardening and sometimes milking the cows, or taking care of the tennis court—or whatever else might need doing.

The College was his life—and its successful future, his dream. I only wish he could be alive to see how magnificently his dream has been realized.

It is a great pleasure also to be here when Senator Randolph is receiving the Founders Day Award and the honor of having the new library bear his name. My friendship with Jennings Randolph began in our Elkins days when I first knew him as teacher and fellow tennis player. It has been a great satisfaction to follow his distinguished political career and to note his contribution to the progress not only of our home State but to that of the Nation as well.

In my own work as an educator, I have had special reason to appreciate his support and understanding of education's needs. Now that I too am in Washington, my more frequent contacts with him only serve to increase my appreciation and respect for his service to State and Nation.

Among the 2500 institutions of higher education in our Nation, Davis and Elkins is relatively young but in those years its rate of growth and its achievements have equaled and even surpassed many more venerable colleges and universities. Caught up in the period of rapid, general expansion to meet evergrowing numbers, the particular distinction of this institution is that it has managed to grow, yet to preserve the special feel-

ing and atmosphere of a small college, to maintain a dedication to quality, and to continue that attention to moral and spiritual values, inherent in a church-related institution, which from the beginning was the essence of the spirit of Davis and Elkins.

I can but reflect on the satisfaction my Father would receive from this continuing emphasis on moral and spiritual values. In one of his speeches while President here he said:

"The morals of business and the government rest upon the morals of the people, the sovereign source of all power. The good man begets a good citizen; the bad man the bad citizen, and the morals of your community, state, or nation will depend upon what the community life of its citizens is.

"It would seem, therefore, that our so-called denominational schools have a responsibility which the state cannot assume, namely, Christian education, or the development of the spiritual life of our youth. No education can be complete without this for upon our spiritual development depends our moral nature, or character, and upon this, the stability of government and the welfare of the state and nation."

Certainly a time such as ours today—a time so characterized by conflict and tension, by the search for social justice for all, reinforces our need for moral and spiritual guidance in seeking solutions to the sensitive, complex and fundamental problems we face.

This Founders Day Convocation is enhanced with the knowledge that the Founders of this institution, Senator Henry Gassaway Davis and Senator Stephen B. Elkins, could now take pride not only in its physical growth but in the allegiance that is still given to those principles that prompted and determined its beginnings.

But the proper spirit of a Founders Day, its greatest benefit, its true purpose, is to look to the past to strengthen the future.

It is my hope that you students particularly, whether directly involved in education, or as interested, concerned, participating citizens, will, both now and in the future, accept the obligation of the educated for education and give your support at a time of unprecedented opportunity, hope and promise for the realization of our American goal of true equality of educational opportunity.

The relevance of higher education to the needs of our times, the broadening of the opportunities for this level of education, will play a major role in determining the conduct of all of education. Such a strengthening will also contribute to enriching the future of us all, making it not only more secure, but more exciting, more varied, more satisfying—and most important of all, a time more welcoming to the realization of the truest and finest aspirations of the human spirit.

On this Founders Day I am confident that Davis and Elkins will reaffirm its determination to continue to develop in honor to the principles on which it was begun and also to have a vigorous and significant part in assuring that higher education will continue to be a source of strength and power for our Nation.

Thank you for allowing me to share this day and for giving me the opportunity of coming home. Thomas Wolfe, in the title of one of his novels, asserts that "You Can't Go Home Again". He is right that you can't in expectation of recapturing bygone days or of finding things the same. But when you can come back to changes that are so constructive, so good, coming home can be the satisfying experience that it is for me today.

Once again my congratulations to Senator Randolph, and my best wishes to Davis and Elkins, a college that will always have a very special place in my memories, my affection and my concern for education.

EXCERPTS FROM ADDRESS BY L. QUINCY MUMFORD, LIBRARIAN OF CONGRESS

Although I have no formal ties with Davis and Elkins College, the time that I have spent on your campus has given me a deep appreciation of the history and tradition as well as the beauty of this fine college.

Special events in the life of an institution or of an individual are the time for a backward look, for indulgence in reminiscence, for a certain complacence in the comparison of *then* with *now*.

Some 50 years ago, Davis and Elkins College, according to its catalog for 1917–18, crested "a lofty ridge, a hundred feet or more above the immediate valley and two thousand feet above the sea," commanding "a magnificent view of the surrounding country." Down in the valley lay Elkins, described as a "thriving city" of seven thousand people.

Among the institutions in Elkins "worthy of special mention" the catalog told its readers were the Odd Fellows' Home, the Children's Home of the State, the Young Men's Christian Association. What interest the first two might hold for prospective students is unexplained, but about the third there can be no doubt. The Y.M.C.A. was clearly rendered "doubly attractive" because it had a swimming pool built through the generosity of Mr. Richard Chaffey.

Many a present-day university or college president might sympathize with the declaration, stated with forcible italics:

"The College *will not admit students in the hope of reforming them*. The regulations governing student conduct are such as ordinary conditions would require. We have no recourse in the matter of disciplining students who wilfully and repeatedly cause unnecessary noise or disturbance but to request them to leave the institution."

The writer adds, and we might wonder if he is only reassuring himself:

"It is taken for granted that students have learned self-control in a large measure before leaving home. . . ."

Life on campus a half century ago had little resemblance to present-day college life. Those enrolling at Davis and Elkins in 1918 were told without equivocation:

"No body of students shall participate in any public game, or contest, or entertainment, without previously obtaining the consent of the faculty."

Times and manners, philosophies and relationships change with the years and, in many cases, it is right that they do. But some things remain constant. One of the constants at Davis and Elkins has been the realization of the importance of the library in the life of a college. We have only to look about us today to see evidence that here this realization has not been lost but has developed as the college developed.

The 50-year-old catalog told its students and doubtless their parents that:

"One of the imperative needs of the College is, first, greater library floor space, and, secondly, more books. Our books cannot be properly protected as at present arranged. A fireproof library building must be had before the library can be further developed. The library now contains many excellent reference books, a large collection of publications from the various bureaus of the government, and a carefully selected list of representative magazines. Next year the library will be accessible at stated hours daily, but the reading room will be open until ten o'clock each night."

The plight of the college library a half century ago excites my sympathy, for the Library of Congress, too, finds that its "books cannot be properly protected as at present arranged" in cramped and crowded quarters. The Library of Congress is one of the world's largest libraries, adding more than one new item every second of every working day to the collections that already occupy 270 miles of shelves. We also need the "greater library floor space" for the Library's expanding programs and the growing collections in many formats—books, pamphlets, prints, music, photographs, periodicals, newspapers, maps, negatives, microforms, and motion pictures. We hope to find it in a long awaited third building.

The Library of Congress has a partnership with libraries. Through the generosity and vision of the Congress, the work of its Library is made available to all libraries, of all types, and in all parts of the United States. Almost everyone in this audience has at some time consciously or unconsciously used LC printed catalog cards as he searched his local public or college catalog for the material he wanted.

The mention of interlibrary loan reminds me of another bond between the Library of Congress and libraries and their users throughout the country. Its vast resources are national resources and are available to those who need them. Your college library here, for instance, may borrow materials not readily accessible within the area for persons engaged in advanced research. West Virginia libraries of all types—university, college, public, Federal and State—have made 70 interlibrary loan requests to the Library of Congress in the 3½ months since July 1 of this year.

Davis and Elkins College shares another bond with the Library of Congress—a high regard for Senator Randolph. Senator Randolph has long been a friend to libraries, books, and the cause of education. As a member of the James Madison Memorial Commission and as Chairman of the Public Works Committee he has been active in planning this much needed addition to alleviate the Library's space problems. The new Madison Memorial Building, for which Senator Randolph has worked so devotedly, is a necessity, and we value his interest and support in recognizing the need for its construction.

Senator Randolph has long been associated with interests of an educational nature. The legislation he has sponsored in these fields merits and receives the highest praise.

All of us at the Library of Congress congratulate Davis and Elkins College on its appreciation of the place of a library in the continuing education of men and women, on the fine new building to house that library, and on its choice of a name for that building. May the library and the one for whom it is named both continue to enjoy a happy and rewarding life.

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[From the Elkins Inter-Mountain, Oct. 20, 1969]

D&E PAYS TRIBUTE TO "MR. SMALL COLLEGE": NAMES LIBRARY IN HONOR OF SEN. RANDOLPH

A man a Senate colleague once described as "the best-informed member of the Senate on the problems of our small colleges" was honored at Davis and Elkins College today when the school library was named "Jennings Randolph Hall."

In pre-dedication remarks, Davis and Elkins College president, Dr. Gordon Hermanson pointed out former Senator Wayne Morse's tribute to Sen. Randolph as an expert on the problems of small colleges, and conferred the title of "Mr. Small College," on the former D&E athletic director and instructor.

Dr. Hermanson paid tribute to Sen. Randolph with these words:

"Senator Randolph was born at Salem, W. Va., just two years before the founding date of Davis and Elkins College.

"He was graduated from Salem Academy in 1920 and from Salem College in 1924. He is the recipient of numerous honorary degrees.

"Senator Randolph distinguished himself

in the field of journalism as a writer, editor, and newspaper owner; in business as an airlines executive, in education as an author, faculty member, administrator, and trustee at several institutions; and in philanthropy, as a foundation trustee and adviser.

"His ties with Davis and Elkins College have been particularly close since 1925. In that year he joined the faculty teaching public speaking and journalism; was faculty adviser to the student newspaper; coached the debating team; prepared news releases and was in charge of the College News Bureau. During the six years that he was associated with the College he is perhaps best remembered for his leadership as athletic director. Working closely with the athletic staff, he developed an intercollegiate program that became well-known throughout the United States. From 1938 through 1961 he was a member of the Board of Trustees, and since 1962 he has served as Honorary Trustee.

"Following his election to the House of Representatives in 1952, he left Davis and Elkins College to begin a long and distinguished career as a statesman and public servant.

"During his seven terms of office in the House of Representatives, he was noted for his support of liberal and progressive national legislation. Since 1958, when he was elected to the United States Senate, meaningful programs in health, education, training, and public facilities have been fashioned through the dedicated efforts of Senator Randolph, which reflect his humanitarian philosophy of life. He was the principal sponsor and Senate floor manager of the Appalachian Regional Development Act of 1965, which authorizes a program of regional economic development in all of West Virginia and parts of 11 other states.

"He has long been an active sponsor of legislation to develop increased educational and training opportunities and was a strong force in the passage of the Higher Education Facilities Act, Library Services and Construction Act, the Elementary and Secondary Education Act, the Manpower Development and Training Act, and the Economic Opportunity Act.

Davis and Elkins College is proud to honor the man who has come to be known as "Mr. Small College." As former Senator Wayne Morse recently said of Senator Randolph: "the entire Senate recognizes the Senior Senator from West Virginia as the best informed member of the State on the problems of our small colleges."

"We are honored to present to you the recipient of the Fourth Annual Founders Award, the Honorable Jennings Randolph, United States Senator from West Virginia."

Speaking today at the Founders Day ceremony of dedication of "Jennings Randolph Hall"—the Davis and Elkins College library with its new $140,000 addition—was Dr. L. Quincy Mumford, Librarian of Congress and an Eisenhower appointee who was continued in office through two Democratic administrations.

Dr. Mumford, the first professionally-trained librarian to fill the post of the nation's chief librarian, is a native North Carolina, graduate of Duke University and Columbia Universty School of Library Science.

He served as director of the Cleveland Public Library before his appointment as Librarian of Congress in 1954, and was president of the American Library Association the year he was selected by the late former President Dwight D. Eisenhower.

When Dr. Mumford was appointed Librarian of Congress in 1954, the Democratic Washington Post and Times Herald in Washington, D.C. observed, "This is manifestly a merit selection by the President and deserves the warmest public approbation. The Library of Congress is, in respect to the number of volumes it embraces, the world's greatest library today. It ranks among the greatest libraries of the world by every other standard as well . . ."

LEADER FOR LIBRARY LEGISLATION

All legislation introduced in Congress for the development of library services and construction since Sen. Randolph has been in Congress has had his leadership, sponsorship or support.

As a member of the Subcommittee on Education, the West Virginia Senator has participated in the formulation of the landmark measures for library assistance which have been approved by Congress in the 1960s.

In commenting on his advocacy of improved library facilities, Randolph said: "An equipped library is becoming with every passing day more indispensable. The challenges of our society are interrelated with the sheer magnitude of the information which is pouring forth, from every quarter of the globe in every tongue and dialect on every scientific and scholarly subject. There must be ready access to this knowledge if our problems are to have solutions."

"But," the Senator observed, "we must make the commitment to develop new library systems and to expand existing ones. This is a critical year of decision for the future of library programs, since the Budget Bureau request contains no funds for library construction and only a $44.2 million request for program development. This is extremely disappointing. The House of Representatives has approved $9 million for construction and $113 million for programs. I am hopeful that the Senate will concur in or increase the House level of funding. I shall work toward that end."

The laws providing assistance for libraries, in which Senator Randolph has been active, include: the Library Services and Construction Act, the Elementary and Secondary Education Act, the Higher Education Act, and the Higher Education Facilities Act.

SPECIAL GUESTS AT CEREMONY

Randolph's wife, Mary, and their two sons, Jay and Frank, and his sister, Mrs. Ernestine Carr of Washington, D.C., attended the Founders Day celebration today. Mrs. Randolph and Frank arrived from Washington Saturday accompanied by Miss Marie Lantz, administrative assistant to the Senator. Jay, a sportscaster for NBC, flew from Kansas City to Pittsburgh last night after broadcasting a game and arrived in Elkins just past midnight.

From Clarksburg came his cousins, Byron Randolph, West Virginia counsel and trustee for Benedum Foundation and Mrs. Jack Thrasher and her husband. Other relatives on hand were the Senator's aunt, Mrs. Myrtle Moore of Clarksburg and a cousin, Nelle Edgell of Salem, accompanied by Mr. and Mrs. Jean Lowther of Salem. Lowther was best man at Randolph's wedding.

In addition to Miss Lantz, other members of the Senator's staff here from Washington are James Harris, his executive assistant; Phillip McGance, legislative assistant; and Mrs. William Sargent, his personal secretary, accompanied by Mr. Sargent. They were joined by Mrs. Ruth McGraw of Clarksburg, his state secretary.

Representing the Senate Public Works committee of which Randolph is chairman was Richard Royce, staff director.

Senator Randolph spoke Sunday afternoon at the dedication of the Concord College Fine Arts Center and was accompanied from Bluefield to Elkins last night by former Gov. and Mrs. Hulett C. Smith who attended today's activities. Arriving late Sunday was Joseph E. Casey, former U.S. Representative from Massachusetts who entered the House of Representatives with Senator Randolph in 1933.

At least six college presidents were among the distinguished guests today: K. Duane Hurley, president of Salem College; Easton K. Feaster, president of Fairmont State College; Stanley Martin, president of West Virginia Wesleyan College; William J. L. Wallace, president of West Virginia State College and Dr. John P. Mauer, president of Southeastern University, Washington, D.C., where Senator Randolph was dean and a teacher.

Dr. David Johnson and Miss Betty Bailey represented the Benedum Foundation at Pittsburgh which contributed $40,000—the largest single gift—toward the construction of the new addition to the library.

Heading the list of industrial and business leaders were: John Jones, assistant to the president of Weirton Steel, Weirton; Charles Van Horn, assistant to the vice president, Baltimore and Ohio Railroad of Baltimore and a native of Harrison County, W. Va., and Herbert Richey, president of Valley Camp Coal Co., Cleveland, Ohio, whose company employs more than 2,000 West Virginians.

Other special guests were Arthur Dunlap, executive director of the W. Va. Foundation for Independent Colleges, and Mrs. Davis Ratliff of Foxsell, Va.

## BEHAVIORAL SCIENCES SURVEY URGES SOCIAL REPORTING

Mr. MONDALE. Mr. President, as chairman of the Special Subcommittee on Social Program Planning and Evaluation of the Senate Committee on Labor and Public Welfare, I wish to discuss an extraordinarily important report that has just been issued, and which parallels and confirms findings that have emerged in the hearings my subcommittee is holding.

This report is entitled "The Behavioral and Social Sciences: Outlook and Needs." This report was produced under the auspices of the National Academy of Sciences and the Social Science Research Council, and was drafted by the Behavioral and Social Sciences Survey Committee. A more authoritative or impressive authorship and sponsorship of a report of this kind could hardly be imagined. The report is the product of about a score of the Nation's most eminent social scientists, representing every discipline in the social and behavioral sciences. The joint sponsorship of the National Academy of Sciences and the Social Science Research Council provide further testimony to the scientific importance and nonpartisan character of this report.

The first recommendation of the report is this:

> The Committee recommends that substantial support, both financial and intellectual, be given to the efforts under way to develop a system of social indicators and that legislation to encourage and assist this development be enacted by Congress.

I am happy to say that some time ago I introduced, with a score of my distinguished colleagues in this body, legislation that would in fact have specifically encouraged and assisted the development of social indicators, or measures of the quality of life. Our Full Opportunity Act, S. 5, specifically provides for the collection, analysis, and dissemination of social indicators. It is by no means surprising that this distinguished body of social scientists should emphasize the need for better information on our social

problems and the extent to which—if at all—they are changing in response to changing public policies and different levels of public expenditure. Testimony before my subcommittee has suggested that the lack of information about what our programs accomplish is simply scandalous. We spend billions of dollars on public programs, but pennies, if anything at all, to learn what, if anything, they actually accomplish.

The report also advocates an annual social report, which would call public attention to changes in the condition of a society and analyze the policies the Nation faces. Again, the Full Opportunity Act would make such an annual report, prepared by a council of social advisers, mandatory. Whereas the bill, as presently worded, would call for the prompt establishment of a council of social advisers, and immediate attempts to begin preparing annual social reports, the behavioral and social science survey, with characteristic academic caution, recommends prior experiment with social reports issued by private foundations. Its authors argue that such privately issued social reports would help develop the social scientist's capabilities to make recommendations about concrete policy problems. From the perspective of the Senate, I am inclined to think that involvement in the policy process is the best way to insure that social scientists consider practical policy problems. I am also conscious of the immediacy of the Government's need for more information and analysis concerning policy alternatives. But this is merely a question of timing and tactics, on which a generally satisfactory compromise can easily be found. The basic point is the agreement on the need for social reporting, and that point has emerged, not only in the hearings I have been holding, but also in this distinguished and nonpartisan body of social scientists. The Department of Health, Education, and Welfare has indeed already taken the beginning step here. It issued "Toward a Social Report," the first step toward social reporting, in January of this year, and then recommended that the Federal Government begin issuing regular social reports within 2 years.

My subcommittee is also most interested in funding for basic research in the social sciences, and in this connection is most interested in the imaginative proposal, first put forth by my distinguished colleague FRED HARRIS, and which I have cosponsored along with other Senators. The report recommends that funding for research in the social science increase at 12 to 18 percent per year. Its members are divided on whether a separate social science foundation, or combined support for physical and social sciences through the National Science Foundation, would be best, but their recognition of the need for improved and expanded support for social science research is unmistakable.

In view of the importance of the report at issue, I ask unanimous consent that its "Summary and Major Recommendations," and the Washington Post article about it, be printed in the RECORD.

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

SUMMARY AND MAJOR RECOMMENDATIONS

We are living in social crisis. There have been riots in our cities and in our universities. An unwanted war defies efforts to end it. Population expansion threatens to overwhelm our social institutions. Our advanced technology can destroy natural beauty and pollute the environment if we do not control its development and thus its effects. Even while scientific progress in biology and medicine helps to relieve pain and prolong life, it raises new problems relating to organ transplants, drugs that alter behavior, and the voluntary control of genetic inheritance.

At the root of many of these crises are perplexing problems of human behavior and relationships. The behavioral and social sciences, devoted to studying these problems, can help us survive current crises and avoid them in the future, provided that these sciences continue to make contributions of two kinds: first, in increased depth of understanding of human behavior and the institutions of society; and, second, in better ways to use this understanding in devising social policy and the management of our affairs. Recommendations for achieving such growth are the central concern of this survey and this report.

Social problems are most visible during crisis, but they persist even in relatively calm times, for the human needs that underlie them are continuous. Our concerns must include health and access to medical care, raising children to become effective and satisfied adults. We want a society that provides educational services in classrooms, museums, libraries, and the mass media, and that offers abundant opportunity for satisfying and productive work without fear of unemployment. People need pleasant, livable housing, efficient and economical means of transportation, and opportunities for esthetic outlets and the appreciation of nature. The social order must provide safety for citizens and freedom of movement without fear of attack or molestation. It must encourage individuality and cultural diversity, while reducing intergroup tensions; and it must progress toward international understanding and the elimination of war as an instrument of national policy.

These are large issues, involving values and goals as well as means. The job of the social scientist is clear. He can keep track of what is happening, work at understanding the sources of conflict and resistance to change, and try to determine both the intended and unintended consequences of problem-solving actions. Through the development of general scientific principles and the analysis of specific instances, social scientists seek to illuminate the ways in which the society is working.

This survey was undertaken to explain the behavioral and social sciences and to explore some of the ways these sciences could be developed and supported so that their potential usefulness to society can be realized. The survey is directed to two tasks: first, to assess the nature of the behavioral and social science enterprise in terms of its past growth, present size, and anticipated development; and second, to suggest ways in which these sciences might contribute both to basic understanding of human behavior and to effective social planning and policy-making.

THE SCOPE OF THE BEHAVIORAL AND SOCIAL SCIENCES

This survey embraces nine behavioral and social science disciplines: anthropology, economics, geography, history, linguistics, political science, psychiatry, psychology, and sociology. It also takes into account the social science aspects of statistics, mathematics, and computation. The survey recognizes the contributions to behavioral and social science by professionals in business, education, law, public health, medicine, and social work, although it does not cover these fields in detail. The importance of collaborative work in solving social problems emphasizes the links between these sciences and engineering, architecture, and the biological and physical sciences.

The behavioral and social sciences have shared in the rapid expansion of knowledge common to all fields of scholarship over the last decade and have attracted an increasing number of trained workers (Figure SR–1). Increasing proportions of bachelor's and master's degrees were granted in these fields between 1957 and 1967, and the trend will probably continue. The relative proportion of doctorates may decline slightly, not because of a slowing down in their production but because of very rapid increases in other fields, notably in engineering. Ironically, despite the increase in the number of degrees granted (Figure SR–2) [Not printed in the RECORD], the social sciences face manpower shortages because of the upsurge of interest in them.

FIGURE SR–1.—*Degree production in the behavioral and social sciences as percentages of degree production in all fields*

[In percent]

| | |
|---|---|
| Bachelor's: | |
| 1957 | 14 |
| 1967 | 21 |
| 1977[1] | 31 |
| Master's: | |
| 1957 | 9 |
| 1967 | 12 |
| 1977[1] | 15 |
| Doctorates: | |
| 1957 | 19 |
| 1967 | 19 |
| 1977[1] | 17 |

[1] Projected.

Source: Tables 9–1, 9–3, 9–5.

Behavioral and social scientists are more inclined to pursue academic careers than are many other scientists, although a trend toward greater nonacademic employment is apparent. Approximately half of all professional behavioral and social scientists work in universities or four-year colleges. Many others work in other educational settings, such as junior colleges and secondary schools, and in public-school administration. The rest are employed in government, hospitals, research centers, and industry; economists and psychologists find more employment outside universities than do others.

SCIENCES OF BEHAVIOR AND THE PROBLEMS OF SOCIETY

All sciences make some distinctions between basic research, applied research, and the development of products, processes, or services based on research. The history of science shows that the relationship between basic and applied science is complex, with basic research sometimes lagging behind, and sometimes leading applied research. But the scientific method can be applied to problems of a practical nature, whether or not the applications can be derived from the basic science of the time.

The third category of scientific activity—development—is more difficult to define for the behavioral and social sciences. The result of development in the physical sciences or in engineering is usually a tangible product, such as a color television set or a space capsule, and it is relatively simple to determine developmental costs. Although there are some tangible products of behavioral and social science, such as computerized instructional systems, many useful ones are services or processes in the public domain, such as a parole system, a new form of welfare payments, or a form of psychotherapy.

If the usefulness of social-problem-relevant research is to grow, the scale of social science research will have to expand, because many problems can be studied only on a national or international level. As this scale increases, the basic sciences of human behavior should benefit, much as the natural sciences have benefited from increases in the scale of their own research.

The Committee has considered several steps to strengthen the behavioral and social sciences, both as sciences and as contributors to public policy.

One step is to develop improved *social indicators:* measures that reflect the quality of life, particularly in its noneconomic aspects. Some data for constructing social indicators now exist. We have data on educational opportunities, adequacy of housing, infant mortality, and other statistics bearing on health, highway accidents and deaths, violent crimes, civil disorders, reflections of cultural interests (library use, museum and theater attendance), and recreational activities. We now need a major effort to find indicators that can accurately reflect trends for the nation as a whole as well as differences among regional, sex, age, ethnic, and socioeconomic groups. Most social changes are gradual. A sensitive social indicator should tell us whether, in the area to which it pertains, things are getting better or worse, and to what degree.

Social indicators should help us measure the effects of social innovations and changes in social policy as well as assess their unintended by-products. New methods of construction as well as changes in building codes could be reflected in changes in indicators of the quality of housing. Broad programs for increasing highway safety might affect accident indicators and also the consumption of alcohol under certain circumstances.

Indicators that measure our economic state are in use, but they are not precisely analogous to the *social* indicators we are proposing. Economic values can be expressed in dollars, and economic indicators can be aggregated to produce a single economic unit, such as the gross national product (GNP). There is no corresponding unit of value by which to measure the quality of life. This is not an obstacle to the development and use of separate quantitative indicators, each of which measures some aspect of the quality of life, even though it may not be possible to combine them into a single number.

The development of a useful system of social indicators is not simply a matter of measuring many aspects of society. The central problem is to decide which among many measurable attributes most truly represent the fundamental characteristics with which we are concerned. Thus, progress toward valid indicators will depend largely on the understanding we obtain from research into the basic structure and processes of our society. Conceptual and theoretical work at the highest level is necessary if we are to interpret the changes taking place.

To expedite the development and use of a system of social indicators, we offer the following recommendation:

Recommendation: Social Indicators—The Committee recommends that substantial support, both financial and intellectual, be given to efforts under way to develop a system of social indicators and that legislation to encourage and assist this development be enacted by Congress.

We believe that the resources of the federal government will have to be called upon to develop successful indicators. The estimated annual cost of running an organization to carry on developmental work is $1.5 million. Access by such an organization to data routinely collected by federal agencies would facilitate its work. Because the effort would be in the national interest, we suggest that the task of developing social indicators be undertaken directly by the government; in Chapter 6 we discuss several alternatives for locating an indicator agency within the federal system.

If social indicators are to be useful to society, they will have to be interpreted and then considered in conjunction with the making of social policy. Just as the annual Economic Report of the President interprets economic indicators, an annual social report should eventually be produced that will call attention to the significance of changes in social indicators.

Because of the particular problems involved in developing sound, workable social indicators, we are hesitant to urge an official social report now. We favor, instead, a privately sponsored report during the next few years, perhaps through the initiative of either the National Research Council or the Social Science Research Council, or through a joint effort of the two.

If such an annual social report proves substantial after reasonable experimentation, it might then become a government responsibility like the annual economic and manpower reports now made for the President. This approach is also discussed in Chapter 6, where we offer the following recommendation.

Recommendation: A privately developed annual social report—The Committe recommends that behavioral and social scientists outside the government begin to prepare the equivalent of an "Annual Social Report to the Nation," to identify and expedite work toward the solution of problems connected with the eventual preparation of such a report on an official basis. Support for this endeavor should come from private foundations as well as from federal sources.

A natural next step would be to establish a council of social advisers to consider the policy implications of the report. We do not recommend the establishment of such a council until the annual social report shows that social indicators do indeed signal meaningful changes in the quality of life.

For the present, we urge full participation of behavioral and social scientists in the Office of Science and Technology and in the President's Science Advisory Committee, as well as in the numerous advisory bodies attached to administrative agencies and the Office of the President (see Chapter 5).

Behind the development of social indicators and an annual report lie some basic steps: to gather better social data and to store it in usable form, with the necessary safeguards against invasion of privacy. Fortunately, we have the experience of the Decennial Census and the Current Population Survey, without which a great deal of social science, particularly demography, could not have been developed. There are also many sample surveys that deal with employment and other economic factors and statistical reports on agriculture, health, and other aspects of life.

Even in a non-Census year, the federal government spends more than $118 million on statistical programs. Data are scattered through government agencies in many forms, and suggestions for centralizing those data in some form of national data system have been made several times. We see many problems in such plans and therefore recommend that the President appoint a special commission with a full-time professional staff and a broad-based advisory committee to make a detailed study with recommendations. Suggestions should come from data-collection agencies of government, from representatives of the various behavioral and social sciences, from computer specialists, and from the public.

Further specification of the task of the proposed commission is given in Chapter 7. We summarize our position in a recommendation:

Recommendation: A national data system—The Committee recommends that a special commission be established to investigate in detail the procedural and technical problems involved in devising a national data system designed for social scientific purposes; that it recommend solutions for these problems and propose methods for managing a system that will make data maximally useful, while protecting the anonymity of individuals.

Protecting respondents' anonymity is very important and may prove to be among the most difficult problems to be dealt with. We propose, therefore, that it be faced in advance of the report that the special commission on a national data system may issue, and that some method be found for continuing to monitor the data systems as new methods of data storage and retrieval are created. The benefits of having policy guided by accurate information about the welfare and quality of life of the citizen can be very great, but it would be a sad consequence if, in the process of obtaining this information, the availability of data about individuals became a limitation on their freedom. To this end we offer the following recommendation.

Recommendation: Protection of anonymity—The Committee recommends the establishment within an appropriate agency of the federal government, or as an interagency commission, of a high-level continuing body, including nongovernmental members, to investigate the problems of protecting the anonymity of respondents, to prescribe actions to resolve the problems, and to review the dangers that may arise as new techniques of data-matching are developed.

### BEHAVIORAL AND SOCIAL SCIENCE RESEARCH IN UNIVERSITIES

In PhD-granting universities, research in the behavioral and social sciences is conducted in departments of colleges or arts and sciences, in profressional schools, and in institutes and research centers that exist outside the departments. Research funds are almost equally divided among these three administrative units, although departments employ more behavioral scientists because they have teaching responsibilities as well as research assignments (see Figure SR–3).

FIGURE SR–3.—*Distribution of behavioral and social science research funds and research personnel among departments, institutes, and professional schools, Ph. D.-granting universities, fiscal year 1967*

[In percent]

ALLOCATION OF ORGANIZED RESEARCH FUNDS, FISCAL YEAR 1966, $225,556,000

| | |
|---|---|
| Departments | 34 |
| Institutes [1] | 35 |
| Professional schools | 31 |

BEHAVIORAL AND SOCIAL SCIENTISTS ON UNIVERSITY STAFFS, N = 18,498

| | |
|---|---|
| Departments | 71 |
| Institutes [2] | 10 |
| Professionals schools | 19 |

[1] Multiple-discipline institutes account for 80% of the total institute research expenditures.

[2] Multiple-discipline institutes account for 75% of full-time research personnel within all institutes.

Source: Questionnaire survey.

Doctorate-granting departments are usually heavily committed to research, whereas professional schools are more variable in the extent to which they foster organized research in the behavioral and social sciences. Many schools of business, education, and medicine have fairly well established traditions of research relating to the behavioral and social sciences. Schools of law and schools of social work, however, give less attention to organized research in these sciences. Neither of these has anything like the behavioral and social science research expenditure per school that is found in schools of business, education, or medicine.

Law schools have not had sufficient access to research funds, their faculties have had little free time for research, and they have not developed a pattern of employing research technicians as schools of business, education, and medicine have. A growing number of law schools desire to change this state of affairs and to introduce more social science research; in Chapter 11 we offer a

recommendation for inducements to aid them in doing so.

University institutes devoted wholly or in part to behavioral science research have proliferated for a number of reasons, including administrative convenience, exploration of interdisciplinary work, and concentration on research on social problems. Approximately a fourth of the scientists working in institutes and a fifth of the research money are in institutes representing only one discipline. The rest of the personnel and funds are in interdisciplinary institutes. Approximately one fifth of all institutes are oriented toward research contributing to the solution of social problems, as in the many urban institutes that have recently been formed in universities.

Despite the variety of administrative arrangements discussed above, universities are still often handicapped when trying to do fully satisfactory research into social problems.

Disciplinary departments in universities, which grant most of the PhD degrees, are often better suited to basic research than to applied research. Their faculties sometimes cooperate with other departments and institues on research, but such work usually lacks the continuity and staffing necessary for applied research. Furthermore, disciplinary values tend to favor research oriented toward problems of particular disciplines. Departments try to achieve a balance between specializations in the disciplines, which, while admirable in itself, presents problems in organization of large task forces to study significant social problems.

Institutes usually have limited full-time staffs and rely heavily on part-time workers from the disciplines. Consequently, they have little control over the education of most of their workers. The result is that much of their research leads back to disciplinary interests because that is where professional advancement lies. Moreover, the availability of research funds for institutes is unstable by nature, and the level and character of research fluctuates according to the money available.

Professional schools are concerned with particular kinds of applied research related to their professional foci; thus many general social problems tend to lie outside the sphere of any single school.

Professional schools also have the mixed blessing of a close relationship with client systems (such as hospitals, businesses, courts, or legislatures). This linkage is helpful in directing research to significant problems, but it also tends to limit the research to the interests of its clients. Further, research goals must compete with the primary task of training a body of professional workers. Often research suffers.

In view of these limitations, we believe a new university organization should be created for training and research on social problems. To clarify the essential elements of this organization, we have proposed a new school, which we call a Graduate School of Applied Behavioral Science.

Recommendation: A graduate school of applied behavioral science—The Committee recommends that universities consider the establishment of broadly based training and research programs in the form of a Graduate School of Applied Behavioral Science (or some local equivalent) under administrative arrangements that lie outside the established disciplines. Such training and research should be multi-disciplinary (going beyond the behavioral and social sciences as necessary), and the school should accept responsibility for contributing through its research both to a basic understanding of human relationships and behavior and to the solution of persistent social problems.

Such a recommendation should, of course, be adapted to local situations. However, such a school should be of scientific stature commensurate with that of the best medical and engineering schools. It should have a core faculty with tenure, like any professional school, and it should not be organized along disciplinary lines. Disciplinary departments would, of course, continue outside the new school. If the school develops topical subdivisions (such as urban research centers, or centers studying the development of new nations), these subdivisions should be terminated when they are no longer pertinent.

The new school should have its own PhD program, and it should attempt to educate its students for inventive development relevant to social problems. In other words, the school should do empirical research on significant social problems and train professionals to carry on this kind of research.

Such a school will require considerable planning, and it will face many obstacles. Among these is the problem of developing professional identity for its graduates. Many of them will probably be employed in nonacademic settings, and the university-professorship model of career aspirations will not serve. It may be necessary, therefore, to create a new professional society and new journals devoted to applied behavioral science in order to define a new professional identity.

The word "applied" in the title promises that the school will cover that end of the spectrum, but, of course, it must also be concerned with basic research. A high-level applied school will inevitably work on basic problems of data-collection and analysis, model-building, and simulation. Work on social indicators, even on a local scale, could improve the statistical basis of the indicators and investigate how to combine them or substitute one for another. Beyond such methodological problems, each Graduate School of Applied Behavioral Science should have some specialized areas of research, for the whole of applied behavioral science is too broad to tackle all at once. The problems of the cities, of poverty, of crime, of nation-building, of conservation, of regoinal governments, of individual growth and development, of early education—any one of a range of problems—could serve among the specialities in one school.

Instructive precedents in a number of universities exhibit many qualities of the proposed new type of school; Chapter 12 discusses these and the proposed school at greater length.

### BEHAVIORAL AND SOCIAL SCIENCES OUTSIDE THE UNIVERSITY

Substantial numbers of social scientists work in nonacademic settings for federal, state, and local governments, for business and industry, and for nonprofit research organizations. Their functions, however, are not too different from those of their university colleagues.

The federal government estimates an 18.4 percent growth in federal social science employment from 1967 to 1971, and a similar growth is reported by state governments and nonprofit organizations. The percentage growth in federal social science employment is greater than the growth in overall federal employment and total federal scientific employment for the same period. Chapter 13 reports the limited data we have collected.

One indication of the amount of nonacademic research in the behavioral and social sciences is the amount of federal funds for nonacademic research performers, both to private research organizations and to the government. Roughly half of the federal funds go to nonuniversity research, and it is divided about equally between the government, on the one hand, and industrial firms and nonprofit institutions on the other (Table SR–1).

TABLE SR–1.—FEDERAL OBLIGATIONS FOR BASIC AND APPLIED RESEARCH IN BEHAVIORAL AND SOCIAL SCIENCES, FISCAL YEAR 1967, BY PERFORMER

[Dollar amounts in millions]

| | Federal obligations for basic and applied research | | |
|---|---|---|---|
| | All fields of science | Behavioral and social sciences | Behavioral and social sciences as percent of total obligations |
| Intramural (within Government departments and agencies) | $1,574 | [1] $77 | 9 |
| Extramural, nonuniversity: | | | |
| Industrial firms | 1,437 | | |
| Nonprofit institutions | 269 | [1] 77 | 3 |
| Others | 646 | | |
| Total, nonuniversity | 3,925 | 154 | 4 |
| Universities | 1,348 | [2] 143 | 11 |
| Grand total | 5,273 | 297 | 6 |

[1] Estimated from residual funds after removing amounts to universities.
[2] Estimated from the Survey.

Source: Federal Funds for Research, Development, and Other Scientific Activities: Fiscal Years 1967, 1968, 1969, NSF 68–27 (Washington, D.C.: National Science Foundation, 1968), vol. 17, pp. 124, 130.

### THE FINANCING OF RESEARCH

In 1966–1967, some 3.4 percent of the nation's total research and development expenditure was spent on the behavioral and social sciences—about $803 million. This was more than double the amount spent for social science research and development in 1961–1962 (Table SR–2).

TABLE SR–2.—SUPPORT OF RESEARCH AND DEVELOPMENT IN THE BEHAVIORAL AND SOCIAL SCIENCES, 1962, 1967 BY SOURCE

[Dollar amounts in millions]

| Source of funds | 1961–62 | 1966–67 |
|---|---|---|
| Federal Government: | | |
| Basic research | $46 | $132 |
| Applied research | 74 | 159 |
| Development | 68 | 97 |
| Subtotal | 188 | 388 |
| State governments | 5 | 15 |
| Industry | 130 | 289 |
| Colleges and universities | 24 | 48 |
| Foundations | 23 | 24 |
| Nonprofit institutions | 14 | 39 |
| Total, behavioral and social sciences | 384 | 803 |
| Total, all fields of science | 15,604 | 23,686 |
| Behavioral and social sciences as percent of total science | 2.5 | 3.4 |

Source: Table 1–2 and table A–8, appendix.

Between 1959 and 1968, federal support of behavioral and social science research increased at an average rate of approximately 20 percent a year. Since today's social problems are so urgent, it is important to maintain growth at least close to this level. We distinguish between normal projected growth (no increase in the scale of research operations) and projected new programs (the addition of new large-scale research). In Chapter 14 we discuss the matter more fully and offer the following recommendation concerning normal research support.

Recommendation: Rate of Federal funding for normal research support—The Committee recommends an annual increase in funds available from the federal government for support of basic and applied research in the behavioral and social sciences of between 12 and 18 percent to sustain the normal growth of the research enterprise over the next decade.

To sustain normal growth in the behavioral and social sciences, the indicated increase in research funds will be needed, and a corresponding increase will also be needed for instructional funds, student aid, space, and equipment. Our recommendation also applies to funding for behavioral and social science research outside the universities.

The costs of projected new programs are not included in the normal-growth projections, for they are of a different character from the steady and gradual increase required by the increases in the number of social scientists and the growing sophistication of research techniques. However, the new programs require abrupt increases in funding, with each program having minimum start-up costs. The operating costs of the various new programs, when they are in full swing, are likely to total an additional $100 million annually, as explained in Chapter 14.

The agencies supporting the behavioral and social sciences are chiefly the Department of Health, Education, and Welfare (primarily through the Office of Education, the National Institutes of Health, and the National Institute of Mental Health), the Department of Defense, the Department of Agriculture, and the National Science Foundation. We welcome their continued support and believe that other agencies should expand their use of behavioral and social science research, through both intramural and extramural support. In short, we endorse the principle of pluralistic support for the social sciences.

Proposals to establish a national social science foundation pose some problems concerning the role of the National Science Foundation. The implication that social science is important enough to warrant a special foundation is gratifying, but the issues are complex, and the members of the Committee are somewhat divided in their views. Because the charter of the National Science Foundation has recently been enlarged to permit support of applied research, and explicitly to support the social sciences, we favor giving it the opportunity to exercise its new functions. However, we also suggest that, if the National Science Foundation is unable to exercise its new obligations in social sciences, then a new foundation may be needed. Recomemndations bearing on the National Science Foundation appear in Chapter 14.

Private foundations have been a significant source of support to the behavioral and social sciences through the years, frequently playing innovative roles and contributing in a variety of ways to the development of these sciences. The role of the foundations is discussed in Chapter 15.

WORLDWIDE DEVELOPMENT OF THE SOCIAL SCIENCES

Worldwide interest in the social sciences is growing, partly in response to the processes of development and modernization in new nations. Social scientists in other countries seek to strengthen their professional capabilities, and there is considerable American interest in study and research overseas.

Collaboration across national boundaries is especially important in the social sciences. Generalizations based on work in only one country may be too parochial and circumscribed, and some kinds of situations important to an understanding of human behavior cannot be studied satisfactorily in any one nation. In Chapter 16 we offer some suggestions about the relationships among social scientists on an international basis, and we discuss the strengthening of organizations devoted to furthering international social science.

OUTLOOK FOR THE BEHAVIORAL AND SOCIAL SCIENCES

As the sciences advance and research at their growing edges becomes more demanding of special knowledge and skills, the tendency toward specialization increases. This trend is important for the advancement of the frontiers of science, but it also runs counter to the demand for science to deal with problems of great complexity in an integrated way. While we recognize the legitimacy of specialization within disciplines, we recommend more attention to large-scale research concerning our rising social problems.

Our society cannot delay dealing with its major social problems. We cannot consume our resources and pollute our environment and then hope to replenish and restore them. We cannot permit international relations to deteriorate to the point of resorting to nuclear weapons. Social unrest, a result of rising expectations and frustrated hopes, will eventually reach a point of no return.

The social sciences will provide no easy solutions in the near future, but they are our best hope, in the long run, for understanding our problems in depth and for providing new means of lessening tensions and improving our common life.

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[From the Washington Post, Oct. 27, 1969]

ANNUAL REPORTS URGED ON "SOCIAL CRISIS" IN UNITED STATES

(By Stuart Auerbach)

A high-powered group of social scientists is calling for an "annual social report" to the President that would explain the behavior of Americans.

This report would offer solutions to major social problems and predict future crisis in much the same way that the President's Council of Economic Advisers analyzes economic problems in its annual report.

The report would be established immediately by private social scientists under foundation and federal grants. But by 1976 it would be issued by a newly created President's Council of Social Advisers.

The recommendations are contained in a 320-page, 2½-year study to be released today.

The study, sponsored by the National Academy of Sciences and the Social Science Research Council, recommends appropriations of at least an additional $100 million a year for new social science projects and the establishment of a national data bank to provide the information they need.

"The social sciences will provide no easy solutions in the near future," the study concludes. "But they are our best hope, in the long run, for understanding our problems in depth and for providing new means of lessening tensions and improving our common life."

The study also reflects the twin desires of American social scientists: to help solve the nation's social problems and to boost themselves to the status that the physical biological and engineering scientists achieved in the post-Sputnik era.

Social and behavioral scientists work in the fields of anthropology, economics, geography, history, linguistics, political science, psychiatry, psychology and sociology as well as some aspects of statistics and mathematics.

"We are living in a social crisis," begins the study.

The report concludes that a full range of national crises—from urban riots and student rebellions to pollution and overpopulation—have roots in "perplexing problems of human behavior and relationships."

And, the study says, the advance of science and technology continually creates new problems—such as organ transplantation, genetic control of heredity and the use of mind-bending drugs—that social scientists can help solve.

The study acknowledges that shortcomings among social scientists now prevent them from contributing their full potential to the nation.

One flaw the study cites is the frequent inability of social research to cut across the narrow boundaries of the different fields. To correct this, the study recommends the establishment of a new kind of graduate school specializing in applied behavioral research.

Another is the lack of hard data on which social scientists can base their analysis. The study recommends "a major effort to develop improved social indicators: measures that reflect the quality of life."

This would cost about $1.5 million, the study estimates, and should be done by the federal government.

These indicators would be reported and explained in the annual social report. Because of the problems in developing these indicators, the study says the report should be privately produced until it is solid enough "to signal meaningful changes in the quality of life."

The next step would be the formation of the Council of Social Advisers to draw up the report for the President.

The study also calls for a National Data System, with safeguards for privacy, to collect information needed by the social scientists.

To provide this new dimension for government policy-makers, the study recommends a continued increase in the funds appropriated for social science research.

In 1967, the study says, public and private sources spent $803 million on social science research projects—double the amount spent five years earlier.

The federal share has increased about 20 per cent a year, and the study recommends that future increases should drop to about 12 to 18 per cent a year "to sustain normal growth."

Federal funding for social science research amounted to $297 million in 1967.

The new projects recommended in the report—amounting to about $100 million a year—would be added to the research funding.

The study was drafted by a 21-member committee, with representatives from all the social sciences, headed by Ernest R. Hilgard of Stanford University and Henry W. Riecken of Washington.

It is one of a series of studies prepared by the National Academy of Sciences surveying the status, needs and opportunities of the various sciences. The full study will be published as a book by Prentice-Hall Inc.

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## CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

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## UNIFORM RELOCATION ASSISTANCE AND LAND ACQUISITION POLICIES ACT OF 1969

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The BILL CLERK. A bill (S. 1) to provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs and to establish uniform and equitable land acquisition policies for Federal and federally assisted programs.

The Senate resumed consideration of the bill.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

## THE ALBERT PARVIN FOUNDATION

Mr. WILLIAMS of Delaware. Mr. President, in the October 23 issue of the Washington Post there was published an article written by Jean Heller, entitled "Financing of Parvin Unit Traced."

This article calls attention to a hotel-casino sale arranged by gangster Meyer Lansky which helped finance a foundation that for 9 years was headed by Supreme Court Justice William O. Douglas.

During this period Justice Douglas was on the payroll as the top officer, and while the article quotes him as claiming he knew nothing about the deal it is hard to understand how the highest paid officer of the foundation would not be aware of its activities. To accept this explanation would be to proceed on the premise that the $12,000 annual payment to Justice Douglas was a gratuity for which no services were rendered or expected.

Under the circumstances I think the American people are entitled to a better explanation.

I ask unanimous consent that the article to which I have referred be printed in the RECORD at this point.

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

FINANCING OF PARVIN UNIT TRACED

(By Jean Heller)

LAS VEGAS, NEV., October 22.—A hotel-casino sale arranged by gangster Meyer Lansky helped finance a foundation headed for nine years by Supreme Court Justice William O. Douglas, who said today he knew nothing about the deal.

Douglas helped create and direct the Albert Parvin Foundation and served as its only salaried officer—president—until last May.

Douglas was asked if he were aware when he helped set up the foundation that one of the biggest chunks of its financial backbone would come from a business deal arranged by Lansky. His office said Tuesday he would have no comment.

But today after an Associated Press story about the deal appeared, Douglas said in a Washington statement: "I never had anything to do with the transaction and I never knew anything about it. I had no information whatever about it."

PARVIN WAS PRESIDENT

The deal was for the 1960 sale of the Flamingo Hotel-Casino here. Parvin was president and principal stockholder of Hotel Flamingo, Inc., the company which owned the hotel-casino. Parvin then used a portion of the money derived from the $10.5 million sale to finance his new foundation.

Under a contract signed by Parvin as company president, Lansky was paid $200,000 for acting as middleman in the sale of the Flamingo to a trio of Florida hotelmen. The contract read, in part:

"Flamingo acknowledges that Lansky has been the finder of the purchaser of the property belonging to it, and as a result of Lansky's services in supplying the information as to the purchaser and advising Flamingo thereof, that he is entitled to payment for the services thereon . . .

"Flamingo agrees to pay Lansky and Lansky agrees to accept as payment from Flamingo the sum of $200,000 . . ."

The agreement, also signed by Lansky, was dated May 12, 1960. More than a month before, the three Florida hotelmen, Samuel Cohen, Morris Lansburgh and Daniel Lifter, had applied to Nevada officials for approval of their purchase of the hotel-casino.

In May 1960, the Nevada Gaming Control Board approved the sale and the following month the Nevada Gaming Commission gave the final okay.

UNAWARE OF LANSKY

There is no mention in the hearing transcripts of either body of the involvement of Lansky as middleman in bringing buyer and seller together. Nevada sources said privately that neither the board nor the commission was aware of Lansky's role.

The terms of the contract with Lansky stipulated that if the sale was made, as it was, Parvin's company would pay Lansky the $200,000 fee in quarterly installments of $6,250 starting Jan. 2, 1961. That schedule would mean the last payment was made to Lansky in October 1968.

An attempt to contact Parvin for comment was unsuccessful.

Parvin is the former owner of the Parvin-Dohrmann Co., a multi-million-dollar-a-year Los Angeles hotel supply business. Although Parvin has sold his interest in Parvin-Dohrmann, he still maintains his foundation.

A federal grand jury in New York is reported to be investigating the dealings of Parvin, Parvin-Dohrmann and other individuals and companies, but this investigation appearently is unreleated to the Flamingo sale.

CRITICIZED IN CONGRESS

In an interview several years ago, Parvin said he contacted Douglas in 1960 and sought help in setting up the foundation. Douglas agreed to help and later served as its $12,000-a-year president.

Douglas was sharply criticized by members of Congress last spring for his involvement with the foundation. He severed his ties with the organization in May.

It could not be determined how long Lansky knew Parvin, but Nevada records show Lansky had two attempted dealings with the Cohen-Lansburgh-Lifter group prior to the Flamingo sale.

The three Florida hotelmen have been associates in such Miami Beach operations as the Sans Souci, Deauville, Sherry Fontenac, Casablanca, Versailles, Crown and Eden Roc hotels and the Waikiki Motel.

According to a report prepared by the Nevada Gaming Control Board's investigators, Lansky asked the trio if they would be interested in buying the Havana Riviera Hotel in Havana, Cuba. Two years later, he asked them if they would be interested in making a loan on a motel north of Miami Beach. Both times the Florida hotelmen declined.

Mr. WILLIAMS of Delaware. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

## CHILD PROTECTION AND TOY SAFETY ACT OF 1969—CONFERENCE REPORT

Mr. MOSS. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1689 ) to amend the Federal Hazardous Substances Act to protect children from toys and other articles intended for use by children which are hazardous due to the presence of electrical, mechanical, or thermal hazards, and for other purposes. I ask unanomous consent for the present consideration of the report.

The ACTING PRESIDENT pro tempore. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of October 21, 1969, pp. 30803–30804, CONGRESSIONAL RECORD.)

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. MOSS. Mr. President, the conference has reported a substantially improved bill. Although Members of the other House, in considering the bill passed by this body some months ago, made some improvements in the Senate version, they also made some procedural changes that could have impeded the implementation of this important piece of legislation.

The main issue in conference was this: Given the need to protect children from articles which have electrical, mechanical, and thermal hazards, given the need to provide procedural safeguards for affected persons, and given the limited resources of the administering agency, what procedure for removing hazardous toys from the marketplace will best balance those interests?

Despite some misunderstanding on the part of the conferees, both the Senate and House procedures allowed the Secretary of Health, Education, and Welfare to summarily remove an article from the market. The House procedures provided for this upon a finding of "imminent hazard." The Senate procedures provided for this through section 553 of title 5, United States Code. Summary action provided for in clause (B) of the last sentence of subsection (b) of section 553.

The House procedure required a time-consuming formal hearing at all times before any order of the Secretary could become final. In other words, the House procedure which provided great procedural protection to industry was potentially so administratively burdensome that the Secretary of Health, Education, and Welfare might have been unnecessarily deterred from acting to protect our Nation's children. The Senate procedure on the other hand, did not unduly burden the administrative agency but provided fewer procedural safeguards for industry.

Although some might minimize the importance of procedures, they can spell

the difference between agency action or inaction, particularly when an agency has limited resources and manpower. Congress cannot afford to pass legislation promising to protect the children of our Nation and then impose unreasonable administrative burdens that will negate its actual implementation. For this reason the Senate requested a conference on the House amendments to the Senate toy safety bill. I am satisfied that the procedures formulated in conference are workable and that they will facilitate the implementation of this bill, while still protecting the rights of affected parties. Therefore, because the Senate's aim in calling for a conference has been achieved, I recommend approval of the conference report.

The conferees who signed the conference report have unanimously agreed to it. I know of no reason why the matter should not now be agreed to by this body. It has been cleared with the minority members of the committee. I move its immediate adoption.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report.

The report was agreed to.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

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## UNIFORM RELOCATION ASSISTANCE AND LAND ACQUISITION POLICIES ACT OF 1969

The Senate resumed the consideration of the bill (S. 1) to provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs and to establish uniform and equitable land acquisition policies for Federal and federally assisted programs.

Mr. MUSKIE. Mr. President, the Uniform Relocation Assistance and Land Acquisition Policies Act of 1969 will establish a uniform policy with respect to relocation assistance and land acquisition involving Federal and federally assisted programs. S. 1 came to the floor of the Senate with the sponsorship of 42 Senators, the endorsement of many public officials throughout the country and the strong support of citizen groups devoted to the public interest. Hearings were held on February 19, 20, 25, 26, and 27, and the bill was approved by the Subcommittee on Intergovernmental Relations on April 16, 1969. Favorable action was taken by the Committee on Government Operations on September 23, 1969.

This is as high priority a measure as stands before the Senate. There are more than 50 Federal programs which result in the condemning of land and quite literally, the bulldozing of hundreds of thousands of people from their homes and businesses annually. Many of these people are low-income families. Many are the elderly. They are small farmers and small businessmen. In most cases, their entire lives and economic and social well-being have centered around the property or neighborhoods which are being uprooted.

This is what we have been doing to them. The question that must be answered is: What are we to do for them?

Here, the record is clear. Nearly all federally assisted programs have differing, if not conflicting, provisions for helping those displaced. They range from no assistance in some cases to liberal benefits and protection in others. This lack of uniformity only provides irritation and confusion, as well as an unfortunate image of the Federal Government at the State and local level. It has served to undermine confidence in and support for many Federal programs.

The problem has been explored thoroughly by the Subcommittee on Intergovernmental Relations over the past 4 years. Building on the recommendation of the Select Subcommittee on Real Property Acquisition of the House Public Works Committee as well as a special report on the problem developed by ACIR, and on other basic studies in the field, legislation was developed and passed unanimously by the Senate during the 89th Congress. Again, during the 90th Congress, the legislation, as part of the Intergovernmental Cooperation Act of 1968, was improved and strengthened and passed by the Senate. At the same time, the Congress included in its Highway Act of 1968, a substantial part of the relocation provision developed through earlier efforts, and expanded HUD's relocation authorizations under the Housing Act of 1949.

Although the House passed the Intergovernmental Cooperation Act, it had not completed its consideration of the issue of relocation and land acquisition. Conferees on the bill were, however, in agreement regarding desirability of congressional action on the matter and recommended that it be taken up as soon as possible.

I understand that the House Public Works Committee plans hearings and active consideration of this legislation this session.

The primary objective of S. 1 is to establish a uniform policy among Federal agencies, and State and local recipients of Federal funds in their dealing with property owners and others displaced by Federal or federally aided land acquisitions.

Specifically, S. 1, does this in two ways: First, it provides for relocation payments, advisory assistance, assurance of available relocation housing, and economic adjustments and other assistance to owners, tenants and others displaced; and second, it establishes policies to guide all Federal and federally assisted agencies in negotiations with owners for the acqusition of real property for public use.

With regard to relocation assistance, the displaced person is entitled to payments including a moving expense and a dislocation allowance. The individual's need for readjustment allowance is covered by the bill's provision that he receive an amount equal to the average annual net earnings of his business or farm, or $5,000, whichever is less, if the enterprise had net earnings of less than $10,000. For the small farm operator with earnings of less than $1,000 annually, the bill provides payment of $1,000.

For the large number of individuals displaced from their homes, and not eligible for assistance as owners, the bill provides payment up to $1,500. For the owner-occupier, the bill provides for an amount, which when added to the acquisition payment, equals the price required for a decent, safe, and sanitary dwelling.

The bill further provides that the Federal Government will provide the first $25,000 of the cost of providing such payments and assistance to any person displaced prior to July 1, 1972.

Relocation policies of the past have failed to account for the need of advisory assistance for those being displaced by acquisitions for public improvements. The bill would require that steps be taken to assure that the displaced persons receive the maximum help necessary to make the move. These would include the following:

First, determination of the needs of the displaced families, individuals, business concerns, and farm operators for such assistance.

Second, assurance that there will be adequate services in the areas to which the affected persons will move, including utilities, commercial facilities, and housing, as well as accessibility to their places of employment.

Third, assistance to businesses and farm operators in obtaining and becoming established in suitable location.

Fourth, supplying of information concerning FHA home acquisition program benefits, and the small business disaster loan program and other such programs offering assistance to displaced persons.

Fifth, assistance in minimizing hardships incurred as a result of adjusting to dislocation.

Sixth, assurance that the coordination of relocation activities with other governmental actions undertaken in the community or nearby areas will be done.

With regard to uniform land acquisition policies and procedures, the bill sets forth a congressional mandate of 12 provisions which must be followed in the taking of property for Federal purposes. They are as follows:

First. Transactions must be carried out in a manner that will assure that the person whose property is taken is no worse off economically than before the property was taken.

Second. Every reasonable effort must be made to acquire the property at a negotiated price.

Third. Real property must be appraised before the negotiations begin, and the owner is given the opportunity to accompany the appraiser during his inspection of the property.

Fourth. Before negotiations begin, the Federal agency head involved will establish an amount he believes to be just compensation, but the amount cannot be less than the approved appraised value

of the property. This provision is intended to assure that the Government will reimburse an owner in an amount which is fair and reasonable, and that its offer will not be less than the appraised value. It is not intended to preclude effective negotiation nor establish a one-price policy.

Fifth. No owner is required to surrender possession of real property before the agency concerned pays the agreed purchase price.

Sixth. Construction will be scheduled to provide the owner/occupant with at least 90 days' notice to move.

Seventh. If the structure is not required, he shall offer to permit its owner to remove it.

Eighth. Those who are permitted to occupy the property on a rental basis for a short term, are to be charged a fair rental value figure.

Ninth. Condemnation time cannot be advanced nor deferred. Every effort must be made to assure that the owner is given reasonable time to negotiate with the agency.

Tenth. No Federal agency shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his property.

Eleventh. If only a portion is to be acquired, leaving the unacquired portion without economic use, the Federal agency concerned shall offer to acquire the whole property.

Twelfth. In determining the boundaries of a proposed public improvement, the Federal agency is required to take into account human considerations including the economic and social effects on the owners and tenants of the property in the area.

The testimony of witnesses was overwhelmingly in support of the objectives of the legislation.

The problems created by the impact of such acquisitions have long been one of the Nation's top domestic burdens. Various estimates place the displacement figure, over the next 10 years, in excess of one million people, 180,000 businesses and 40,000 farms. Much of this problem will be covered by the present relocation and acquisition programs of HUD and the new programs authorized under the Highway Act of 1968. Yet, many other agencies and programs still lack consistency as well as identity with requirements of these programs.

The results of these inconsistencies have caused confusion and hardship—often of a very serious nature. They will continue to do so unless there is coordination of all operations.

The uprooting of an individual, his family, his business or farm, and the taking of his land is a very personal matter. We cannot make the process painless, but we can insure fair and evenhanded administration—consistent with protection of individual rights and community needs. To do less is to continue to exact a high price from people who are least able to absorb the burden of these Federal programs.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc.

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

Mr. MUNDT. Mr. President, I want to associate myself with the remarks of my colleague, the senior Senator from Maine, in support of passage of S. 1. This legislation would provide fair and just treatment for those whose home and businesses are taken for projects of the Federal Government or by State and local government with Federal financial assistance.

This bill has one basic purpose and that is to make these people so displaced "economically whole." Our Constitution provides that when property is taken for a public purpose that the owner will receive just compensation. However, when the fair price is paid for the property it does not provide for expenses that are incurred by the owner for being disrupted and in seeking a new location for his home or business. This bill would seek to compensate for these expenses and would seek to establish uniform land acquisition policies in the hope that the Government as buyer and the landowner as seller can arrive at a just price without going into condemnation court.

The effort to provide additional compensation was recognized by Congress when it approved the urban renewal legislation and more recently in the Highway Act of 1968. Our bill seeks to carry the benefit of these two statutes to all Federal and federally assisted land acquisition to provide uniformity of policy so badly needed in this area.

The Senate approved the essential language of S. 1 in both the 89th and 90th Congresses in recognition of this need and I hope it will see fit to do so again today.

Mr. JAVITS. Mr. President, it is a fact, is it not, that this legislation is really a landmark measure, and I ask that with real deference to the Senator from Maine, because so many of us have joined with him so often in legislative matters.

Mr. MUSKIE. It is a landmark measure. And I welcome the opportunity to express my appreciation to the distinguished Senator from New York and all the other cosponsors who have taken a real and active interest in the legislation.

The fact that the measure passed so easily is a reflection of the fact that over the past 3 years a great deal of time and effort has been devoted to it and many committee hearings have been held in which the Senator was involved.

I hope that this year the Senate action will be matched on the House side.

Mr. JAVITS. Mr. President, this matter has been and is of profound importance. It is so difficult for people to understand the structure of the inequities involved here in respect to housing and road construction when we are dealing with the homes of individuals. Under the leadership of the distinguished Senator from Maine (Mr. MUSKIE), this measure has been brought to passage. It is a matter that has been long overdue.

Mr. President, we all owe a debt of gratitude to the distinguished Senator from South Dakota (Mr. MUNDT), the ranking member of the committee.

Mr. MUSKIE. Mr. President, the distinguished Senator from South Dakota (Mr. MUNDT) has taken affirmative, positive, and a cooperative attitude toward the bill during the 3 or 4 years we have studied the measure and has made invaluable contributions to its structure. He has been of great assistance. I have welcomed his help and support over the years.

Mr. JAVITS. Mr. President, I think it is fair for us to express a deep feeling of grievance over the inequities which the bill seeks to cure. I hope very much for that reason that it will find a response in the other body.

The Senator from Maine, the Senator from South Dakota, and I and others will do our utmost in this endeavor.

Mr. President, relating to the so-called outdoor advertising industry amendment, this measure also dealt with moving expenses for billboards. I want to confirm that by collaboration between the majority and minority, the expenses of moving the billboards were limited to what they are really entitled to under the present Federal law, and that there is no expansion of anything but the concepts established by virtue of codification which is the inheritance from the old bill.

Mr. MUSKIE. The Senator is correct. I know that he has taken a special interest in this problem and with his help, the outdoor advertising business is helped to the extent of making it eligible for actual moving costs and no more. This is the sort of assistance which is available to many displaced businesses.

Mr. JAVITS. Mr. President, I thank the Senator.

Mr. President, I congratulate the Senator from Maine. It has been a longstanding fight. I think that really out of deference to him we ought to move heaven and earth to get this matter enacted into law.

Mr. MUSKIE. I thank the Senator from New York.

THE MOM AND POP AMENDMENT

Mr. TYDINGS. Mr. President, as a cosponsor of S. 1, the Uniform Relocation Assistance and Land Acquisition Policies Act of 1969, I am pleased that the Senate will shortly enact the bill and want to congratulate the junior Senator from Maine for his fine effort on the Intergovernmental Relations Subcommittee in preparing this legislation.

Providing for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal or federally assisted projects is only fair.

The disruptive impact on people as they are displaced is now all too familiar. Hearings held by the subcommittee have illustrated the damaging effects on individuals resulting from displacement. They brought out the confusion and unfairness caused by the basic inadequacy and inconsistency of the measures available to the public agencies to relieve the consequent hardship.

This bill will go a long way toward removing this inconsistency and inadequacy.

Mr. President, of special interest to me

is the effect of land acquisition, clearance, and relocation of small businesses, particularly those owned by the elderly—such as the "mom and pop" grocery or candy store. The price of progress here in urban renewal is very high. It often means destruction of the livelihood of the small neighborhood storekeeper.

I know of a corner candy store owner in Baltimore who lived in the same location for 40 years. His store was a hub of neighborhood activity, part and parcel of the community. I lived nearby when I was a student at the University of Maryland and often stopped off at the store to chat and buy a newspaper or last-minute groceries.

An urban renewal project was begun in the neighborhood a number of years later, land was acquired and the store owner reimbursed for his property. But the amount was insufficient. The owner was too old to start again. His clientele was gone, his goodwill a thing of the past. He was set adrift at age 65 with little or no future.

I felt that such an individual deserved additional assistance.

I, therefore, offered an amendment which provided a lump-sum payment, in lieu of relocation and moving expenses, equal to three times the average annual net earnings of the business for the last 3 years to be made to a store owner over 50 years of age. This was known as the "mom and pop amendment" and provided for the small business proprietor who could not start over again.

The subcommittee accepted my amendment but changed the payment to twice the annual net earnings, limited the payments to not more than $5,000, and raised the age requirement to 62. I felt that, while a step in the right direction, this still fell short of what was really needed.

I thus urged the subcommittee at its hearings on February 20 of this year to increase the amount of the possible payment and, at the minimum, to lower the age limitation to 58 years. This would not substantially increase the cost of the program, but would soften significantly the impact of dislocation on our older, small businessmen.

The subcommittee agreed to increase the upper limitation of the payment to not more than $6,000, an increase of $1,000; to allow the payment to be equal to three times the average annual net earnings, as originally provided, rather than twice; and to lower the age requirements from 62 to 60. The amendment, the last sentence in section 211(c)(1) of the bill, now reads:

> Notwithstanding the preceding sentence, in the case of a displaced person who is sixty years of age or over, this payment shall be in an amount equal to three times the average annual net earnings of the business or $6,000, whichever is less.

The subcommittee deserves high marks for this action which demonstrates their continued concern for the Nation's older, small businessman. I am delighted that it has, to a very large extent, accepted my "mom and pop amendment" and want to call this amendment to the attention of my colleagues.

The "mom and pop amendment" will cushion the impact of federally necessitated relocation programs on many of our older citizens and ease the often difficult adjustment period that results. It is completely within the tradition of a government "for the people."

Mr. COOPER. Mr. President, last year when the Senate Committee on Public Works, on which I serve as the ranking minority member, extended the biennial highway authorizations and enacted one of the most constructive measures to be recommended to the Senate during my service on the committee, it included in the Federal-Aid Highway Act of 1968 a title II providing relocation assistance to families, farms and businesses displaced by road construction. The committee, under the leadership of our chairman, the Senator from West Virginia (Mr. RANDOLPH), and largely on the initiative of the Senator from Maine (Mr. MUSKIE), devoted a great deal of attention and the most careful consideration to the provisions of title II, which added a new chapter 5 to title 23 of the United States Code.

I think it fair to say that we considered at that time that this legislation could provide a model for relocation assistance in the programs of other Federal agencies which acquire property in carrying out Federal construction and Federal grant programs. In fact, in my statement of views, which were made a part of the committee report on the Highway Act of 1968, I called attention to the significance of this legislation in these words:

> Of great importance, title II will establish a comprehensive program of relocation assistance designed to assure fair treatment and reasonable help to those individuals, families, farms, and businesses displaced by highway construction projects. I consider these provisions fair, proper, and a great advance in compensating those who are uprooted and dislocated by Federal projects. The Intergovernmental Relations Subcommittee of the Committee on Government Operations has given leadership in this field, and I hope very much that the relocation assistance provided by this bill for the highway programs will be extended to the construction projects of the Corps of Engineers, and to the other Federal agencies.

I also spoke in the Senate in support of this wonderful new program—because I have been interested for many years in securing fair and better treatment for those who are displaced by great dam, highway or other projects, and I have had a good deal of experience with those problems as they have arisen in connection with projects in my own State of Kentucky. The Senators from Maine and from West Virginia will recall that I suggested at that time that these provisions ought to be extended to Corps of Engineers' projects, which are also under the jurisdiction of the Committee on Public Works.

As I understand, the bill now before the Senate, S. 1, which has come to us from the Committee on Government Operations, would extend to all Federal agencies and programs the land acquisition policy and relocation assistance program first applied to road construction by the 1968 Highway Act—and its purpose is to do so on a uniform basis. While S. 1 technically would repeal title II of the 1968 act, those provisions would be incorporated in this act, and applied to other programs as well as to the Federal-aid highway program.

The States are now implementing the provisions of the 1968 Highway Act, and as its provisions, or the provisions of S. 1 if adopted by the House of Representatives, are put into effect, no doubt some problems may arise, as is usually the case with any new program of such scope. But I hope very much that the experience under the Highway Act will prove helpful. If difficulties arise in applying these principles to highway or civil works projects, I am sure that our committee will want to be helpful.

Providing just compensation, and equitable assistance to those who are displaced, so that their lives are not unduly disrupted by public projects and they are kept "whole" as we say, is not simple or easy. But it is right and necessary, and I have been glad to support this measure. I commend the Senator from Maine, and his colleagues from South Dakota (Mr. MUNDT) and New York (Mr. JAVITS) for what I know was long and careful work in bringing this bill before the Senate for its approval.

The ACTING PRESIDENT pro tempore. 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 was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD of West Virginia. Mr. President, I move to lay that motion on the table.

The motion was agreed to.

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## INTERGOVERNMENTAL PERSONNEL ACT OF 1969

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 486.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 11) to reinforce the federal system by strengthening the personnel resources of State and local governments, to improve intergovernment cooperation in the administration of grant-in-aid programs, to provide grants for improvement of State and local personnel administration, to authorize Federal assistance in training State and local employees, to provide grants to State and local governments for training of their employees, to authorize interstate compacts for personnel and training activities, to facilitate the temporary assignment of personnel between the Federal Government, and State and local governments, and for other purposes.

The ACTING PRESIDENT pro tempore. 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 from the Committee on

Government Operations with amendments: On page 2, after the enacting clause, insert "That this act may be cited as the 'Intergovernmental Personnel Act of 1969' "; on page 3, line 22, after the word "as", insert "(1)"; in line 23, after the word "local", strike out "governments." and insert "governments, and (2) to encourage innovation and allow for diversity on the part of State and local governments in the design, execution, and management of their own systems of personnel administration."; on page 4, line 16, after the word "policy." insert "The President may terminate the council at any time after the expiration of three years following its establishment."; on page 7, line 21, after the word "to" where it appears the second time, strike out "States for up to 75 per centum of the costs of developing and of carrying out programs or projects which the Commission finds" and insert "a State for up to 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this Act, for up to 50 per centum) of the costs of developing and carrying out programs or projects, on the certification of the Governor of that State that the programs or projects"; on page 11, line 7, after the word "to", strike out "general local governments, or combinations of such governments, that serve a population of fifty thousand or more, for up to 75 per centum of the cost of developing and carrying out programs or projects which the Commission finds" and insert "a general local government, or a combination of general local governments, that serve a population of fifty thousand or more, for up to 75 per centum (or with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this Act, for up to 50 per centum) of the costs of developing and carrying out programs or projects, on the certification of the Governor of that State that the programs or projects."

On page 12, line 6, after the word "grant" strike out "provisions, as provided in section 513" and insert "provisions"; at the beginning of line 24, strike out "provisions as provided in section 513" and insert "provisions"; on page 13, line 12, after the word "or", strike out "governments to the State office designated under section 202(b)(1) of this Act for review, except that, if no State office has been so designated, such application shall be submitted to the Governor for his review. Any comments and recommendations of the State office or of the Governor, as the case may be, and a statement by the general local government or governments that such comments and recommendations have been considered prior to its formal submission will accompany the application to the Commission. However, the application need not be accompanied by such comments and recommendations and by such a statement if the general local government or governments certify that the application has been before the State office or the Governor, as the case may be, for review for a period of sixty days without comments or recommendations on the application being made by that office," and insert "combination of such governments to the Governor for review and certification that the programs or projects are consistent with the applicable principles set forth in clauses (1)–(6) of the third paragraph of section 2 of this Act. The Governor may refer the application to the State office designated under section 202(b)(1) of this Act for review. Comments and recommendations (if any) made as a result of the review, a statement by the general local government or combination of such governments that it has considered the comments and recommendations, and the certification of the Governor shall accompany the application to the Commission. The application need not be accompanied by the certification of the Governor if the general local government or combination of such governments certifies to the Commission that the application has been before the Governor for review and certification for a period of sixty days without certification by the Governor. However, if during such sixty-day period the Governor (1) has found that the programs or projects are not consistent with the applicable principles set forth in clauses (1)–(6) of the third paragraph of section 2 of this Act and (2) has set forth in writing the reasons, specifically and in detail, therefor, the application may not be submitted to, or be considered by, the Commission."

On page 15, line 20, after the word "may", strike out "accept from such governments payment, in whole or in part," and insert "waive, in whole or in part, payments from such governments"; on page 18, after line 2, strike out:

(D) sections 2(a)(5), 402(a)(5), 503(a)(3), 513(a)(3), 1002(a)(5), 1402(a)(5), 1062(a)(5), and 1902(a)(4) of the Social Security Act (42 U.S.C. 302(a)(5), 602(a)(5), 703(a)(3), 713(a)(3), 1202(a)(5), 1352(a)(5), 1382(a)(5), and 1396a(a)(4)); and

And, in lieu thereof, insert:

(D) sections 2(a)(5)(A), 402(a)(5)(A), 505(a)(3)(A), 1002(a)(5)(A), 1402(a)(5)(A), 1602(a)(5)(A), and 1902(a)(4)(A) of the Social Security Act (42 U.S.C. 302(a)(5)(A), 602(a)(5)(A), 705(a)(3)(A), 1202(a)(5)(A), 1352(a)(5)(A), 1382(a)(5)(A), and 1396a(a)(4)(A)); and

On page 22, line 8, after the word "agencies" strike out "are authorized to receive payments from, or on behalf of, State and local governments for the costs of training provided under this section, and to enter into agreements with them for this purpose. The head of the Federal agency concerned may waive all or part of such payments," and, in lieu thereof, insert "may waive, in whole or in part, payments from, or on behalf of, State and local governments for the costs of training provided under this section." in line 20, after the word "the" insert "initial"; on page 23, line 9, after the word "program," strike out "and, to the same extent provided in section 302(b) of this Act, receive or waive" and insert "and receive or waive, in whole or in part,"; on page 24, line 20, after the word "per centum", strike out "of the cost of developing and carrying out training and educational programs for their professional, administrative, and technical employees and officials, which the Commission finds are consistent with the applicable principles set forth in clauses (1)–(6) or the third paragraph of section 2 of this Act."; and insert "(or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this Act, for up to 50 per centum) of the costs of developing and carrying out programs, on the certification of the Governor of that State that the programs are consistent with the applicable principles set forth in clauses (1)–(6) of the third paragraph of section 2 of this Act, to train and educate their professional, administrative, and technical employees and officials.".

On page 28, line 14, after the word "or", strike out "governments to the State office designated under section 304(b)(1) of this Act for review, except that, if no State office has been designated, such application shall be submitted to the Governor for his review. Any comments and recommendations of such State office or the Governor, as the case may be, and a statement by the general local government or governments that such comments and recommendations have been considered prior to its formal submission will accompany the application to the Commission. However, the application need not be accompanied by such comments and recommendations and by such a statement if the general local government or governments certify that the application has been before such State office or the Governor, as the case may be, for review for a period of sixty days without comments or recommendations on the application being made by that office." and, in lieu thereof, insert "combination of such governments to the Governor for review and certification that the programs or projects are consistent with the applicable principles set forth in clauses (1)–(6) of the third paragraph of section 2 of this Act. The Governor may refer the application to the State office designated under section 304(b)(1) of this Act for review. Comments and recommendations (if any) made as a result of the review, a statement by the general local government or combination of such governments that it has considered the comments and recommendations, and the certification of the Governor shall accompany the application to the Commission. The application need not be accompanied by the certification of the Governor if the general local government or combination of such government certifies to the Commission that the application has been before the Government for review and certification for a period of sixty days without certification by the Govcrnor. However, if during such sixty-day period the Governor (1) has found that the programs or projects are not consistent with the applicable principles set forth in clauses (1)–(6) of the third paragraph of section 2 of this Act and (2) has set forth in writing the reasons, specifically and in detail, therefor, the application may not be submitted to, or be considered by, the Commission.".

On page 30, line 6, after the word "per centum", strike the word "of" and insert

"(or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this Act, up to 50 per centum) of".

On page 39, line 15, after the word "subchapter," strike out "II" and insert "III"; on page 43, line 7, after "(A)," strike out "travel and per diem instead of subsistence" and insert "travel, including a per diem allowance"; in line 10, after "(B)," strike out "per diem instead of subsistence," and insert "a per diem allowance"; in line 13, after "(C)," strike out "travel and per diem instead of subsistence," and insert "travel, including a per diem allowance"; on page 49, line 23, after the word "allocate," insert "20 per centum of the total amount available for"; on page 50, after line 7, strike out:

(b) In each fiscal year, 15 per centum of the total amount available for grants under this Act shall be apportioned equally among the States and the amount apportioned for each State shall be reserved for programs or projects in that State. However, any amount so reserved but not used in any fiscal year shall be added to the total amount available for grants under this Act in the next succeeding fiscal year. For the purpose of this subsection, "State" means the several States of the United States, and the District of Columbia.

And, in lieu thereof, insert:

(b) (1) The Commission shall allocate 80 per centum of the total amount available for grants under this Act among the States on a weighted formula taking into consideration such factors as the size of population and the number of State and local government employees affected.

(2) The amount allocated for each State under paragraph (1) of this subsection shall be further allocated by the Commission to meet the needs of both the State government and the local governments within the State on a weighted formula taking into consideration such factors as the number of State and local government employees and the amount of State and local government expenditures. The Commission shall determine the categories of employees and expenditures to be included or excluded, as the case may be, in the number of employees and amount of expenditures. The minimum allocation for meeting needs of local governments in each State (other than the District of Columbia) shall be 50 per centum of the amount allocated for the State under paragraph (1) of this subsection.

(3) The amount of any allocation under paragraph (2) of this subsection which the Commission determines, on the basis of information available to it, will not be used to meet the needs for which allocated shall be available for use to meet the needs of the State government or local governments in that State, as the case may be, on such date or dates as the Commission may fix.

(4) The amount allocated for any State under paragraph (1) of this subsection which the Commission determines, on the basis of information available to it, will not be used shall be available for reallocation by the Commission from time to time, on such date or dates as it may fix, among other States with respect to which such a determination has not been made, in accordance with the formula set forth in paragraph (1) of this subsection, but with such amount for any of such other States being reduced to the extent it exceeds the sum the Commission estimates said State needs and will be able to use; and the total of such reductions shall be similarly reallocated among the States whose proportionate amounts were not so reduced.

(5) For the purposes of this subsection, "State" means the several States of the United States and the District of Columbia.

On page 53, line 23, after "Sec. 509.", strike out:

(a) To carry out the programs authorized by this Act, there are authorized to be appropriated at any time after its enactment not to exceed $20,000,000 for fiscal year 1970; $30,000,000 for fiscal year 1971; and $40,000,000 for fiscal year 1972.

(b) Any amounts appropriated under this section shall remain available until expended, and any amounts authorized for any fiscal year under this section but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1972.

And insert:

There are authorized to be appropriated, without fiscal year limitation, such sums as may be necessary to carry out the programs authorized by this Act.';

On page 54, line 12, after "Sec. 510(a)", strike out:

There is established a revolving fund, to be available without fiscal year limitation, for financing training and such other functions as are authorized or required to be performed by the Commission on a reimbursable basis by this Act and such other services as the Commission, with the approval of the Bureau of the Budget, determines may be performed more advantageously through such a fund.

(b) The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized), and such unexpended balances of appropriations or funds relating to the activities transferred to the fund and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Commission may transfer to the fund, less the related liabilities, unpaid obligations, and accrued annual leave of employees who are transferred to the activities financed by the fund at its inception.

(c) The fund shall be credited with—

(1) reimbursements or advance payments from available funds of the Commission, other Federal agencies, State or local governments, or other sources for supplies and services at rates which will approximate the expense of operations, including the accrual of annual leave, the depreciation of equipment, and the net losses on property transferred or donated; and

(2) receipts from sales or exchanges of property and payments for losses or damage to property accounted for under the fund.

(d) Any unobligated and unexpended balance in the fund that the Commission determines to be in excess of amounts needed for its operations shall be deposited in the Treasury as miscellaneous receipts.

And insert:

Section 1304(e) of title 5, United States Code, is amended to read as follows:

"(e) (1) A revolving fund is available to the Commission without fiscal year limitation for financing—

"(A) investigations, training, and such other functions and services as the Commission is authorized or required to perform on a reimbursable basis; and

"(B) such other functions and services as the Commission, with the approval of the Bureau of the Budget, determines may be financed more advantageously through the funds, and to the maximum extent feasible, each individual activity shall be conducted generally on an actual cost basis over a reasonable period of time.

"(2) The capital of the fund consists of the aggregate of—

"(A) appropriations made to provide capital for the fund, which appropriations are hereby authorized; and

"(B) the sum of the fair and reasonable value of such supplies, equipment, and other assets as the Commission from time to time transfers to the fund (including the amount of unexpended balances of appropriations or funds relating to activities the financing of which is transferred to the fund) less the amount of related liabilities, the amount of unpaid obligations, and the value of accrued annual leave of employees, which are attributable to the activities the financing of which is transferred to the fund.

"(3) The fund shall be credited with—

"(A) reimbursements and advance payments from available funds of the Commission, other agencies, or State or local governments, or from other sources, for those services and supplies provided at rates estimated by the Commission as adequate to recover expenses of operation, including provision for accrued annual leave of employees, the depreciation of equipment, and the net losses on property transferred or donated to the fund; and

"(B) receipts from sales or exchanges of property, and payments for loss or damage to property, accounted for under the fund.

"(4) Any unobligated and unexpended balances in the fund that the Commission determines to be in excess of the amounts needed for activities financed by the fund shall be deposited in the Treasury of the United States as miscellaneous receipts."

(b) Section 1304(f) of title 5, United States Code, is amended by striking out "investigations made" and inserting "investigations, training, and functions performed" in place thereof.

(c) The fund referred to in the amendment made by subsection (a) of this section shall be held and considered to be the same fund as that referred to in section 1304(e) of title 5, United States Code, as in existence immediately prior to such amendment, and the capital thereof immediately following such amendment shall be the same as that immediately prior to such amendment.

And on page 58, after line 20, insert a new section, as follows:

CONFLICTS OF INTEREST—EXEMPTION

SEC. 514. Section 207(b), title 18, United States Code, is amended by adding the following before the period at the end thereof: ": And provided further, That nothing in subsection (a) or (b) shall prevent a former officer or employee, including a special Government employee, from acting or appearing personally as agent or attorney for a unit of State or local government, or two or more such units, if (i) the former officer or employee is a full-time officer or employee of such unit or units; and (ii) the head of the department or agency concerned with the matter shall certify that in his opinion the interest of the Government will not be prejudiced by such action or appearance by the former officer or employee".

So as to make the bill read:

S. 11

*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 "Intergovernmental Personnel Act of 1969".

DECLARATION OF POLICY

SEC. 2. The Congress hereby finds and declares—

That effective State and local governmental institutions are essential in the maintenance and development of the federal system in an increasingly complex and interdependent society.

That, since numerous governmental activities administered by the State and local governments are related to national purpose and

are financed in part by Federal funds, a national interest exists in a high caliber of public service in State and local governments.

That the quality of public service at all levels of government can be improved by the development of systems of personnel administration consistent with such merit principles as—

(1) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(2) providing equitable and adequate compensation;

(3) training employees, as needed, to assure high-quality performance;

(4) retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected;

(5) assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, or religious creed and with proper regard for their privacy and constitutional rights as citizens; and

(6) assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

That Federal financial and technical assistance to State and local governments for strengthening their personnel administration in a manner consistent with these principles is in the national interest.

SEC. 3. The authorities provided by this Act shall be administered in such manner as (1) to recognize fully the rights, powers, and responsibilities of State and local governments, and (2) to encourage innovation and allow for diversity on the part of State and local governments in the design, execution, and management of their own systems of personnel administration.

## TITLE I—DEVELOPMENT OF POLICIES AND STANDARDS

### DECLARATION OF PURPOSE

SEC. 101. The purpose of this title is to provide for intergovernmental cooperation in the development of policies and standards for the administration of programs authorized by this Act.

### ADVISORY COUNCIL

SEC. 102. (a) Within one hundred and eighty days following the date of enactment of this Act, the President shall appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, an advisory council on intergovernmental personnel policy. The President may terminate the council at any time after the expiration of three years following its establishment.

(b) The advisory council of not to exceed fifteen members, shall be composed primarily of officials of the Federal Government and State and local governments, but shall also include members selected from educational and training institutions or organizations, public employee organizations, and the general public. At least half of the governmental members shall be officials of State and local governments. The President shall designate a Chairman and a Vice Chairman from among the members of the advisory council.

(c) It shall be the duty of the advisory council to study and make recommendations regarding personnel policies and programs for the purpose of—

(1) improving the quality of public administration at State and local levels of government, particularly in connection with programs that are financed in whole or in part from Federal funds;

(2) strengthening the capacity of State and local governments to deal with complex problems confronting them;

(3) aiding State and local governments in training their professional, administrative, and technical employees and officials;

(4) aiding State and local governments in developing systems of personnel administration that are responsive to the goals and needs of their programs and effective in attracting and retaining capable employees; and

(5) facilitating temporary assignments of personnel between the Federal Government and State and local governments and institutions of higher education.

(d) Members of the advisory council who are not regular full-time employees of the United States, while serving on the business of the council, including travel time, may receive compensation at rates not exceeding the daily rate for GS–18; and while so serving away from their homes or regular places of business, all members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

### REPORTS OF ADVISORY COUNCIL

SEC. 103. (a) The advisory council on intergovernmental personnel policy shall from time to time report to the President and to the Congress its findings and recommendations.

(b) Not later than eighteen months after its establishment, the advisory council shall submit an initial report on its activities, which shall include its views and recommendations on—

(1) the feasibility and desirability of extending merit policies and standards to additional Federal-State grant-in-aid programs;

(2) the feasibility and desirability of extending merit policies and standards to grant-in-aid programs of a Federal-local character;

(3) appropriate standards for merit personnel administration, where applicable, including those established by regulations with respect to existing Federal grant-in-aid programs; and

(4) the feasibility and desirability of financial and other incentives to encourage State and local governments in the development of comprehensive systems of personnel administration based on merit principles.

(c) In transmitting to the Congress reports of the advisory council, the President shall submit to the Congress proposals of legislation which he deems desirable to carry out the recommendations of the advisory council.

## TITLE II—STRENGTHENING STATE AND LOCAL PERSONNEL ADMINISTRATION

### DECLARATION OF PURPOSE

SEC. 201. The purpose of this title is to assist State and local governments to strengthen their staffs by improving their personnel administration.

### STATE GOVERNMENT AND STATEWIDE PROGRAMS AND GRANTS

SEC. 202. (a) The United States Civil Service Commission (hereinafter referred to as the "Commission") is authorized to make grants to a State for up to 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this Act, for up to 50 per centum) of the costs of developing and carrying out programs or projects, on the certification of the Governor of that State that the programs or projects are consistent with the applicable principles set forth in clauses (1)–(6) of the third paragraph of section 2 of this Act, to strengthen State and local government personnel administration and to furnish needed personnel administration services to local governments in that State. The authority provided by this section shall be employed in such a manner as to encourage innovation and allow for diversity on the part of State and local governments in the design, execution, and management of their own systems of personnel administration.

(b) An application for a grant shall be made at such time or times, and contain such information, as the Commission may prescribe. The Commission may make a grant under subsection (a) of this section only if the application thereof—

(1) provides for designation, by the Governor or chief executive authority, of the State office that will have primary authority and responsibility for the development and administration of the approved program or project at the State level;

(2) provides for the establishment of merit personnel administration where appropriate and the further improvement of existing systems based on merit principles;

(3) provides for specific personnel administration improvement needs of the State government and, to the extent appropriate, of the local governments in that State, including State personnel administration services for local governments;

(4) provides assurance that the making of a Federal Government grant will not result in a reduction in relevant State or local government expenditures or the substitution of Federal funds for State or local funds previously made available for these purposes; and

(5) sets forth clear and practicable actions for the improvement of particular aspects of personnel administration such as—

(A) establishment of statewide personnel systems of general or special functional coverage to meet the needs of urban, suburban, or rural governmental jurisdictions that are not able to provide sound career services, opportunities for advancement, adequate retirement and leave systems, and other career inducements to well-qualified professional, administrative, and technical personnel;

(B) making State grants to local governments to strengthen their staffs by improving their personnel administration;

(C) assessment of State and local government needs for professional, administrative, and technical manpower, and the initiation of timely and appropriate action to meet such needs;

(D) strengthening one or more major areas of personnel administration, such as recruitment and selection, training and development, and pay administration;

(E) undertaking research and demonstration projects to develop and apply better personnel administration techniques, including both projects conducted by State and local government staffs and projects conducted by colleges or universities or other appropriate nonprofit organizations under grants or contracts;

(F) strengthening the recruitment, selection, assignment, and development of handicapped persons, women, and members of disadvantaged groups whose capacities are not being utilized fully;

(G) achieving the most effective use of scarce professional, administrative, and technical manpower; and

(H) increasing intergovernmental cooperation in personnel administration, with respect to such matters as recruiting, examining, pay studies, training, education, personnel interchange, manpower utilization, and fringe benefits.

### LOCAL GOVERNMENT PROGRAMS AND GRANTS

SEC. 203. (a) The Commission is authorized to make grants to a general local government, or a combination of general local governments, that serve a population of fifty thousand or more, for up to 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of

this Act, for up to 50 per centum) of the costs of developing and carrying out programs or projects, on the certification of the Governor of that State that the programs or projects are consistent with the applicable principles set forth in clauses (1)–(6) of the third paragraph of section 2 of this Act, to strengthen the personnel administration of such governments. Such a grant may be made only if, at the time of submission of an application, the State concerned does not then currently have an approved application for a grant adequately providing, in the judgment of the Commission, for assistance in strengthening the personnel administration of that local government or combination of local governments. However, such a grant, except as provided in subsection (b)(1) of this section, may not be made until the expiration of one year from the effective date of the grant provisions of this Act.

(b) An application for a grant from a general local government or a combination of general local governments shall be made at such time or times and shall contain such information as the Commission may prescribe. The Commission may make a grant under subsection (a) of this section only if the application therefor meets requirements similar to those established in section 202(b) of this Act for a State application for a grant, unless any such requirement is specifically waived by the Commission, and the requirements of subsection (c) of this section. Such a grant may cover the costs of developing the program or project covered by the application. The Commission may—

(1) waive, as the request of a general local government or combination of such governments, the one-year waiting period, unless the State concerned declares, within ninety days from the effective date of the grant provisions of this Act, an intent to file an application for a grant that will provide adequately for assistance to the local government or governments; and

(2) make grants to general local governments, or combinations of such governments, that serve a population of less than fifty thousand, if it finds that such grants will help meet essential needs in programs or projects of national interest and will assist general local governments experiencing special problems in personnel administration related to such programs or projects.

(c) An application to be submitted to the Commission under subsection (b) of this section shall first be submitted by the general local government or combination of such governments to the Governor for review and certification that the programs or projects are consistent with the applicable principles set forth in clauses (1)–(6) of the third paragraph of section 2 of this Act. The Governor may refer the application to the State Office designated under section 202(b)(1) of this Act for review. Comments and recommendations (if any) made as a result of the review, a statement by the general local government or combination of such governments that it has considered the comments and recommendations, and the certification of the Governor shall accompany the application to the Commission. The application need not be accompanied by the certification of the Governor if the general local government or combination of such governments certifies to the Commission that the application has been before the Governor for review and certification for a period of sixty days without certification by the Governor. However, if during such sixty-day period the Governor (1) has found that the programs or projects are not consistent with the applicable principles set forth in clauses (1)–(6) of the third paragraph of section 2 of this Act and (2) has set forth in writing the reasons, specifically and in detail, therefor, the application may not be submitted to, or be considered by, the Commission.

INTERGOVERNMENTAL COOPERATION IN RECRUITING AND EXAMINING

SEC. 204. (a) The Commission may join, on a shared-costs basis, with State and local governments in cooperative recruiting and examining activities under such procedures and regulations as may jointly be agreed upon.

(b) The Commission also may, on the written request of a State or local government and under such procedures as may be jointly agreed upon, certify to such governments from appropriate Federal registers the names of potential employees. The State or local government making the request shall pay the Commission for the costs, as determined by the Commission, of performing the service, and such payments shall be credited to the appropriation or fund from which the expenses were or are to be paid.

TECHNICAL ASSISTANCE

SEC. 205. The Commission may furnish technical advice and assistance, on request, to State and general local governments seeking to improve their systems of personnel administration. The Commission may waive, in whole or in part, payments from such governments for the costs of furnishing such assistance. All such payments shall be credited to the appropriation or fund from which the expenses were or are to be paid.

COORDINATION OF FEDERAL PROGRAMS

SEC. 206. The Commission, after consultation with other agencies concerned, shall—

(1) coordinate the personnel administration support and technical assistance given to State and local governments and the support given State programs or projects to strengthen local government personnel administration, including the furnishing of needed personnel administration services and technical assistance, under authority of this Act with any such support given under other Federal programs; and

(2) make such arrangements, including the collection, maintenance, and dissemination of data on grants for strengthening State and local government personnel administration and on grants to States for furnishing needed personnel administration services and technical assistance to local governments, as needed to avoid duplication and insure consistent administration of related Federal activities.

INTERSTATE COMPACTS

SEC. 207. The consent of the Congress is hereby given to any two or more States to enter into compacts or other agreements, not in conflict with any law of the United States, for cooperative efforts and mutual assistance (including the establishment of appropriate agencies) in connection with the development and administration of personnel and training programs for employees and officials of State and local governments.

TRANSFER OF FUNCTIONS

SEC. 208. (a) There are hereby transferred to the Commission all functions, powers, and duties of—

(1) the Secretary of Agriculture under section 10(e)(2) of the Food Stamp Act of 1964 (7 U.S.C. 2019(e)(2));

(2) the Secretary of Labor under—

(A) the Act of June 6, 1933, as amended (29 U.S.C. 49 et seq.); and

(B) section 303(a)(1) of the Social Security Act (42 U.S.C. 503(a)(1));

(3) the Secretary of Health, Education, and Welfare under—

(A) sections 134(a)(6) and 204(a)(6) of the Mental Retardation Facilities and Community Health Centers Construction Act of 1963 (42 U.S.C. 2674(a)(6) and 2684(a)(6));

(B) section 303(a)(5) of the Older Americans Act of 1965 (42 U.S.C. 3023(a)(5));

(C) sections 314(a)(2)(F) and (d)(2)(F) and 604(a)(8) of the Public Health Service Act (42 U.S.C. 246(a)(2)(F) and (d)(2)(F) and 291d(a)(8)); and

(D) sections 2(a)(5)(A), 402(a)(5)(A), 505(a)(3)(A), 1002(a)(5)(A), 1402(a)(5)(A), 1602(a)(5)(A), and 1902(a)(4)(A) of the Social Security Act (42 U.S.C. 302(a)(5)(A), 602(a)(5)(A), 705(a)(3)(A), 1202(a)(5)(A), 1352(a)(5)(A), 1382(a)(5)(A), and 1396a(a)(4)(A)); and

(4) any other department, agency, office, or officer (other than the President) under any other provision of law or regulation applicable to a program of grant-in-aid that specifically requires the establishment and maintenance of personnel standards on a merit basis with respect to the program;

insofar as the functions, powers, and duties relate to the prescription of personnel standards on a merit basis.

(b) The Commission shall—

(1) provide consultation and technical advice and assistance to State and local governments to aid them in complying with standards prescribed by the Commission under subsection (a) of this section; and

(2) advise Federal agencies administering programs of grants or financial assistance as to the application of required personnel administration standards, and recommend and coordinate the taking of such actions by the Federal agencies as the Commission considers will most effectively carry out the purpose of this title.

(c) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds of any Federal agency employed, used, held, available, or to be made available in connection with the functions, powers, and duties vested in the Commission by this section as the Director of the Bureau of the Budget shall determine shall be transferred to the Commission at such time or times as the Director shall direct.

(d) Personnel standards prescribed by Federal agencies under laws and regulations referred to in subsection (a) of this section shall continue in effect until modified or superseded by standards prescribed by the Commission under subsection (a) of this section.

(e) Any standards or regulations established pursuant to the provisions of this section shall be such as to encourage innovation and allow for diversity on the part of State and local governments in the design, execution, and management of their own individual systems of personnel administration.

(f) Nothing in this section or in section 202 or 203 of this Act shall be construed to—

(1) authorize any agency or official of the Federal Government to exercise any authority, direction, or control over the selection, assignment, advancement, retention, compensation, or other personnel action with respect to any individual State or local employee;

(2) authorize the application of personnel standards on a merit basis to the teaching personnel of educational institutions or school systems;

(3) prevent participation by employees or employee organizations in the formulation of policies and procedures affecting the conditions of their employment, subject to the laws and ordinances of the State or local government concerned;

(4) require or request any State or local government employee to disclose his race, religion, or national origin, or the race, religion, or national origin, of any of his forebears;

(5) require or request any State or local government employee, or any person applying for employment as a State or local government employee, to submit to any interrogation or examination or to take any psychological test or any polygraph test which is

designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters; or

(6) require or request any State or local government employee to participate in any way in any activities or undertakings unless such activities or undertakings are related to the performance of official duties to which he is or may be assigned or to the development of skills, knowledge, or abilities which qualify him for the performance of such duties.

(g) This section shall become effective sixty days after the date of enactment of this Act.

## TITLE III—TRAINING AND DEVELOPING STATE AND LOCAL EMPLOYEES

### DECLARATION OF PURPOSE

SEC. 301. The purpose of this title is to strengthen the training and development of State and local government employees and officials, particularly in professional, administrative, and technical fields.

### ADMISSION TO FEDERAL EMPLOYEE TRAINING PROGRAMS

SEC. 302. (a) In accordance with such conditions as may be prescribed by the head of the Federal agency concerned, a Federal agency may admit State and local government employees and officials to agency training programs established for Federal professional, administrative, or technical personnel.

(b) Federal agencies may waive, in whole or in part, payments from, or on behalf of, State and local governments for the costs of training provided under this section. Payments received by the Federal agency concerned for training under this section shall be credited to the appropriation or fund used for paying the training costs.

(c) The Commission may use appropriations authorized by this Act to pay the initial additional developmental or overhead costs that are incurred by reason of admittance of State and local government employees to Federal training courses and to reimburse other Federal agencies for such costs.

### TRAINING OF PERSONNEL ENGAGED IN GRANT-IN-AID PROGRAMS

SEC. 303. (a) Any Federal agency administering a program of grants or financial assistance to State or local governments may—

(1) establish, provide, and conduct training programs for employees and officials of State and local governments who have responsibilities related to the federally aided program, and receive or waive, in whole or in part, payments for such training and credit any such payments to the appropriation or fund used for paying the training costs; and

(2) authorize State and local governments—

(A) from Federal funds available for State or local program administration expenses under grants or financial assistance; or

(B) from other Federal grant or financial assistance funds when so provided in appropriation or other Acts;

to establish, conduct, provide, and support training and education programs for their employees and officials who have responsibilities related to the federally aided program, including internship, work-study, fellowship, and similar programs if approved by the Federal agency concerned, provided that full-time, graduate-level education supported under this subsection shall be consistent with provisions made for Government Service Fellowships under section 306 of this Act.

(b) The State or local government concerned shall—

(1) in accordance with eligibility criteria prescribed by the Federal agency concerned, select the individual employees and officials to receive education and training in programs established under this section; and

(2) during the period of the education or training, continue the full salary of the employee or official concerned and normal employment benefits such as credit for seniority, leave accrual, retirement, and insurance.

### GRANTS TO STATE AND LOCAL GOVERNMENTS FOR TRAINING

SEC. 304. (a) If in its judgment training is not adequately provided for under grant-in-aid or other statutes, the Commission is authorized to make grants to State and general local governments for up to 75 per centum (or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this Act, for up to 50 per centum) of the costs of developing and carrying out programs, on the certification of the Governor of that State that the programs are consistent with the applicable principles set forth in clauses (1)–(6) of the third paragraph of section 2 of this Act, to train and educate their professional, administrative, and technical employees and officials. Such grants may not be used to cover costs of full-time graduate-level study, provided for in section 306 of this Act, or the costs of the construction or acquisition of training facilities. The State and local government share of the cost of developing and carrying out training and education plans and programs may include, but shall not consist solely of, the reasonable value of facilities and of supervisory and other personal services made available by such governments. The authority provided by this section shall be employed in such a manner as to encourage innovation and allow for diversity on the part of State and local governments in developing and carrying out training and education programs for their personnel.

(b) An application for a grant from a State of general local government shall be made at such time or times, and shall contain such information, as the Commission may prescribe. The Commission may make a grant under subsection (a) of this section, only if the application therefor meets requirements established by this subsection unless any requirement is specifically waived by the Commission. Such grant to a State, or to a general local government under subsection (c) of this section, may cover the costs of developing the program covered by the application. The program covered by the application shall—

(1) provide for designation, by the Governor or chief executive authority, of the State office that will have primary authority and responsibility for the development and administration of the program at the State level;

(2) provide, to the extent feasible, for coordination with relevant training available under or supported by other Federal Government programs or grants;

(3) provide for training needs of the State government and of local governments in that State;

(4) provide, to the extent feasible, for intergovernmental cooperation in employee training matters, especially within metropolitan or regional areas; and

(5) provide assurance that the making of a Federal Government grant will not result in a reduction in relevant State or local government expenditures or the substitution of Federal funds for State or local funds previously made available for these purposes.

(c) A grant authorized by subsection (a) of this section may be made to a general local government, or a combination of such governments, that serves a population of fifty thousand or more only if, at the time of the submission of an application, the State concerned does not then currently have an approved application for a grant adequately providing, in judgment of the Commission, for training of employees of that local government or combination of local governments. However, such a grant, except as further provided in this subsection, may not be made until the expiration of one year from the effective date of the grant provisions of this Act. To be approved, an application for a grant under this subsection must meet requirements similar to those established in subsection (b) of this section for State applications, unless any such requirement is specifically waived by the Commission, and the requirements of subsection (d) of this section. The Commission may—

(1) waive, at the request of a general local government or a combination of such governments, the one-year waiting period provided under subsection (c) of this section unless the State concerned declares, within ninety days from the effective date of the grant provisions of this Act, an intent to file an application for a grant that will provide adequately for the training of employees of the general local government or governments; and

(2) make grants to general local governments, or combinations of such governments that serve a population of less than fifty thousand if it finds that such grants will help meet essential needs in programs or projects of national interest and will assist general local governments experiencing special needs for personnel training and education related to such programs or projects.

(d) An application to be submitted to the Commission under subsection (c) of this section shall first be submitted by the general local government or combination of such governments to the Governor for review and certification that the programs or projects are consistent with the applicable principles set forth in clauses (1)–(6) of the third paragraph of section 2 of this Act. The Governor may refer the application to the State office designated under section 304(b)(1) of this Act for review. Comments and recommendations (if any) made as a result of the review, a statement by the general local government or combination of such governments that it has considered the comments and recommendations, and the certification of the Governor shall accompany the application to the Commission. The application need not be accompanied by the certification of the Governor if the general local government or combination of such governments certifies to the Commission that the application has been before the Governor for review and certification for a period of sixty days without certification by the Governor. However, if during such sixty-day period the Governor (1) has found that the programs or projects are not consistent with the applicable principles set forth in clauses (1)–(6) of the third paragraph of section 2 of this Act and (2) has set forth in writing the reasons, specifically and in detail, therefor, the application may not be submitted to, or be considered by, the Commission.

### GRANTS TO OTHER ORGANIZATIONS

SEC. 305. (a) The Commission is authorized to make grants to other organizations to pay up to 75 per centum of (or, with respect to fiscal years commencing after the expiration of three years following the effective date of the grant provisions of this Act, up to 50 per centum) of the costs of providing training to professional, administrative, or technical employees and officials of State or local goverments if the Commission—

(1) finds substantial State and local government interest in the proposed program; and

(2) approves the program as meeting such requirements as may be prescribed by the Commission in its regulations pursuant to this Act.

(b) For the purpose of this section "other organization" means—

(1) a national, regional, statewide, areawide, or metropolitan organization, representing member State or local governments;

(2) an association of State or local public officials; or

(3) a nonprofit organization one of whose principal functions is to offer professional advisory, research, development, educational or related services to governments.

GOVERNMENT SERVICE FELLOWSHIPS

SEC. 306. (a) The Commission is authorized to make grants to State and general local governments to support programs approved by the Commission for providing Government Service Fellowships for State and local government personnel. The grants may cover—

(1) the necessary costs of the fellowship recipient's books, travel, and transportation, and such related expenses as may be authorized by the Commission;

(2) reimbursement to the State or local government for not to exceed one-fourth of the salary of each fellow during the period of the fellowship; and

(3) payment to the educational institutions involved of such amounts as the Commission determines to be consistent with prevailing practices under comparable federally supported programs for each fellow, less any amount charged the fellow for tuition and nonrefundable fees and deposits.

(b) Fellowships awarded under this section may not exceed two years of full-time graduate-level study for professional, administrative, and technical employees. The regulations of the Commission shall include eligibility criteria for the selection of fellowship recipients by State and local governments.

(c) The State or local government concerned shall—

(1) select the individual recipients of the fellowships;

(2) during the period of the fellowship, continue the full salary of the recipient and normal employment benefits such as credit for seniority, leave accrual, retirement and insurance; and

(3) make appropriate plans for the utilization and continuation in public service of employees completing fellowships and outline such plans in the application for the grant.

COORDINATION OF FEDERAL PROGRAMS

SEC. 307. The Commission, after consultation with other agencies concerned, shall—

(1) prescribe regulations concerning administration of training for employees and officials of State and local governments provided for in this title, including requirements for coordination of and reasonable consistency in such training programs;

(2) coordinate the training support given to State and local governments under authority of this Act with training support given such governments under other Federal programs; and

(3) make such arrangements, including the collection and maintenance of data on training grants and programs, as may be necessary to avoid duplication of programs providing for training and to insure consistent administration of related Federal training activities.

## TITLE IV—MOBILITY OF FEDERAL, STATE, AND LOCAL EMPLOYEES

DECLARATION OF PURPOSE

SEC. 401. The purpose of this title is to provide for the temporary assignment of personnel between the Federal Government and State and local governments and institutions of higher education.

AMENDMENTS TO TITLE 5, UNITED STATES CODE

SEC. 402. (a) Chapter 33 of title 5, United States Code, is amended by inserting the following new subchapter at the end thereof:

"SUBCHAPTER VI—ASSIGNMENTS TO AND FROM STATES

"§ 3371. Definitions

"For the purpose of this subchapter—

"(1) 'State' means—

"(A) a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States; and

"(B) an instrumentality or authority of a State or States as defined in subparagraph (A) of this paragraph (1) and a Federal-State authority or instrumentality; and

"(2) 'local government' means—

"(A) any political subdivision, instrumentality, or authority of a State or States as defined in subparagraph (A) of paragraph (1); and

"(B) any general or special purpose agency of such a political subdivision, instrumentality, or authority.

"§ 3372. General provisions

"(a) On request from or with the concurrence of a State or local government, and with the consent of the employee concerned the head of an executive agency may arrange for the assignment of—

"(1) an employee of his agency to a State or local government; and

"(2) an employee of a State or local government to his agency;

for work of mutual concern to his agency and the State or local government that he determines will be beneficial to both. The period of an assignment under this subchapter may not exceed two years. However, the head of an executive agency may extend the period of assignment for not more than two additional years.

"(b) This subchapter is authority for and applies to the assignment of—

"(1) an employee of an executive agency to an institution of higher education; and

"(2) an employee of an institution of higher education to an executive agency.

"§ 3373. Assignment of employees to State and local governments

"(a) An employee of an executive agency assigned to a State or local government under this subchapter is deemed, during the assignment, to be either—

"(1) on detail to a regular work assignment in his agency; or

"(2) on leave without pay from his position in the agency.

An employee assigned either on detail or on leave without pay remains an employee of his agency. The Federal Tort Claims Act and any other Federal tort liability statute apply to an employee so assigned. The supervision of the duties of an employee on detail may be governed by agreement between the executive agency and the State or local government concerned.

"(b) The assignment of an employee of an executive agency either on detail or on leave without pay to a State or local government under this subchapter may be made with or without reimbursement by the State or local government for the travel and transportation expenses to or from the place of assignment and for the pay, or supplemental pay, or a part thereof, of the employee during assignment. Any reimbursements shall be credited to the appropriation of the executive agency used for paying the travel and transportation expenses or pay.

"(c) For an employee so assigned and on leave without pay—

"(1) if the rate of pay for his employment by the State or local government is less than the rate of pay he would have received had be continued in his regular assignment in the agency, he is entitled to receive supplemental pay from the agency in an amount equal to the difference between the State or local government rate and the agency rate;

"(2) he is entitled to annual and sick leave to the same extent as if he had continued in his regular assignment in the agency; and

"(3) he is entitled, notwithstanding other statutes—

"(A) to continuation of his insurance under chapter 87 of this title, and coverage under chapter 89 of this title or other applicable authority, so long as he pays currently into the Employee's Life Insurance Fund and the Employee's Health Benefits Fund or other applicable health benefits system (through his employing agency) the amount of the employee contributions;

"(B) to credit the period of his assignment under this subchapter toward periodic step-increases, retention, and leave accrual purposes, and, on payment into the Civil Service Retirement and Disability Fund or other applicable retirement system of the percentage of his State or local government pay, and of his supplemental pay, if any, that would have been deducted from a like agency pay for the period of the assignment and payment by the executive agency into the fund or system of the amount that would have been payable by the agency during the period of the assignment with respect to a like agency pay, to treat (notwithstanding section 8348(g) of this title) his service during that period as service of the type performed in the agency immediately before his assignment; and

"(C) for the purpose of subchapter I of chapter 85 of this title, to credit the service performed during the period of his assignment under this subchapter as Federal service, and to consider his State or local government pay (and his supplemental pay, if any as Federal wages. To the extent that the service could also be the basis for entitlement to unemployment compensation under a State law, the employee may elect to claim unemployment compensation on the basis of the service under either the State law or subchapter I of chapter 85 of this title.

However, an employee or his beneficiary may not receive benefits referred to in subparagraphs (A) and (B) of this paragraph (3), based on service during an assignment under this subchapter for which the employee or, if he dies without making such an election, his beneficiary elects to receive benefits, under any State or local government retirement or insurance law or program, which the Civil Service Commission determines to be similar. The executive agency shall deposit currently in the Employee's Life Insurance Fund, the Employee's Health Benefits Fund or other applicable health benefits system, respectively, the amount of the Government's contributions on account of service with respect to which employee contributions are collected as provided in subparagraphs (A) and (B) of this paragraph (3).

"(d) (1) An employee so assigned and on leave without pay who dies or suffers disability as a result of personal injury sustained while in the performance of his duty during an assignment under this subchapter shall be treated, for the purpose of subchapter I of chapter 81 of this title, as though he were an employee as defined by section 8101 of this title who had sustained the injury in the performance of duty. When an employee (or his dependents in case of death) entitled by reason of injury or death to benefits under subchapter I of chapter 81 of this title is also entitled to benefits from a State or local government for the same injury or death, he (or his dependents in case of death) shall elect which benefits he will receive. The election shall be made within one year after the injury or death, or such further time as the Secretary of Labor may allow for reasonable cause shown. When made, the election is irrevocable unless otherwise provided by law.

"(2) An employee who elects to receive benefits from a State or local government may not receive an annuity under subchapter III of chapter 83 of this title and benefits from the State or local government for injury or disability to himself covering the same period of time. This provision does not—

"(A) bar the right of a claimant to the greater benefit conferred by either the State or local government or subchapter III of chapter 83 of this title for any part of the same period of time;

"(B) deny to an employee an annuity accruing to him under subchapter III of chapter 83 of this title on account of service performed by him; or

"(C) deny any concurrent benefit to him from the State or local government on account of the death of another individual.

"§ 3374. Assignments of employees from State or local governments

"(a) An employee of a State or local government who is assigned to an executive agency under an arrangement under this subchapter may—

"(1) be appointed in the executive agency without regard to the provisions of this title governing appointment in the competitive service for the agreed period of the assignment; or

"(2) be deemed on detail to the executive agency.

"(b) An employee given an appointment is entitled to pay in accordance with chapter 51 and subchapter III of chapter 53 of this title or other applicable law, and is deemed an employee of the executive agency for all purposes except—

"(1) subchapter III of chapter 83 of this title or other applicable retirement system;

"(2) chapter 87 of this title; and

"(3) chapter 89 of this title or other applicable health benefits system unless his appointment results in the loss of coverage in a group health benefits plan the premium of which has been paid in whole or in part by a State or local government contribution.

"(c) During the period of assignment, a State or local government employee on detail to an executive agency—

"(1) is not entitled to pay from the agency;

"(2) is deemed an employee of the agency for the purpose of chapter 73 of this title, sections 203, 205, 207, 208, 209, 602, 603, 606, 607, 643, 654, 1905, and 1913 of title 18, section 638a of title 31, and the Federal Tort Claims Act and any other Federal tort liability statute; and

"(3) is subject to such regulations as the President may prescribe.

The supervision of the duties of such an employee may be governed by agreement between the executive agency and the State or local government concerned. A detail of a State or local government employee to an executive agency may be made with or without reimbursement by the executive agency for the pay, or a part thereof, of the employee during the period of assignment.

"(d) A State or local government employee who is given an appointment in an executive agency for the period of the assignment or who is on detail to an executive agency and who suffers disability or dies as a result of personal injury sustained while in the performance of his duty during the assignment shall be treated, for the purpose of subchapter I of chapter 81 of this title, as though he were an employee as defined by section 8101 of this title who had sustained the injury in the performance of duty. When an employee (or his dependents in case of death) entitled by reason of injury or death to benefits under subchapter I of chapter 81 of this title is also entitled to benefits from a State or local government for the same injury or death, he (or his dependents in case of death) shall elect which benefits he will receive. The election shall be made within 1 year after the injury or death, or such further time as the Secretary of Labor may allow for reasonable cause shown. When made, the election is irrevocable unless otherwise provided by law.

"(e) If a State or local government fails to continue the employer's contribution to State or local government retirement, life insurance, and health benefit plans for a State or local government employee who is given an appointment in an executive agency, the employer's contributions covering the State or local government employee's period of assignment, or any part thereof, may be made from the appropriations of the executive agency concerned.

"§ 3375. Travel expenses

"(a) Appropriations of an executive agency are available to pay, or reimburse, a Federal or State or local government employee in accordance with—

"(1) subchapter I of chapter 57 of this title, for the expenses of—

"(A) travel, including a per diem allowance, to and from the assignment location;

"(B) a per diem allowance at the assignment location during the period of the assignment; and

"(C) travel, including a per diem allowance, while traveling on official business away from his designated post of duty during the assignment when the head of the executive agency considers the travel in the interest of the United States;

"(2) section 5724 of this title, for the expenses of transportation of his immediate family and of his household goods and personal effects to and from the assignment location;

"(3) section 5724(a)(1) of this title, for the expenses of per diem allowances for the immediate family of the employee to and from the assignment location;

"(4) section 5724(a)(3) of this title, for subsistence expenses of the employee and his immediate family while occupying temporary quarters at the assignment location and on return to his former post of duty; and

"(5) section 5726(c) of this title, for the expenses of nontemporary storage of household goods and personal effects in connection with assignment at an isolated location.

"(b) Expenses specified in subsection (a) of this section, other than those in paragraph (1)(C), may not be allowed in connection with the assignment of a Federal or State or local government employee under this subchapter, unless and until the employee agrees in writing to complete the entire period of his assignment or one year, whichever is shorter, unless separated or reassigned for reasons beyond his control that are acceptable to the executive agency concerned. If the employee violates the agreement, the money spent by the United States for these expenses is recoverable from the employee as a debt due the United States. The head of the executive agency concerned may waive in whole or in part a right of recovery under this subsection with respect to a State or local government employee on assignment with the agency.

"(c) Appropriation of an executive agency are available to pay expenses under section 5742 of this title with respect to a Federal or State or local government employee assigned under this subchapter.

"§ 3376. Regulations

"The President may prescribe regulations for the administration of this subchapter."

(b) The analysis of chapter 33 of title 5, United States Code, is amended by inserting the following at the end thereof:

"SUBCHAPTER VI—ASSIGNMENTS TO AND FROM STATES

"Sec.
"3371. Definitions.
"3372. General provisions.
"3373. Assignments of employees to State or local governments.
"3374. Assignments of employees from State or local governments.
"3375. Travel expenses.
"3376. Regulations."

REPEAL OF SPECIAL AUTHORITIES

SEC. 403. The Act of August 2, 1956, as amended (7 U.S.C. 1881–1888), section 507 of the Act of April 11, 1965 (20 U.S.C. 867), and section 314(f) of the Public Health Service Act (42 U.S.C. 246(f)) (less applicability to commissioned officers of the Public Health Service) are hereby repealed.

SEC. 404. This title shall become effective sixty days after the date of enactment of this Act.

## TITLE V—GENERAL PROVISIONS

DECLARATION OF PURPOSE

SEC. 501. The purpose of this title is to provide for the general administration of titles I, II, III, and V of this Act (hereinafter referred to as "this Act"), and to provide for the establishment of certain advisory committees.

DEFINITIONS

SEC. 502. For the purpose of this Act—

(1) "Commission" means the United States Civil Service Commission;

(2) "Federal agency" means an executive department, military department, independent establishment, or agency in the executive branch of the Government of the United States, including Government owned or controlled corporations;

(3) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States, and includes interstate and Federal-interstate agencies but does not include the governments of the political subdivisions of a State; and

(4) "local government" means a city, town, county, or other subdivision or district of a State, including agencies, instrumentalities, and authorities of any of the foregoing and any combination of such units or combination of such units and a State. A "general local government" means a city, town, county, or comparable general-purpose political subdivision of a State.

GENERAL ADMINISTRATIVE PROVISIONS

SEC. 503. (a) Unless otherwise specifically provided, the Commission shall administer this Act.

(b) The Commission shall furnish such advice and assistance to State and local governments as may be necessary to carry out the purposes of this Act.

(c) In the performance of, and with respect to, the functions, powers, and duties vested in it by this Act, the Commission may—

(1) issue such standards and regulations as may be necessary to carry out the purposes of this Act;

(2) consent to the modification of any contract entered into pursuant to this Act, such consent being subject to any specific limitations of this Act;

(3) include in any contract made pursuant to this Act such covenants, conditions, or provisions as it deems necessary to assure that the purposes of this Act will be achieved; and

(4) utilize the services and facilities of any Federal agency, any State or local government, and any other public or nonprofit agency or institution, on a reimbursable basis or otherwise, in accordance with agreements between the Commission and the head thereof.

(d) In the performance of, and with respect to the functions, powers, and duties vested in it by this Act, the Commission—

(1) may collect information from time to time with respect to State and local government training programs and personnel administration improvement programs and projects under this Act, and make such information available to interested groups, organizations, or agencies, public or private;

(2) may conduct such research and make such evaluation as needed for the efficient administration of this Act; and

(3) shall include in its annual report a report of the administration of this Act.

(e) The provisions of this Act are not a limitation on existing authorities, unless other statutes but are in addition to any such authorities, unless otherwise specifically provided in this Act.

REPORTING REQUIREMENTS

SEC. 504. (a) A State or local government office designated to administer a program or project under this Act shall make reports and evaluations in such form, at such times, and containing such information concerning the status and application of Federal funds and the operation of the approved program or project as the Commission may require, and shall keep and make available such records as may be required by the Commission for the verification of such reports and evaluations.

(b) An organization which receives a training grant under section 305 of this Act shall make reports and evaluations in such form, at such times, and containing such information concerning the status and application of Federal grant funds and the operation of the training program as the Commission may require, and shall keep and make available such records as may be required by the Commission for the verification of such reports and evaluations.

REVIEW AND AUDIT

SEC. 505. The Commission, the head of the Federal agency concerned, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of a grant recipient that are pertinent to the grant received.

DISTRIBUTION OF GRANTS

SEC. 506. (a) The Commission shall allocate 20 per centum of the total amount available for grants under this Act in such manner as will most nearly provide an equitable distribution of the grants among States and between State and local governments, taking into consideration such factors as the size of the population, number of employees affected, the urgency of the programs or projects, the need for funds to carry out the purposes of this Act, and the potential of the governmental jurisdictions concerned to use the funds most effectively.

(b)(1) The Commission shall allocate 80 per centum of the total amount available for grants under this Act among the States on a weighted formula taking into consideration such factors as the size of population and the number of State and local government employees affected.

(2) The amount allocated for each State under paragraph (1) of this subsection shall be further allocated by the Commission to meet the needs of both the State government and the local governments within the State on a weighted formula taking into consideration such factors as the number of State and local government employees and the amount of State and local government expenditures. The Commission shall determine the categories of employees and expenditures to be included or excluded, as the case may be, in the number of employees and amount of expenditures. The minimum allocation for meeting needs of local governments in each State (other than the District of Columbia) shall be 50 per centum of the amount allocated for the State under paragraph (1) of this subsection.

(3) The amount of any allocation under paragraph (2) of this subsection which the Commission determines, on the basis of information available to it, will not be used to meet needs for which allocated shall be available for use to meet the needs of the State government or local governments in that State, as the case may be, on such date as the Commission may fix.

(4) The amount allocated for any State under paragraph (1) of this subsection which the Commission determines, on the basis of information available to it, will not be used shall be available for reallocation by the Commission from time to time, on such date or dates as it may fix, among other States with respect to which such a determination has not been made, in accordance with the formula set forth in paragraph (1) of this subsection, but with such amount for any of such other States being reduced to the extent it exceeds the sum the Commission estimates said State needs and will be able to use; and the total of such reductions shall be similarly reallocated among the States whose proportionate amounts were not so reduced.

(5) For the purposes of this subsection, "State" means the several States of the United States and the District of Columbia.

(c) Notwithstanding the other provisions of this section, the total of the payments from the appropriations for any fiscal year under this Act made with respect to programs or projects in any one State may not exceed an amount equal to 12½ per centum of such appropriation.

TERMINATION OF GRANTS

SEC. 507. Whenever the Commission, after giving reasonable notice and opportunity for hearing to the State or general local government concerned, finds—

(1) that a program or project has been so changed that it no longer complies with the provisions of this Act; or

(2) that in the operation of the program or project there is a failure to comply substantially with any such provision;

the Commission shall notify the State or general local government of its findings and no further payments may be made to such government by the Commission until it is satisfied that such noncompliance has been, or will promptly be, corrected. However, the Commission may authorize the continuance of payments to those projects approved under this Act which are not involved in the noncompliance.

ADVISORY COMMITTEES

SEC. 508. (a) The Commission may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, such advisory committee or committees as it may determine to be necessary to facilitate the administration of this Act.

(b) Members of advisory committees who are not regular full-time employees of the United States, while serving on the business of the committees including traveltime may receive compensation at rates not exceeding the daily rate for GS–18; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

APPROPRIATION AUTHORIZATION

SEC. 509. There are authorized to be appropriated, without fiscal year limitation, such sums as may be necessary to carry out the programs authorized by this Act.

REVOLVING FUND

SEC. 510. (a) Section 1304(e) of title 5, United States Code, is amended to read as follows:

"(e)(1) A revolving fund is available to the Commission without fiscal year limitation for financing—

"(A) investigations, training, and such other functions and services as the Commission is authorized or required to perform on a reimbursable basis; and

"(B) such other functions and services as the Commission, with the approval of the Bureau of the Budget, determines may be financed more advantageously through the fund, and to the maximum extent feasible, each individual activity shall be conducted generally on an actual cost basis over a reasonable period of time.

"(2) The capital of the fund consists of the aggregate of—

"(A) appropriations made to provide capital for the fund, which appropriations are hereby authorized; and

"(B) the sum of the fair and reasonable value of such supplies, equipment, and other assets as the Commission from time to time transfers to the fund (including the amount of unexpended balances of appropriations or funds relating to activities the financing of which is transferred to the fund) less the amount of related liabilities, the amount of unpaid obligations, and the value of accrued annual leave of employees, which are attributable to the activities the financing of which is transferred to the fund.

"(3) The fund shall be credited with—

"(A) reimbursements and advance payments from available funds of the Commission, other agencies, or State or local governments, or from other sources, for those services and supplies provided at rates estimated by the Commission as adequate to recover expenses of operation, including provision for accrued annual leave of employees, the depreciation of equipment, and the net losses on property transferred or donated to the fund; and

"(B) receipts from sales or exchanges of property, and payments for loss or damage to property, accounted for under the fund.

"(4) Any unobligated and unexpended balances in the fund that the Commission determines to be in excess of the amounts needed for activities financed by the fund shall be deposited in the Treasury of the United States as miscellaneous receipts."

(b) Section 1304(f) of title 5, United States Code, is amended by striking out "investigations made" and inserting "investigations, training, and functions performed" in place thereof.

(3) The fund referred to in the amendment made by subsection (a) of this section shall be held and considered to be the same fund as that referred to in section 1304(e) of title 5, United States Code, as in existence immediately prior to such amendment, and the capital thereof immediately following such amendment shall be the same as that immediately prior to such amendment.

LIMITATIONS ON AVAILABILITY OF FUNDS FOR COST SHARING

SEC. 511. Federal funds made available to State or local governments under other programs may not be used by the State or local government for cost-sharing purposes under grant provisions of this Act, except that Federal funds of a program financed wholly by Federal funds may be used to pay a pro rata share of such cost sharing. State or local government funds used for cost sharing on other federally assisted programs may not be used for cost sharing under grant provisions of this Act.

METHOD OF PAYMENT

SEC. 512. Payments under this Act may be made in installments, and in advance or by way of reimbursement, as the Commission may determine, with necessary adjustments on account of overpayments or underpayments.

EFFECTIVE DATE OF GRANT PROVISIONS

SEC. 513. Grant provisions of this Act shall become effective one hundred and eighty days following the date of enactment of this Act.

CONFLICT OF INTEREST—EXEMPTION

SEC. 514. Section 207(b), title 18, United States Code, is amended by adding the following before the period at the end thereof: ": And provided further, That nothing in subsection (a) or (b) shall prevent a former officer or employee, including a special Government employee, from acting or appearing personally as agent or attorney for a unit of State or local government, or two or more such units, if (i) the former officer or employee is a full-time officer or employee of

such unit or units; and (ii) the head of the department or agency concerned with the matter shall certify that in his opinion the interest of the Government will not be prejudiced by such action or appearance by the former officer or employee".

Mr. MUSKIE. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

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

The question is on agreeing to the committee amendments.

The committee amendments were agreed to en bloc.

Mr. MUSKIE. Mr. President, the Intergovernmental Personnel Act of 1969 is a measure designed to help strengthen State and local governments through improved personnel administration and more efficient recruitment and training of personnel, particularly in the administrative, technical and professional categories of need. S. 11 came to the floor of the Senate with the sponsorship of 29 Senators, the endorsement of many Governors, mayors, and other public officials throughout the country, and the strong support of citizen groups devoted to the public interest.

This is proposed legislation equal in its potential effect upon the quality of American public administration to that initiated through the Pendleton Civil Service Act of 1883. It is crucial to the successful execution of programs of Federal aid to State and local governments which Congress has authorized. It is urgently necessary in order that government below the Federal level be able to assume its full share of responsibility for the public services demanded in this period of rapid growth and social change.

Specifically, the bill seeks to achieve the following purposes:

First, to provide for intergovernmental cooperation, through an advisory council appointed by the President, in the development of policies and standards for the administration of programs for the improvement of State and local personnel administration and training.

Second, to authorize the Civil Service Commission to make grants to State and local governments in order to plan and make improvements in their systems of personnel administration.

Third, to transfer to the Civil Service Commission responsibility for administration of existing Federal statutory provisions requiring merit personnel administration for State and local employees engaged in certain federally assisted programs.

Fourth, to authorize Federal agencies to admit State and local government officials and employees, particularly in administrative, professional, and technical occupations, to Federal training programs.

Fifth, to authorize Federal agencies administering programs of grants-in-aid to State or local governments, to provide special training for State and local government officials or employees who have responsibilities related to those programs.

Sixth, to authorize the Civil Service Commission to make grants to State and local governments and other appropriate organizations for carrying out plans for training State and local government employees, as well as for the development of such plans, and for Government service fellowships for employees selected for special graduate-level university training.

Seventh, to authorize the Civil Service Commission to join with State and local governments in cooperative recruitment and examining activities.

Eighth, to give the consent of Congress to interstate compacts designed to improve personnel administration as well as the training of State and local employees.

Ninth, to authorize the temporary exchange of personnel between and among the levels of government.

Tenth, to direct the Civil Service Commission to coordinate these activities, in order to avoid overlap and duplication of effort and thus insure maximum effectiveness of administration.

Mr. President, it is appropriate to recount the conditions that have brought about the need for the enactment of this measure.

A burgeoning population and increasing urbanization in America poses tremendous problems for government at all levels. The areas of need are well known—slums and commercial blight, substandard housing, environmental pollution, crime, delinquency, unemployment, traffic congestion, to mention only some of the major problem areas. Our citizens demand more effective government. They require better education for their children. They demand more and better roads, recreation facilities, hospitals and programs for safeguarding the economic and social security of their being.

The major burden for providing these public services rests with our States and local governments. But, as these demands have mushroomed, their capacity to meet them has not. This is especially the case in terms of the numbers of qualified administrative, professional and technical personnel needed by State and local governments to plan, organize and administer the wide variety of programs authorized by past Congresses.

Between 1955 and 1965, State and local government employment increased from 4.7 million to 7.7 million persons. It is estimated that this total will increase to 11.4 million by 1975. Total recruiting needs for these employees, other than for teachers, are estimated at 2.5 million over the 10-year period, or an average of 250,000 per year. This, just to stay abreast of replacement and growth needs.

Nothing similar to this critical manpower situation has ever been faced by State and local governments before. There can be little question, that now and in the future, State and local governments face a serious problem of obtaining and retaining large numbers of high quality personnel. There can be no question that the general shortage of such trained and talented people throughout the country will compound this problem.

S. 11 is intended to help strengthen State and local governments in their efforts to recruit and train personnel to meet these needs. It is almost identical with the bill (S.699) which passed the Senate in the 90th Congress by a substantial majority. House action did not take place and the measure died with adjournment.

Hearings were held on March 24, 25, and 26, and the bill was approved by the subcommittee on May 6, 1969. Favorable action was subsequently taken by the Committee on Government Operations.

The proposed legislation has now been considered in three Congresses. We have delayed much too long in dealing with the critical shortage of properly qualified personnel for the public service. Since the great expansion of public programs that occurred during the depression thirties, government has been chronically deficient in manpower. I quote from the report of the Commission of Inquiry on Public Service Personnel issued in 1933:

> In spite of the vital importance of government and governmental services, American national, State, and local governments do not at the present time attract to their service their full share of men and women of capacity and character. This is due primarily to our delay in adjusting our attitudes, institutions and public personnel policies to fit social and economic changes of the past seventy years.

Mr. President, this should be revised to read "the past 100 years," for three and a half decades have passed and we have still not taken the obviously needed steps.

Such conditions are deplorable from any point of view, but they are intolerable when we consider that the vast programs of Federal aid, costing in excess of $20 billion annually, are largely dependent upon State and local governments for their execution. The burden grows constantly. S. 11 is intended to help strengthen State and local governments in their quest for improved administration of these many programs and providing for meeting their responsibilities within the federal system.

Mr. MUNDT. Mr. President, S. 11 reported by the Government Operations Committee was considered by the Intergovernmental Relations Subcommittee in this Congress and in the 90th Congress.

There has never been any divergence of view that the purposes of this bill for improving personnel administration in State and local governments were needed to meet the growing demands placed on State and local governments for governmental services. This bill authorizes the Civil Service Commission to make grants to these governments for carrying out training programs of its employees, for inclusion of State and local employees in existing Federal training programs, and to provide fellowships for university and college graduate training.

In the last Congress when this legislation came to the floor of the Senate as S. 699, I led opposition on the floor to the manner in which funds authorized for a grant program for up to 75 percent of the cost of developing and carrying out programs and projects which the Civil Service Commission found were consistent with merit principles outlined in the bill.

In our hearings this year, Robert Hampton, Chairman of the Civil Service Commission, made suggestions for

amending the bill to insure an important State voice in the developing and approval process by including a certification by the Governor that the State or local government's plan meets the merit principles of the bill. Chairman Hampton's proposals were agreed to by both the chairman and me and by other members of the committee.

For these reasons, I hope that the Senate will approve passage of S. 11 as an important step toward improvement of intergovernmental relations between the National, State, and local governments in providing services demanded by our citizens.

Mr. RIBICOFF. Mr. President, increasing demands for effective services are being made upon State and local governments across the country. The inability of local government to respond to these demands is becoming critical and should be of great concern to the Congress.

The Federal Government has helped expand State and local government programs without doing anything comparable to develop their professional, administrative, and technical capabilities.

If we are to appropriate billions of dollars each year to solve the problems confronting the Nation, it is surely sensible to spend a relatively small sum to insure that these programs will be properly administered.

The Government Operations Committee has now reported out S. 11, the Intergovernmental Personnel Act of 1969. This act is a meaningful first step toward developing effective State and local governments. As a member of the Subcommittee on Intergovernmental Relations, I am pleased to cosponsor this legislation.

When enacted, this bill will provide Federal grants to State and local governments to improve personnel administration and employee training. In addition, Federal assistance in training State and local employees will be available and the exchange of Federal, State, and local personnel will be encouraged and facilitated.

S. 11 is a comprehensive, carefully constructed approach to the problems of governmental efficiency. The bill has been reviewed and discussed extensively in the past by committees in both the House and Senate and the Senate last year passed, by a substantial margin, a basically similar measure. The House, however, did not act upon the bill.

S. 11 as now reported incorporates several changes made following testimony on earlier bills considered by the Congress. Several problems disclosed earlier have been remedied by the bill which has been called the first comprehensive plan for intergovernmental cooperation since the Pendleton Civil Service Act of 1887.

It is my hope that, before the end of this session, S. 11 will pass the Senate and the House and be enacted into law. We have had enough delay in this important area.

There can be no doubt about the need for passage of S. 11.

Citizens are demanding action from their local governments. They seek better education, better police and fire protection, better roads and public transportation, clean and abundant water, unpolluted air, more and better recreation facilities, and more and better health services and hospitals.

The major burden of providing these and other such services rests on State and local governments. The demands made have far outrun the fiscal, administrative, and personnel capabilities of State and local governments.

The growth rates of State and local governments have been phenomenal. The number of Federal civilian employees rose from 2.4 million in 1946 to 3 million in October 1967—a 25-percent hike. On the other hand, State and local employee figures jumped in number from 3.6 million in 1946 to 9 million in 1967—an incredible 150 percent leap. Total recruiting needs for administrative, professional, and technical personnel at the local level are now estimated at 250,000 a year, and rapidly growing.

Linked with these developments has been an increase in intergovernmental assistance programs. Federal aid to States and localities amounted to $1.8 billion in 1948, and is expected to reach $25 billion for fiscal year 1970, a 1,290-percent increase.

Expanded Federal assistance has aggravated personnel problems at the local government level. Federal programs have moved local government into new and complex areas and programs which have seriously challenged the knowledge and competence of present employees.

James Sundquist and David Davis of the Brookings Institution have described the situation well in "Making Federalism Work":

> The irreversible nature of the changes wrought in the Federal system in the past decade gives special urgency to the administrative problems of federalism. While the Federal government will set objectives and allocate marginal resources available for new government programs to achieve the objective, it cannot administer the programs directly in most cases—and should not, even if it could. . . . Administration, perforce, is thrust upon the state and local governments through grant-in-aid programs of various types.

Existing local resources simply do not permit long-range plans for training programs and other personnel services. Recruiting programs are generally feeble, underfinanced, and unsuccessful. Perhaps no greater problem faces local government today than that of attracting and retaining an adequate number of competent employees.

According to a survey conducted by the Public Personnel Association, little more than half of the 346 local government personnel agencies covered gave any attention at all to employee training. The amounts budgeted for this activity were small, commonly ranging from 2 to 10 percent of the total personnel agency budget.

A survey of the International City Managers Association revealed that only 30 percent of the local governments and 40 percent of the States responding conducted regular training programs for their key staff, and many of the programs that were conducted proved inadequate.

What we now have is an ineffective and piecemeal approach for Federal training and technical assistance efforts. Most programs now relate to the needs of specific grants and to the specific State and local personnel administering them. Neglected has been the overall workings of central personnel management and training, which give local government its day-to-day thrust and capacity.

There is now talk of even greater decentralization of Federal programs. State and local governments should have more responsibility for making their own decisions about program priorities and then administering these same programs. Implementing such proposals will be disastrous, however, if we are not concerned at the same time with the qualifications, abilities, and training of the local government employees who are to run these new programs.

S. 11 provides the mechanism to solve these problems.

The ACTING PRESIDENT pro tempore. 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 was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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## ORDER OF BUSINESS

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

The PRESIDING OFFICER (Mr. CRANSTON in the chair). Without objection, it is so ordered.

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.

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## RETIREMENT OF JUSTICES AND JUDGES OF THE UNITED STATES

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 445, S. 1508. I do this so that the bill will become the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 1508) to improve judicial machinery by amending provisions of law relating to the retirement of justices and judges of the United States.

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 from the Committee on the Judiciary with an amendment after line 6, to insert:

(b) The first paragraph of section 373 of title 28, United States Code, is amended by inserting immediately after the last comma therein the following: "or at any age after serving at least twenty years continuously or otherwise."

So as to make the bill read:

S. 1508

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 371(b) of title 28, United States Code, is amended by inserting immediately before the period at the end of the first sentence the following: ", or at any age after serving at least twenty years continuously or otherwise."

(b) The first paragraph of section 373 of title 28, United States Code, is amended by inserting immediately after the last comma therein the following: "or at any age after serving at least twenty years continuously or otherwise."

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

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

## PURPLE PRIDE—PURPLE POWER

Mr. DOLE. Mr. President, every day Members of this body rise to make pronouncements concerning our great country. For the most part, we are engaged in serious debate which directly or indirectly affects nearly every American, as well as millions of people throughout the world.

Now and then, something out of the ordinary happens which may not have a great impact on world affairs, but which should be called to the attention of the Members of this body.

I witnessed such an extraordinary happening on Saturday when the Kansas State University Wildcats overwhelmed the great Oklahoma Sooners in Manhattan, Kans., by a score of 59 to 21, the worst loss ever inflicted on an Oklahoma University team. This was a highly significant event and, frankly, one which defies adequate description because Kansas State had not tasted victory over Oklahoma in 35 years.

For years, the Kansas State football team was the "doormat" of the Big Eight Conference, but during all those years thousands of faithful Wilcat fans took defeat in stride and muttered to themselves, "Wait until next year."

This year, under the tutelage of Coach Vince Gibson, the Wildcats have arrived, and even the most casual observers are singing their praises.

"Purple Pride," a slogan initiated by Coach Gibson, has been converted to "Purple Power" in 3 short years. All Kansans, and particularly K-State fans, take great pride in this year's great football team, which for the first time in my memory is the No. 1 team in the Big Eight Conference.

With an overall season record of 5 victories and 1 defeat—and a narrow one at that—the enthusiastic Wildcat fans are certain the Wildcats will be playing in one of the major bowl games on New Year's Day. Certainly the Wildcats deserve a successful season, and I join hundreds and thousands of Kansans and sports fans all across America in wishing them every success in the weeks ahead.

## ORDER OF BUSINESS

Mr. DOLE. 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 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.

## PRESIDENT'S MESSAGE ON THE MERCHANT MARINE

Mr. BYRD of Virginia. Mr. President, I welcome President Nixon's message to Congress on the merchant marine.

This represents the first national commitment to a strong merchant fleet since the Second World War.

Just after that war, the United States was carrying more than 57 percent of its foreign trade in its own ships. Today, that figure has dropped to 6 percent.

Nearly 96 percent of imported raw materials—materials upon which our security and well-being depend—arrive in this country aboard foreign ships.

Our fleet is down to 950 ships. It ranks behind the fleets of the United Kingdom, Japan, the Soviet Union, Liberia, and Norway.

The United States is a maritime Nation by necessity. Unless we are content to become a second-rate nation, we must export and we must import.

We cannot afford to depend upon foreign fleets to haul our commerce. Experience has shown that these ships may not be available when they are most needed.

Our maritime needs demand that we weld together investments of public funds and private funds with the investment of the genius of American research. We need, too, an investment that is less tangible, namely, one that involves a joint commitment by Government and industry to the goal of a strong merchant fleet.

The President's message will do much to stimulate the needed commitment.

## ORDER OF BUSINESS

Mr. BYRD of 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. 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.

## PREVENT POLITICAL PAYOFFS

Mr. FANNIN. Mr. President, events of the past few weeks have caused me considerable concern in regard to the future exercise of democratic processes in our country. I am referring to a press report which appeared in one of the Washington papers to the effect that special interest groups are putting their most highly skilled lobbyists to work on making sure President Nixon's nominee to the Supreme Court, Clement F. Haynsworth, is not confirmed by the Senate.

On the same day this story appeared in Washington, Mr. President, the front page of the Toronto Telegram in Canada carried a banner story detailing some of the pressure brought to bear in this country last year on behalf of a convicted labor racketeer, Harold Chamberlain Banks, resulting in a so-called contribution of more than $100,000 to the campaign coffers of the Democratic Party.

Many Members of the Senate are familiar with the Hal Banks story. He is an American citizen, convicted of conspiracy to commit assault in Canada in a brutal waterfront war between rival unions. He skipped $25,000 bail and fled to the United States, where he was arrested aboard a yacht of the Seafarers International Union. Picked up by American authorities upon Canada's request to have him returned to face a perjury charge—the assault charge was not covered under our extradition treaty with Canada—he was bound over for return by the U.S. Commissioner in Brooklyn. This was early in November of 1967.

On December 26, 1967, two highly significant communications were directed to the then Secretary of State, Mr. Dean Rusk; one was a memorandum from the Secretary of Labor, Mr. Willard Wirtz, the other was a long letter from the president of the AFL–CIO, Mr. George Meany.

These missives, Mr. President, both dated the same day, December 26, 1967, urged Banks not be returned to Canada. In addition, Abraham Chayes, backed up by the then Undersecretary of State, Nicholas Katzenbach, urged Mr. Rusk not to send Banks back to Canada. Chayes, incidentally, had been the principal legal advisor to Mr. Rusk before leaving the State Department. At the time of this meeting with Mr. Rusk, Chayes was employed by Banks, or his agents, to plead his case in this highly unusual, secretive procedure before the Secretary, in the Secretary's office.

Mr. Rusk decided that Banks should not go back to Canada, nor should it even be submitted to an impartial international third party for arbitration.

Shortly after his decision, $5,000 checks began pouring into various Democratic presidential campaign committees around the country until the total contribution amounted to $100,000—which was reached within a few days.

Last year, as some of you may remember, I attempted to secure the release of the controversial memorandum from Secretary Wirtz. He would not release it. I think we now see the reasons why.

I ask unanimous consent, Mr. President, that the December 26 memoran-

dum from Mr. Wirtz to Mr. Rusk along with the December 26 letter from Mr. Meany to Mr. Rusk be printed in the RECORD at the end of my remarks as exhibits 1 and 2.

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

(See exhibits 1 and 2.)

Mr. FANNIN. Mr. President, I do not think it is in the best interests of the American people to have such a bald exercise of the power of union officialdom, when George Meany can, with or without checking with union members, vow that Clement Haynsworth will not sit on the Supreme Court of the United States.

It is not right, Mr. President, for a union goon—who Mr. Meany himself states is a "controversial figure"—be allowed to roam free in the United States as the result of what appears to be a $100,000 political payoff.

Last April I went to see the new Secretary of State about this "Banks" matter. I simply asked him to look into it again and review the basis of the previous Secretary's decision, particularly in the light of events subsequent to that decision. Members of the administration in power at that time may well have been unaware of the fact that the Seafarers International Union was so willing to unzip its members' purses in return for Hal Banks' freedom. Nevertheless, the payments did take place. No one denies it—least of all the union leaders involved. I just asked the present Secretary to review the whole matter—$100,000 and all—and see if the Canadian claim that Banks was a labor goon, their Hoffa-in-exile, and ought to be returned to the authorities, was valid.

I have not as yet received a reply, but I think I know why. I am afraid that "holdovers," some of the people left over from the previous administration, are anxious to keep their skirts clean on this issue. I am afraid that the Secretary is a victim of some leftovers who are giving him poor advice. Naturally, a Cabinet officer cannot attend to every detail of his department. That is what a staff is for. I feel sure the Banks matter has come to his attention, Mr. President. I feel equally sure that he must question the complete objectivity of the advice given by some who were involved in the first decision. I am still hopeful that the whole matter can be solved in a way that is satisfactory to Canada and the United States, who should be good friends.

Any citizen, Mr. President, has a right to be heard. But union officials, through the exercise of the tremendous sums of money at their disposal, are apparently able to exercise power that borders on the dictatorial.

The opponents of Judge Haynsworth have manifestly failed to demonstrate their allegation that he is antilabor. In fact, one of the leaders of the fight against Haynsworth was quoted in the press last Wednesday as saying he felt that labor had a "weak case" in trying to substantiate such a theory. Even so, Mr. President, most of the vocal opponents of Judge Haynsworth here in the Senate have in this, as well as previous, Senate confirmation debates, said they do not feel a particular nominee's ideological bent is a legitimate cause for refusing him a seat.

Mr. President, I am sympathetic with some who have cringed before this awesome display. In my view, it is wishful thinking for Republicans to think they can buy the good will of Mr. Meany and his minions. I do not wish to be misunderstood, Mr. President; I consider George Meany a worthy opponent in this matter. He is fighting for what he considers best, as am I, but he is holding a club over the heads of some that is an intolerable threat to the exercise of democratic processes and has been brought about in large measure by the preferential treatment accorded unions under our internal revenue laws.

He has committed himself and the AFL–CIO treasury to the destruction of Judge Haynsworth just as labor tried to destroy Judge John Parker 40 years ago.

If Mr. Meany and his millions can destroy an honest man of integrity on a flimsy and irresponsible record of the nine-page bill of particulars presented by the Senator from Indiana, then no man in the U.S. Senate, or indeed in public life, is safe from their vindictive power.

In the Senate Finance Committee, Mr. President, we are wrestling with the problem of a tax reform bill. One of the items which most urgently needs reform is the section of the IRS code which permits union leaders to exercise this kind of political power and still retain their tax-exempt status. Such preferential treatment is simply not right. Union leaders, in the exercise of their office, should have to abide by the same rule of "no politics" as applies to all other tax-exempt organizations.

In the case I have laid before the Senate today, we have one of the most naked examples of the brash display of monetary power, exercised freely without any form of restraint. And it is made possible by the special status enjoyed by these union leaders under our tax laws.

On September 4, I introduced an amendment to H.R. 13270—amendment No. 145—to the tax bill which would correct this intolerable situation. I am trying to see that the amendment is incorporated in the tax bill. It should be supported by every fair-minded American. I am convinced by the private talks I have had with some rank and file union members, that they support this bill. Of course, it is opposed by union leaders.

What would my amendment do? Plainly and simply, it would require that unions abide by the same statutes that presently apply to other tax-exempt organizations. That is the extent of the amendment, Mr. President. It is simple. It is straightforward.

The events which have transpired over these past days and weeks have convinced me more than ever that the amendment should be a part of the tax laws. I think the majority of Americans, union and nonunion, agree on the restoration of this democratic process and the elimination of an inordinate amount of power in the hands of a few.

Mr. President, I am sure a cry will arise from the AFL headquarters that their political contributions are voluntary, and thus should not make them subject to paying taxes. In anticipation of this kind of argument, Mr. President, I refer to a transcript of oral arguments before the U.S. Supreme Court in which Mr. Joseph Rauh, Jr.—at that time in 1956, he was general counsel for the United Auto Workers—said:

> When he (a union member) pays his dues, he has paid for his political action.

Lest some say I am taking that statement out of context, Mr. President, I ask unanimous consent to have printed in the RECORD as exhibit 6 a summary of that case with appropriate appendixes. The exchange to which I refer will be found in appendix "C."

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

(See exhibit 6.)

Mr. FANNIN. Sixty-three years ago, Samuel Gompers, founder of the AFL, recognized this danger when he said:

> It is doubtful to my mind if the contributions and expenditures of vast sums of money in the nominations and elections for our public offices can continue to increase without endangering the endurance of our Republic in its purity and in its essence . . . the necessity for some law upon the subject is patent to every man who hopes for the maintenance of the institutions under which we live . . .

Mr. President. the idea that a union member can successfully withstand the pressures if he objects to the use of his dues for political ends with which he may not agree, is simply not in accordance with reality. It is for the maintenance of these rights of the individual that I am offering my amendment.

Mr. President, I ask unanimous consent that several newspaper articles which bear on this matter and to which I have referred, be printed in the RECORD as exhibits 3, 4, and 5.

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

(See exhibits 3, 4, and 5.)

EXHIBIT 1

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
*Washington, December 26, 1967.*

Memorandum to: The Secretary of State.
From: The Secretary of Labor.

You have before you a request from the Canadian Government for the extradition of Hal Banks, a former Canadian labor official affiliated with the Seafarers' International Union of North America.

The request for extradition is based on an (sic) information alleging that Banks committed perjury 4 years ago when he denied before a Royal Commission having participated in illegal conduct six years prior thereto, a matter for which he was subsequently tried and convicted.

This extradition proceeding is a small outcropping of a matter which has an over 10-year history of intermingling of government (Canadian, U.S., and international), labor-management, internal union, and individual affairs. Some parts of the record are sordid and ugly; others are a chronicle of awkwardness.

On several occasions during the past four years, Under Secretary Reynolds and I have been called on to try to straighten out one aspect or another of this situation. It was, until this extradition request, in a posture which offered fair promise of continued—and generally satisfactory—quiescence.

I am not in a position to express a judgment on either the technicalities of the extradition issue or the political implication of whatever action is taken regarding it.

I do note these two things:

1. It is wrong, in terms of human equities and basic democratic principles, for an individual to be used this way in this matter. Banks, as a particular person, presents no case for special consideration. But the rerelationship of "the system" to "the individual" is involved here—and this individual is being used as a pawn.

2. There is a possibility (which I cannot assess) of Banks' extradition reopening what has in the past been a disruptive situation.

I shall of course be glad to supply whatever background or detail on this matter you may consider pertinent.

WILLARD WIRTZ.

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EXHIBIT 2

AFL–CIO,
*Washington, D.C., December 26, 1967.*

Hon. DEAN RUSK,
*Secretary of State,*
*Washington, D.C.*

DEAR MR. SECRETARY: I am informed that there is now pending before you an application brought by the Province of Ontario for the extradition of Mr. Harold Chamberlain Banks. I hope you will not grant this application.

I have followed the career of Mr. Banks for a considerable number of years, beginning with his initial involvement in Canadian trade union affairs which came about in response to a request, by the Canadian and American governments, for American trade union assistance in dealing with a serious problem of Communist subversion in the Canadian maritime industry. I believe that I am familiar with all the forces which have conspired to place Banks in his current predicament. Certainly no principle of real justice or equity would be served by his extradition.

In the first place, it is abundantly clear that the efforts to pursue Mr. Banks in the Canadian courts have been politically motivated. The original charge of conspiracy to commit assault grew out of the Norris Commission investigation, which was itself a part of an attack upon the Seafarers International Union at a time when it was embroiled in a bitter dispute with a major shipowner. Furthermore, the perjury charge for which extradition is now sought is premised upon Banks' compelled testimony before the same Norris Commission which was no more than an industrial investigating body.

Secondly, although the evidence upon which the present perjury charge is based has been available for four and a half years, no extradition move was made until this past August, on the occasion of another S. I. U. economic strike in Canada. The connection, and the revival of the political issue, is obvious.

Third, as you may be aware, the whole question of Banks' fate—although he is an American citizen—has been debated incessantly in the Canadian Parliament as a political issue between the two major Canadian parties. It seems to me that their political issues should not be resolved, or accentuated—at the expense of real justice to an American citizen—by the United States.

Banks was convicted of conspiracy to commit assault in Canada in 1964, stemming from an incident alleged to have occurred *six* years previously in 1958. This was the only grounds for legal action found after an exhaustive investigation into all of Banks' personal and official conduct, designed for the clear purpose of finding grounds for "getting" him. He fled the jurisdiction of Canada, after an extraordinary harsh sentence considering the nature of the alleged offense and the relatively light sentences imposed upon those found guilty of actually committing the alleged assault, before his appeal was heard, forfeiting a $25,000 bond. He has already paid a very high price for whatever misconduct may be charged to him. In addition to the money he forfeited, he cannot again hold a leadership position in the labor movement. He has been held in prison since September of this year.

Conspiracy, as you know, is not a crime for which anyone can be extradited under our treaty with Canada. The Province of Ontario, therefore, brought the perjury action in order to avoid the limitations of the treaty. The attempt to extradite him for perjury is an effort to do by indirection what could not be done directly.

I know Mr. Banks has been a controversial figure. He has his enemies and he has his friends. Whatever may be said about him as a product of the waterfront environment, there is no doubt in my mind that he has, in his career, rendered substantial constructive service to the labor movement and to working seamen.

At the time of his arrest for extradition proceedings, he was employed by the Henry Lundberg School of Seamanship, a non-governmental, labor-management supported training school. This enterprise is engaged in training young men of all races, most of whom are drawn from underprivileged and deprived backgrounds, to equip them as seamen and to give them an opportunity in a meaningful and rewarding seagoing career. The function of this undertaking in filling the manpower needs of the Merchant Marine necessitated by the present Viet Nam conflict is also worthy of mention.

Banks has severed all relations with the Canadian labor movement and has no impact on or connection, directly or indirectly, with the organization he formerly represented in Canada, its officials or its members.

For all of these reasons it is my firm conviction that it would serve the interests of neither the United States nor Canada, nor of future relations between them, to extradite Mr. Banks. On the contrary, it would be a gross miscarriage of justice and a great inequity to grant the application.

Sincerely yours,

GEORGE MEANY,
*President.*

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EXHIBIT 3

[From the Telegram, Oct. 16, 1969]

"SECRET" NOTES REVEALED IN HAL BANKS CASE

(By Robert MacDonald)

A renewed demand for the extradition to Canada of former Seafarers International Union boss Hal Banks was made today after The Telegram obtained copies of two confidential messages to former U.S. Secretary of State Dean Rusk.

Both messages were dated Dec. 26, 1967. One was a memorandum sent to Mr. Rusk by then U.S. Secretary of Labor Willard Wirtz. The second is a three-page letter from AFL–CIO president George Meany.

Both urged Rusk not to sign an order for Banks' extradition to Canada to face a perjury charge—despite the fact a U.S. Commissioner had so ordered after hearing all evidence.

Meany, in his letter, claimed the perjury charge had been trumped up to "get" Banks and that the five-year jail term handed out to Banks for conspiracy to assault was "extraordinarily harsh."

Wirtz wrote that the extradition proceedings "were a small outcropping" from a wave of terrorism on the Great Lakes.

U.S. Senator Paul Fannin said he would make a further request to U.S. Secretary of State Williams Rogers for a decision on whether Banks should be extradited.

And in Ottawa, Conservative MP George Hees said the messages "confirm irrefutably the tremendous pressure that was brought to bear to prevent Banks' extradition."

Mr. Hees said he will "have some tough questions for External Affairs Minister Mitchell Sharp and Justice Minister John Turner when Parliament re-opens next Wednesday.

"There seems little doubt that Hal Banks has let it be known that he will sing like a nightingale about his work in political campaigns in Montreal if he is brought back to Canada," he said.

Fannin was reached in Washington for comment. He had been attempting for over a year to gain a copy of the memo, but had not known the Meany letter existed.

"The documents show that such unions exert tremendous political power and are prepared to pay for it," said the senator.

"I am aware of the pressure both within and without the Johnson administration that was brought to bear on behalf of Harold Banks," he said.

He claimed the SIU spent at least $150,000 last year in contributions to the Democratic party's presidential campaign chest. Of the total, $100,000 went to the fund within 10 days after Rusk finally decided not to sign the extradition order.

Secretary of State Rogers is still reviewing the decision of Mr. Rusk.

In his memo, former labor secretary Wirtz warned that "there is a possibility (which I cannot assess) of Banks' extradition reopening what has in the past been a disruptive situation."

Wirtz termed the extradition attempt "a small outcropping" of the wave of terrorism in Great Lakes shipping circles that surrounded the SIU tactics.

He failed to mention that Banks had been convicted of conspiring to assault a ship captain and had been assessed a five-year jail sentence. He had jumped $25,000 bail and escaped to his native U.S.

However, the letter to Rusk from labor czar Meany claimed Banks had been originally involved in the Canadian labor scene "in response to a request, by the Canadian and American governments, for American trade union assistance in dealing with a serious problem of Communist subversion in the Canadian maritime industry."

"It is abundantly clear that the efforts to pursue Mr. Banks in the Canadian courts have been politically motivated," wrote Mr. Meany.

He also charged that the Norris Royal Commission that investigated the labor terrorism (and from which the perjury charge came) "was itself a part of an attack upon the Seafarers International Union at a time when it was embroiled in a bitter dispute with a major shipowner."

He even claimed the Norris commission "was no more than an industrial investigating body."

Mr. Meany also told Rusk:

"The whole question of Banks' fate—although he is an American citizen—has been debated incessantly in the Canadian parties. It seems to me that their political issues should not be resolved, or accentuated—at the expense of real justice to an American citizen—by the United States."

The perjury charge was designed solely for "getting" Banks, said Meany. The five-year sentence for conspiracy to commit assault was "extraordinarily harsh," he wrote.

He noted Banks had forfeited his $25,000 bail. "He has already paid a very high price for whatever misconduct may be charged to him," he claimed.

"I know Mr. Banks has been a controversial figure," stated the letter. "He has his enemies and he has his friends. Whatever may be said about him as a product of the waterfront environment, there is no doubt in my mind that he has, in his career, rendered substantial constructive service to the labor movement and to working seamen."

EXHIBIT 4

[From the Washington Post, Oct. 16, 1969]

AFL–CIO RATES HAYNSWORTH FOR "SPECIAL" FIGHT

(By Murray Seeger)

Sen. Thomas J. Dodd (D-Conn.) received a telephone call a few days ago from an old friend, Jay Lovestone, director of international affairs for the AFL–CIO.

The two men usually discuss their common interest in fighting communism, but this recent conversation was different. Lovestone was trying to get a commitment from Dodd that he would vote against confirming Clement F. Haynsworth Jr. as an associate justice of the U.S. Supreme Court.

"We don't usually use Jay on something like this," an AFL–CIO staff man said this week. "But the Haynsworth case is special."

The special nature of the Haynsworth case that it represents the first occasion since 1930 that the labor federation has actively opposed a Supreme Court nomination.

That nominee was John J. Parker of North Carolina, the last court appointee to lose a Senate confirmation vote.

As one of the 10 Democrats on the majority side of the Senate Judiciary Committee, Dodd warranted special attention in the view of the AFL–CIO. He voted to send the Haynsworth nomination to the Senate floor, but may vote against confirmation.

Another Democratic member of the committee, Sen. Joseph D. Tydings of Maryland, had an unusual visit from Al Barkan, director of the AFL–CIO Committee on Political Education before voting "no" on the nomination.

Sen. Hugh D. Scott of Pennsylvania, the minority leader of the Senate who is still uncommitted on the nomination, has been pressured to vote "no" by the only Republican in the AFL–CIO heirarchy, Lee W. Minton, of Philadelphia, president of the Glass Bottle Blowers' Association, and the United Steelworkers, biggest union in his state.

Haynsworth has become the biggest single issue for the AFL–CIO in this session of Congress and represents the first serious break between the federation and the nine-months-old Nixon administration.

The campaign against Haynsworth has also renewed the alliance between the AFL–CIO and major civil rights organizations at a time when local unions and minority groups are battling in several cities.

"This has already become part of the 1970 congressional elections," one union source said.

When Haynsworth's name first came through the Washington rumor mill, Tom Harris, the AFL–CIO associate general counsel, and Andrew J. Biemiller, legislative director, met with Joseph L. Rauh Jr., well-known Washington lawyer representing several civil rights groups.

They alerted George Meany, president of the AFL–CIO, and Clarence Mitchell of Baltimore, top lobbyist for the NAACP and other civil rights organizations.

The AFL–CIO had a file on Haynsworth because of his involvement in the long, tangled legal case involving the Darlington Manufacturing Co. and Textile Workers Union, his participation in Carolina Vend-a-Matic Co., and his civil rights record as a judge on the Federal Court of Appeals.

Harris telephoned Daniel J. Moynihan, urban affairs specialist on the White House staff who was with the President in California, and Jerris Leonard, Assistant Attorney General, on Aug. 15 and warned them of what the AFL–CIO considered Haynsworth's anti-labor and anti-civil rights record as well as issues involving his ethical conduct while on the bench.

In addition, Meany sent a telegram directly to the President raising the same issues.

"The President didn't reply, he didn't reply at all," Meany said recently. "His reply came a few days later when he announced the appointment of Judge Haynsworth."

EXHIBIT 5

[From the Washington Daily News, Oct. 22, 1969]

BAYH THE WAY: HAYNSWORTH ATTACK LABOR OF LOVE

(By Dan Thomasson)

Sen. Birch Bayh, D-Ind., received more than $68,000 last year from organized labor which is now allied with him in the fight to prevent Senate confirmation of Supreme Court nominee Clement F. Haynsworth, Jr.

But Sen. Bayh denied today that union support of his 1968 campaign for re-election affected his decision to lead the battle against Judge Haynsworth, who is accused of being anti-labor.

And Sen Bayh argued that labor's contribution to his campaign was small in light of the nearly $800,000 he spent to defeat his Republican opponent, William D. Ruckelshaus, now an assistant attorney general in the Justice Department.

Sen. Bayh conceded, however, that AFL–CIO leaders did approach him shortly after Judge Haynsworth's nomination, but before any question of a possible conflict of interest was raised about the judge, and asked him to look into Judge Haynsworth's record.

The Hoosier Senator, a member of the Judiciary Committee, said he told the labor leaders he would examine the record, but if what he found was only a question of philosophical differences, the "benefit of a doubt" belonged to the President.

Sen. Bayh said today that he believes labor may have a "weak case" in its argument that Judge Haynsworth's decisions as a member of the Fourth U.S. Circuit Court of Appeals show he generally opposed unionism.

In fact, he said, there are cases in which Judge Haynsworth obviously ruled for labor.

Sen Bayh would not deny that labor representatives have been in and out of his office all during the Haynsworth fight.

And he acknowledged that labor had helped with some research into the judge's financial background, even helping Sen. Bayh compile his controversial "bill of particulars," against Judge Haynsworth.

Pro-Haynsworth forces charge that the "bill of particulars" was misleading and full of factual error. Sen. Bayh admits to one error and has apologized to the Judiciary Committee for it.

But Sen. Bayh bristled at further charges by Judge Haynsworth's backers that his efforts to sidetrack the nomination on "ethical" grounds are merely a smokescreen to hide the fact that as a liberal dependent upon traditional liberal money sources, he really opposes appointment of any conservative to the Supreme Court.

"I would be asking the same questions about the propriety of his stock dealings even if he were pro-labor," Sen. Bayh said.

Haynsworth backers, however, challenged this today—charging that Sen. Bayh would have no support from labor for his questions about Judge Haynsworth's financial dealings if the judge were considered pro-labor.

Those pushing Judge Haynsworth's confirmation to a showdown on the Senate floor also have been privately citing what they call Sen. Bayh's "debt" to labor.

This includes, according to records in the House Clerk's office, some $42,000 given the Senator last year by the United Auto Workers of America. Sen. Bayh concedes this is the largest amount from any single contributor.

Sen. Bayh also received contributions from the United Steelworkers; Machinists Nonpartisan Political League; Trainmens Political Education League; Oil Chemical and Atomic Workers; AFL–CIO Committee on Political Education (COPE); International Brotherhood of Electrical Workers; International Ladies' Garment Workers Union; Teamsters Union (Drive); Brotherhood of Painters, Firemen and Oilers Political Fund.

He also was given a $400 contribution by the Textile Workers Union of America (TWU). The TWU first raised the Haynsworth storm by charging the judge shouldn't have sat on a labor relations case involving a textile firm because he had a one-seventh interest in a vending machine company doing business with the textile concern.

EXHIBIT 6

A SUMMARY OF UNITED STATES *v.* UAW–CIO, 352 U.S. 567 (1957)

This case is noteworthy for two reasons:

The decision itself holds that the Corrupt Practices Act, 18 USCA 610, prohibiting corporations and labor organizations from making "a contribution or expenditure in connection with" any election for Federal office, covers any use of corporate or union money for political purposes within the scope of its proscription. More specifically it holds that the use of union dues to sponsor commercial television broadcasts designed to influence the electorate to select candidates for Federal office is within the ban of the statute. Thus the Court said on page 585:

'To deny that such activity, either on the part of a corporation or a labor organization, constituted an 'expenditure in connection with any [federal] election' is to deny the long series of congressional efforts calculated to avoid the deleterious influences on federal elections resulting from the use of money by those who exercise control over large aggregations of capital. More particularly, this Court would have to ignore the history of the statute from the time it was first made applicable to labor organizations. As indicated by the reports of the Congressional Committees that investigated campaign expenditures, it was to embrace precisely the kind of indirect contribution alleged in the indictment that Congress amended § 313 to proscribe 'expenditures.' It is open to the Government to prove under this indictment activity by appellee that, except for an irrelevant difference in the medium of communication employed, is virtually indistinguishable from the Brotherhood of Railway Trainmen's purchase of radio time to sponsor candidates or the Ohio C.I.O.'s general distribution of pamphlets to oppose Senator Taft. Because such conduct was claimed to be merely 'an expenditure [by the union] of its own funds to state its position to the world,' the Senate and House Committees recommended and Congress enacted, as we have seen, the prohibition of 'expenditures' as well as 'contributions' to 'plug the existing loophole.' "

In reaching this conclusion as to what constitutes political activity on the part of a union, the Court quoted the 1945 Report of the House Special Committee to Investigate Campaign Expenditures. In this connection the Court said at pages 580–1:

"The 1945 Report of the House Special Committee to Investigate Campaign Expenditures expressed concern over the vast amounts that some labor organizations were devoting to politics:

" 'The scale of operations of some of these organizations is impressive. Without exception, they operate on a Nation-wide basis; and many of them have affiliated local organizations. One was found to have an annual budget for "educational" work approximating $1,500,000, and among other things regularly supplies over 500 radio stations with "briefs for broadcasters." Another, with an annual budget of over $300,000 for political "education," has distributed some 80,000,000 pieces of literature, including a quarter million copies of one article. Another, repre-

senting an organized labor membership of 5,000,000, has raised $700,000 for its national organizations in union contributions for political "education" in a few months, and a great deal more has been raised for the same purpose and expended by its local organizations.' H.R. Rep. No. 2093, 78th Cong., 2d Sess. 3.

"Like the Senate Committee, it advocated extension of § 313 to primaries and nominating conventions, *id.*, at 9, and noted the existence of a controversy over the score of 'contribution.' *Id.*, at 11. The following year the House Committee made a further study of the activities of organizations attempting to influence the outcome of federal elections. It found that the Brotherhood of Railway Trainmen and other groups employed professional political organizers, sponsored partisan radio programs and distributed campaign literature. H.R. Rep. No. 2739, 79th Cong., 2d Sess. 36–37."

Thus it is clear from this decision that the Court regards expenditures for political education, the writing, printing and distribution of political literature, the supplying of briefs for broadcasters to radio stations, the employment of professional political organizers, the sponsorship of partisan radio and television programs, all constitute political activity. Moreover, the Court found that not only contributions for such purposes, but also expenditures for such purposes, are within the ban of the statute.

The Court, it is true, refused to pass upon the constitutionality of the statute as thus construed. Instead it remanded the case back to the District Court for trial. The Court declined to decide the constitutional questions since the decision was not necessary at that stage of the proceedings. It referred to the fact that the case was before it on an appeal from an order sustaining a motion to dismiss an indictment, and remarked that "an adjudication on the merits cannot provide a concrete factual setting that sharpens the deliberative process especially demanded for constitutional decision." It finally observed that "by remanding the case for trial it may well be that the Court will not be called upon to pass on the questions now raised." This last was a prophetic observation. Upon remand the case was tried before a jury in the District Court and the defendant was acquitted.

The opinion of the Supreme Court on the questions of law, however, still stands. It not only declares that expenditures as well as contributions for political activities are within the prohibition of the Corrupt Practices Act, but also rather clearly defines what are political activities. Since the definition of political activities is one of the most vitally important issues in *Allen* v. *Southern Railway*, it seems to me that the case is of great significance. It shows that all of the manifold activities of the various union organizations—Brotherhoods, Railway Labor Political League, Railway Labor Executive Association, COPE and AFL–CIO—all constitute political activities. Everything would seem to constitute such an activity if it should be politically motivated, or if it should tend to produce political effect. Political activity is not confined to political contributions to candidates and to their committees. It also embraces all the ramifications of political education and other assistance rendered to political causes and political candidates.

The second significant thing about this case lies in some of the concessions made by Mr. Joseph L. Rauh, attorney for the UAW, in attacking the constitutionality of the Act before the Supreme Court on December 4, 1955. Mr. Rauh is one of the leading labor lawyers in the country and was formerly President of Americans for Democratic Action. I am attaching certain pertinent excerpts from his argument.

*First.* Mr. Rauh conceded under questioning from the bench that the prohibitions of political contributions and expenditures by the Corrupt Practices Act apply equally to corporations and unions. At first he tried to maintain that there were distinctions but wound up by conceding that they did not mount to much. He conceded the illegality of contributions, but maintained that expenditures for the purpose of stating the political position of the union are legal because within the constitutional protection of free speech. The most pertinent parts of the colloquy will be found in Appendix A attached.

*Second.* Mr. Rauh contended that the question whether the funds in the union treasury used for political purposes came from dues paid voluntarily or dues involuntarily under a union shop contract is irrelevant because the statute attempts no distinction between them. The colloquy is reproduced as Appendix B.

*Third.* Mr. Rauh volunteered that the union used money from general treasury funds derived from dues for political purposes because it could not raise sufficient funds by appealing to the membership for voluntary contributions for political campaigns. This is the most important part of his concession, and it is set forth in Appendix C.

*Fourth.* Justice Frankfurter suggested from the bench that voluntary contributions from union members do not fall within the ban of the statute because the union is a mere conduit in transmitting the individual's contribution to the political candidate or committee. Mr. Rauh agreed and said that this result also follows from the legislative history of the Corrupt Practices Act. The pertinent extract will be found in Appendix D.

APPENDIX A

Mr. RAUH. * * *.

What we are asking for here is simply to have the right to say the same things outside the labor movement that we have been given the right by the CIO case to say inside.

Justice FRANKFURTER. Mr. Rauh, do you make a distinction between the provisions of the statute limiting the conduct of a corporation and a labor organization?

Mr. RAUH. We believe that under many circumstances a corporation would be the same. There are legal differences.

Justice FRANKFURTER. How?

Mr. RAUH. There are legal differences, there are factual differences.

Justice FRANKFURTER. But I mean for this purpose.

Mr. RAUH. We see no reason why a corporation should not state its views to the public on political issues.

Justice FRANKFURTER. Because the question of freedom of speech considerations are equally applicable?

Mr. RAUH. Yes, sir. One might draw a distinction. We are not urging such a distinction.

Justice BLACK. Suppose a corporation is to buy all the stock of a newspaper, could the newspapers get away from this act?

Mr. RAUH. Under the government's interpretation they could not. Under ours, our interpretation makes everybody equal, the newspaper stating its views and the union stating its views. What does the government say about the difference between this and CIO? The government refers to literal language but it is the same. It refers to legislative history but it is even clear they intend no such extension. It says we are emasculating the statute but as my answer to Justice Harlan, there is plenty left and finally this is really the crux of the case.

The government says at page 17 of their brief at the bottom of page 17 that what we are doing differs but little from a direct contribution, the distinction lies only in the fact that in one instance the candidate would apply contributed funds to purchase television time and in the other the union would buy it for him.

No, we are not making a contribution, we are stating our position. It may or may not benefit the candidate. It may or may not be what he wants said.

It has none of the corrupting influences of a contribution and finally I would like to return to Mr. Justice Frankfurter's question of yesterday. I agree on reflection that there are 2 motives that we share in stating our position.

There is the motive of wanting to win the election and there is the motive of wanting to state your position. But I say it is relevant that there is the motive of sating your position which may be protected by the Constitution more likely than the motive of handing over money. Therefore having the two motives is not a negative factor such as was suggested yesterday but a positive factor.

* * * * *

Justice HARLAN. Do you say that the statute is also unconstitutional as it applies to a business corporation?

Mr. RAUH. There are differences, sir, between the union and a business corporation. A union is a group of men with a common interest. A business corporation has its control in the man who owns the most stock. It gets its money from a public which is completely disparate in views.

Therefore, one can make a distinction between a corporation and a union, and the decision of the corporation will have to come here some day if that case is raised.

I personally raise none, and our union takes the position publicly that we feel that democracy is best protected by corporations having the same right to state their position on candidates that we have.

I can only say, sir, that there are differences between corporations and unions which might at some future time create a difference in results. I urge none.

Justice FRANKFURTER. As to the—I suppose you don't because you would have a hard time differentiating between the right of a corporation to urge economic interests which bind those disparate members together.

Mr. RAUH. We urge no differentiation.

For a hundred years, if Your Honors please, we have been engaged in political activity. Our own union constitution, from its first day, urges it. One cannot draw a line between bargaining and politics. Bargaining is supplemented by legislation, and legislation is supplemented by bargaining.

Justice FRANKFURTER. Would you put a limit as to the amount of expenditures?

Mr. RAUH. I would say reasonable limitations. It would depend on whether it was a reasonable limitation on free speech. No effort was made to do any of these things.

Justice FRANKFURTER. I understand that, but I am trying to test this proposition. Can Congress say "You shan't spend more than 'X' thousand or 'X' hundred dollars"?

Mr. RAUH. They might try that on individuals.

Justice FRANKFURTER. But not on unions?

Mr. RAUH. I say if you had a general regulatory statute limiting expenditures, I see no reason why we shouldn't be part of it.

Justice FRANKFURTER. You would have to treat the corporation or labor organization the same way that you treat an individual, is that it?

Mr. RAUH. I would think that if you had a—yes, basically I would say there are rights to speak here that ought to be protected. I hadn't thought about this sheer matter of money limitation, because——

Justice FRANKFURTER. But it is very relevant, I should think.

Mr. RAUH. But it sounds, I would only suggest, sir, that is sounds rather artificial.

Justice FRANKFURTER. Why? You say you can't spend more than a million, if you collect the fund for other purposes, and then go into politics. We have put limits on corporations, haven't we?

Mr. RAUH. On expenditures. Well, you have now a bar, the same bar we are under,

but there are no numerical limitations, sir. The limitations are on the candidates' expenditures, and it is absolutely historically a matter of record that they are not complied with. It is in the daily press that the expenditures——

Justice FRANKFURTER. That is a different problem.

Mr. RAUH. But there are no limitations of this type other than on candidates which have been placed.

Justice REED. There is a limitation on personal contributions.

Mr. RAUH. Yes, sir, of $5,000, which is avoided by giving to each committee.

Justice REED. To each committee.

Mr. RAUH. To each committee, yes, sir.

Now, you cannot split legislation from bargaining. At the bargaining table we get Blue Cross and Blue Shield, and at the Congress we ask for national health insurance to supplement it.

In Congress we get unemployment compensation, and at the bargaining table we supplement it with supplementary unemployment payment.

This is as one, what you have there, the bargaining and the legislative process.

APPENDIX B

The CHIEF JUSTICE. Mr. Rauh, before you get to constitutionality, would you mind elaborating just a little on what you said, to the effect that this was not a statute to protect the minority in the unions?

Mr. RAUH. Sir, it is——

The CHIEF JUSTICE. You stated it, but you didn't elaborate on it. Would you mind doing that?

Mr. RAUH. Sir, I will do that right at this moment as part of the constitutional argument.

The CHIEF JUSTICE. Oh. Well, if you are going to do it anyway, go right ahead in your own way.

Mr. RAUH. I can do it right now.

I was going to say, in the order that I was going to follow, I was going to say that the prime presentation of the Solicitor General yesterday can still be boiled down to that of a murder defendant who said, "We didn't do it, but we were justified in doing it."

I will leave aside "We didn't do it" for a moment, and come to "we were justified," because "we were justified" is based on this minority argument.

If Your Honor pleases, this statute has nothing whatever to do with minorities. This statute applies if every member of the union supports the expenditure. This statute applies if every member of the union supports the same candidate. This statute applies whether there is a union shop or not. This statute applies even if you have a contracting-out arrangement.

Now, by that I mean this, sir: Our union expends its funds in this area for political broadcasts out of a thing called the Citizenship Fund. We allow any member who wants to, to say he does not want this money spent for political activity, and it will go to some citizenship fund such as the American Heritage Society.

In other words, while the Government defends this statute on the ground that it was intended to protect minorities, it is not a protection of minorities, because you could have done that much simpler.

Why didn't they say, "Let the minorities, if they want to, have their right to contract out the fund," or why didn't they say "It is all right if there isn't any minority"?

Senator Taft made clear what they were doing. Senator Taft said the purpose of this bill was to take labor out of politics. And the Solicitor General yesterday, with commendable candor, said the purpose of the bill was to minimize the influence of labor at the time of an election. That was the purpose.

There was no purpose of protecting the minority, because the statute isn't aimed at the minority problem.

And in the area of free speech, where this Court has so many times made clear that the limitation on speech must be as narrow as the evil presented, if they were going to deal with the minority problem it was absolutely essential that they limit the matter to the minority problem instead of saying "Unions, you are out of political action."

And, as we say in our brief, and we have made a great deal of this point, "This statute was not aimed at minorities, because if it were unanimous, we can't act. If we have a contracting-out scheme, we can't act. If every member of the union wants to go for this, we can't act."

So that is what I meant by that, sir, when I said this does not deal with the minority problem.

Now, what we have here is a denial of access to the public of the collective views of union members, a denial of access to press, television, radio, magazines, public rallies, letter-writing campaigns.

What this statute does is to put in the hands of the opponents of labor the right to decide whether the voice of labor may be heard. If we want to put our position out, the decision then whether it shall be heard, if this statute is valid, becomes the decision of Hearst, Howard and Sarnoff. They control whether we get heard.

But if we can buy the time, then we decide whether we can be heard.

This statute, as I say, denies unions access to the media of communication except at the will of the opponents of labor, and it is a denial of free speech at the very heart of the democratic process.

The great decisions of this Court, in Stromberg, in Near, the great dissent in Whitney, are based upon the proposition that free government by free men depends upon full discussion of the great issues of political life.

APPENDIX C

Mr. RAUH. * * *.

In other words, what the Government was claiming was voluntary funds were perfectly clearly dues money. COPE, PAC, LLPE, was no substitute for dues money. No moneys have ever been raised for this kind of making actions, to the public mind, for making political actions of this kind.

This has never been a part of their work and, of course, we in the UAW have no such activity. Our activity in this field is carried out, and can only be carried out, with the dues money that we have available to us.

Now, the Government says they didn't do it, and I have answered that.

Justice REED. I don't understand that statement, the only way you can do this——

Mr. RAUH. The only funds available to the union are those that come from dues for the purpose of buying radio time, television time, and newspaper advertising. The small amount, sir, that has been able to be collected as voluntary dollars has all gone as contributions to the very small contributions to the candidate. We have never had the type of funds on voluntary dollars——

Justice REED. You can't get as much from voluntary dollars as you can from dues?

Mr. RAUH. Well, sir, a union man thinks he has paid, when he has paid his dues, he thinks he has paid for bargaining, for legislation, and for political activity. He doesn't feel he should pay a second time for political activity. That is why it is so hard to raise voluntary contributions.

Our constitution and the constitution of all unions set this up as a purpose, political action. When he pays his dues, he has paid for his political action. He may give another dollar or two to some candidate for an office, but he doesn't feel he is going to give another some more money.

We have collected a little, but never anything to do this job of making the public know our views.

Justice FRANKFURTER. Was it only the other day that unions went into politics? For years we had a great leader of labor who thought it was very bad to go into politics for the union.

Mr. RAUH. There was such a leader, sir.

Justice FRANKFURTER. So if you say a hundred years of history, there is a good deal of history the other way.

Mr. RAUH. There has been history the other way, but political life has—there is history back a hundred years. There was a period, as you suggest, when this was the view of some leading labor leaders. So what does the Government suggest that is justified?

It was trying to minimize the influence—these are the Solicitor General's commendable frankness—it was trying to minimize the influence of unions at elections.

APPENDIX D

Justice BLACK. What is the relevancy of the emphasis on the fact that it came out of union dues?

Mr. RAUH. Well, sir, if it came out of voluntary funds then everyone agrees that it is not a violation. There is nothing in the statute that says that.

For example, take COPE, that is the Committee on Political Education of the AFL–CIO. They get voluntary funds paid separately from union dues from a number of members. Everybody agrees that an expenditure or a contribution by COPE is legal. The reason everybody agrees to that is that I think the government is under some misunderstanding about the statute on this point but we agree as to the result.

They think the statute does not apply because COPE is not a labor organization. In my judgment COPE is clearly a labor organization under the statute but it does not apply if Your Honors please because Senator Taft made clear on the floor of the Senate that voluntary funds not part of dues could be used for any purpose and whether you use the government's interpretation or ours the fact is that there has never been an indictment for voluntary monies——

Justice FRANKFURTER. You don't need Senator Taft's statement to reach that conclusion. If you will just read the statute, any labor organization that makes a contribution—if you are just the conduit of other people's money, then you are not making the contribution.

Mr. RAUH. That would be another interpretation to reach the same answer.

Justice BLACK. Is there any other fact which attempts to regulate the way unions shall spend their dues? I don't quite understand the difference. It sounds as though the theory is that union members are to be protected on how their dues are to be expended.

Mr. RAUH. The government is contending, sir, that that is the justification for this statute, that it is a protection of the minority members of the union.

Justice BLACK. Is there any statute which has attempted to regulate the way the unions must spend its money or dues?

Mr. RAUH. No. When I come to this point I would like to point out that this statute is not directed to the minority but is to take unions out of politics.

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

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

## THE STRATEGIC ARMAMENTS LIMITATION TALKS

Mr. MATHIAS. Mr. President, the administration's decision to begin negotiations with the Soviet Union on limiting strategic armaments launches the hopes of the world once again on the difficult but redemptive road to peaceful cooperation among men.

President Nixon and Secretary of State William Rogers should be commended for acting on their oft-expressed recognition that the United States and the Soviet Union have a mutual interest in restricting the arms race and reordering national priorities. As an observer at the 18-nation disarmament talks in Geneva, however, I became aware of another equally important consideration. Most of the disarmament talks in the past have chiefly affected the smaller nations. The Nuclear Test Ban Treaty, for example, had little effect on the military capabilities of the great powers, which could test underground; but it virtually precluded advanced nuclear development by lesser powers. Similarly the Nuclear Nonproliferation Treaty in effect was designed to preserve the nuclear oligopoly. It is being signed by other nations at least in part because it also pledges the major powers to negotiate further disarmament among themselves.

I believe nuclear proliferation poses the greatest single threat of nuclear war by accident or miscalculation. The great powers have their nuclear forces under effective control; they are experienced in dealing with nuclear technology. But the primitive nuclear contrivances of small countries could become a new and unpredictable catalyst of incalculable dangers.

Yet the nuclear powers cannot expect the nonnuclear countries to accept permanent nuclear privation in the face of great power determination to steadily expand their nuclear capability. The fact is that unless the great powers move to end the arms race the lesser powers will move to join it. This Damoclean reality will overshadow all the talk in Helsinki.

So I can only urge the administration to act with the greatest sense of urgency. I would, however, at the same time offer a warning. Though the talks are urgent, they will be frustrating; and though agreement is imperative, it will not end the arms race unless it is accompanied by prudent strategic policies on the part of both great powers. For no treaty can be devised that can anticipate the advance of technology and channel it into peaceful uses. In the end, the arms race will be disciplined not because both sides sign a piece of paper but because both sides have previously decided they have no interest in reopening the competition at a higher and more dangerous level.

We should understand that the present high level of defense spending—and the resulting disorder of our national priorities—is not caused only by our past failures to negotiate an agreement with the Soviet Union. The largest surge in U.S. strategic spending—the surge that precipitated the current Soviet increases—came at the very time that the Test Ban Treaty was negotiated. Those who might normally have opposed the enormous unilateral expansion of our forces after Eisenhower's year of sensible restraint were completely diverted by the test ban.

Thus the importance of the treaty was exaggerated and led to the spirit of euphoria that was so rudely interrupted by the Cuban missile crisis. Meanwhile, our defense spending soared; the balance maintained by Eisenhower was upset; and the Russians massively responded with spending of their own. That is our position today. We should understand it clearly.

I celebrate the new negotiations—the SALT talks. I praise the administration's decision and particularly the effective role of the Secretary of State in achieving it. But we should understand that the success or failure of the negotiations will be decided not in Helsinki or Geneva but in Washington and in the Pentagon and on the floor of the Congress where new systems will be debated. It will depend on all our foreign and defense policies and on our resolution in the international quest for peace. It will take more than a paper curtain to hem in the holocaust.

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

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

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## VISIT TO WASHINGTON BY DELEGATION OF JAPANESE GOVERNORS AND VICE GOVERNORS

Mr. HUGHES. Mr. President, it is my pleasure today to announce the visit in the Capital City of this great country of ours a delegation of Japanese Governors and Vice Governors.

As Members of the Senate are aware, we have a Japanese-American Governors' Conference which has been going on since 1961, I believe. Over that period of time several delegations of American Governors have visited our very friendly neighbor Japan, where we have had joint conferences and discussed mutual problems that exist within both of our very friendly nations.

It was my honor in 1965, as Governor of the great State of Iowa, to be a member of the International Governors' Conference held in Tokyo that year. As a result we visited a number of the prefectures in the nation of Japan. In 1966 I had the pleasure of taking an Iowa trade mission to the great nation of Japan for the purpose of negotiating and discussing possible trade potentials between the nation of Japan and my State of Iowa.

I would like to call to the attention of Members of the Senate that my State of Iowa has a sister-State relationship with the prefecture of Yamanashi, Japan; and there is a sister-city relationship between the capital city of Des Moines, Iowa, and the capital city of Kofu.

Many Members of the Senate are former Governors of their States. As I look around the Chamber, I see that a vast majority of Senators now present were Governors of their States.

They have, in the proceedings of those years, as Governors of their States, participated in the ongoing conference between our two great nations. The conference in 1967 happened to be conducted in the capital city of my State, Des Moines, and was a beneficial and fulfilling conference for both countries.

I might add, in the conference this year, our former colleagues in Japan visited a number of American States, beginning in Hawaii, and then coming to California. I know they visited Nebraska and South Carolina. They held this year's annual conference in the city of Cincinnati in the great State of Ohio.

Mr. President, there are visiting in this country today eight Governors and Vice Governors and some of their ladies. We have been pleased to have the opportunity to host them today at a luncheon at which the Japanese Ambassador, the majority and minority leaders of the Senate, the Speaker of the House, and many Senators and Representatives have had the opportunity for friendly and neighborly discussions between the Japanese Governors and ourselves.

I merely want to announce that this ongoing relationship between our two great nations has cemented our friendship further, as it has assisted us in the past. From this level of political leadership, many times surfaces much of the national leadership of both of our two great nations and has resulted in friendly relations being established on a personal basis between the Governors of the prefectures in Japan and the Governors of the United States.

We have many ongoing and continuing friendly relationships that enable us not only in private and business generally, but in public affairs, further to cement the warmth and understanding between our two great nations.

I merely wanted to call to the attention of Members of the Senate that this delegation of visitors from Japan is among us, that they are among us in the Capital City of Washington today, and that we are deeply grateful to have the opportunity once again to be their host and bid them officially welcome to the United States of America and to hope that this relationship will continue in the years ahead.

Mr. President, I ask unanimous consent to have printed in the RECORD the names of the members of the traveling party of Japanese Governors now visiting the United States.

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

MEMBERS OF TRAVELING PARTY, VISIT OF GOVERNORS OF JAPAN TO UNITED STATES, OCTOBER 1969

Japanese Governors and Vice Governors (by order of precedence), and prefecture:

Governor Ryozo Okuda (Vice President of

the National Governors' Association and Leader of the Delegation), Nara.

Governor Shunkichi Takeuchi, Aomori.

Governor Satoru Tanaka and daughter, Masae, Mie.

Governor Gonichiro Nishizawa, Nagano.

Governor Saburo Kanemaru and wife, Sakae, Kagoshima.

Vice Governor Shigeichi Iwase, Aichi.

Vice Governor Tadashi Nakamura, Iwate.

Vice Governor Masaru Taki, Oita.

Aides to Japanese Governors: Mr. Ryoji Izuchi, Deputy Executive Secretary of National Governors' Association; Mr. Masakichi Ogawa, Chief, Foreign Affairs Division of National Governors' Association.

News Media: Mr. Takeshi Tagomori, Jijitsushin Press.

United States Department of State: Mr. Yukio Kawamoto, Escort Officer; Mr. Paul Tamura, Aide; Mrs. Paul Tamura, Aide.

National Governors' Conference: Mr. Brevard Crihfield, Secretary-Treasurer; Mr. Gene Minogue, Travel Consultant; Miss Lois Murphy, Assistant to Mr. Crihfield.

Mr. HUGHES. Mr. President, in conclusion, let me say that in the intervening years since the beginning of the Japanese-American Governors' Conference, as delegations of Governors have visited back and forth across the Pacific Ocean almost every year since the conferences began, we have had the opportunity to discuss issues such as juvenile delinquency in our respective countries, land recovery in our respective countries, air and water pollution, economic problems in our respective countries, as well as trade relationships between Japan and the United States.

I believe that such discussions are needed all over the face of the earth. This particular conference can serve as an example of what can be accomplished between two great nations, if we merely set about on a personal relationship basis between the executives of our States and the prefectures in Japan, as well as the congressional bodies of our two great countries, further continuing the warmth and sympathetic understanding of two great peoples—Japan and the United States of America.

## ORDER OF BUSINESS

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

## ADJOURNMENT

Mr. KENNEDY. Mr. President, if there is no further business to come before the Senate, I move, under the order previously entered, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 2 o'clock and 26 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, October 28, 1969, at 12 o'clock meridian.



## NOMINATIONS

Executive nominations received by the Senate October 27, 1969:

### In the Coast Guard

The following-named regular officers of the Coast Guard for promotion to the grade of lieutenant (junior grade):

David A. Potter
Fred L. Ames
Walter F. Malec, Jr.,
William R. Hodges, Jr.
Normal V. Scurria, Jr.
Glenn J. Pruiksma
Thomas H. Jenkins
Larry V. Grant
Richard W. Schneider
James T. Ingham
Larry J. Olson
Richard J. Asaro
Terry R. Fondow
Normal C. Edwards
Nicholas Stramandi
Victor P. Primeaux
Michael J. Edwards
Joseph F. Olivo, Jr.
John T. Tozzi
Frank J. Scaraglino
Joseph E. Casaday
John H. Legwin, III
Dennis P. Purves
Mont J. Smith
Arthur W. McGrath, Jr.
Alexander T. T. Polasky
Kenneth B. Allen
Richard B. Meyer
Ralph W. Brown, Jr.
Michael E. Tovcimak
Ronald F. Schafer
James G. Soland
Stanley M. Phillips
Fedrick V. Minson
John A. Bastek
Robert J. Lachowicz
William F. Mueller
Kenneth J. McPartlin
John J. Mulligan, Jr.
Leighton T. Anderson
Peter A. Poerschke
William C. Hain III
James M. MacDonald
John R. Taylor
Daniel J. Schatte
Larry E. Parkin
Gregory T. Wilson
Brian P. M. Kelly
Dennis L. Bryant
Thomas S. Johnson III
Ronald K. Losch
Clifton K. Vogelsberg, Jr.
James T. Paskewich
William R. Johanek
David L. Powell
Stephen J. Delaney
Daniel B. McKinley
John R. Ryland
Theodore J. Sampson
Thomas H. Collins
Richard W. Hauschildt
George R. Perreault
Ronald S. Matthew
Stephen R. Welch
Ernest R. Riutta
Edmund I. Kiley
John A. Magiera
Peter M. A. Tennis
James W. Milas
Glendon L. Moyer
James L. Hested
Paul N. Fanolis
Edward C. Karnis
John K. Kastorff, Jr.
George H. Mercier
Richard L. Maguire
Walter R. Guest
James C. Haedt
Phillip J. Stager
James A. Smith
Juan T. Salas
Thomas E. Thompson
Paul Ibsen
Ronald L. Edmiston
Paul V. Gorman, Jr.
Robert B. Bower
John D. McDevitt
Richard R. Clark
James C. Clow
Douglas A. Macadam
Stephen L. Swann
Floyd W. Thomas
Victor E. Hipkiss
Robert P. Bender
Richard L. Swomley
Robert B. Vanasse
Arthur F. Shires
Michael F. Herman
Kenneth R. Riordan
Stanley C. Brobeck, Jr.
Kevin V. Feeney
Dennis M. Majerski
Peter D. Lish
Lonnie E. Steverson
Edward C. Cooke
Christopher F. John
Ronnie L. Sharp
Ronald F. Hough
Joel E. Karr
William J. Theroux
Graham J. Chynoweth
Robert E. Gronberg
Dennis R. Erlandson
Roger D. Mowery
Anthony H. Schieck
Jeffrey S. Wagner
Daniel A. Gary
Mark J. Costello
James L. Lambert
Frank P. Murray
Roy C. Samuelson, Jr.
Roger B. Streeter
Dennis L. McCord
Richard L. Cashdollar
Harold B. Dickey
Charles J. Hermann
Edward B. P. Kangter III
John R. Vitt, Jr.
Thomas D. Brennan
Kenneth D. Boyd
Jack W. Scarborough
Francis T. E. Marcotte
Bruce E. Weule
Terry L. Grindstaff
Wayne Young
John W. McBride
George T. Oakley
Wayne K. Six
Geoffrey M. Harben
David A. Fletcher
John A. Myntala, Jr.
Jay A. Creech
William F. Holt
John R. Hruska
Robert K. Jones
Olav R. Haneberg
Roger J. Beer
Michael W. Meehan
Ronald C. Hoover
William C. Eglit
Michael M. Storey
Robert B. Swart
Calvin F. Perkins, Jr.
Donald F. Walker
Theodore T. Musselman
Duane I. Preston
Richard A. Gelinas
Robert F. OToole
Paul J. McClendon
Gerald R. Murphy, Jr.
John S. Wenter
Stephen A. Dickerson
Robert A. Happel
William E. Pitt, Jr.
Jon C. Deichert
Harvey A. Hudson
Michael A. Haponik
Randall R. Winn

The following-named reserve officers to be permanent commissioned officers of the Coast Guard in the grade of lieutenant:

Alan B. Pell
Paul A. Dux
Michael J. Dewitt
Ican M. Lissauer
Edward B. Donnelly
Billy H. Baldwin
David F. Johnston
Daniel E. Struck

The following-named officers to be a member of the permanent commissioned teaching staff of the Coast Guard Academy as an assistant professor in the grade of lieutenant commander:

Louis K. Bragaw, Jr.
Bruce C. Skinner
Harlan D. Hanson

### In the Marine Corps

The following-named officers of the Marine Corps for temporary appointment to the grade of major:

Peter F. Angle
Carl R. Ariola
Henry W. Austin
Willard F. Ayer
Thomas R. Baisley
Dennis D. Beckman
William D. Benner
Gale F. Benoit
Richard A. Blumenkrantz
Rodney W. Botelho
Gene W. Bowers
Philip S. Bradley
Frank D. Brady
David M. Brahms
Marx H. Branum
John P. Brickley
Richard L. Brown
Martin C. Brush
Elton N. Buesing Jr.
George Cadwalader
Charles S. Cahaskie
James F. Carney
David J. Cassady
Frank G. Castillo
John P. Caynak
Robert G. Clapp
David O. Clough
Charles W. Cobb Jr.
Edward M. Condra III
James J. Connell
James J. Coolican
Gary J. Cooper
Donald W. Dadisman
Paul G. Davenport
James M. Davis
Daniel G. Dempsey
John D. Dempsey
Donald H. Dewalt
Richard F. Diehl
James M. Driskell
Richard J. Dove
Michael P. Downs
James T. East
James D. Eckert
Richmond K. Ellis Jr.
Frank W. Evans
Joe B. Ezell
John J. Fallon Jr.
Frank E. Farmer
William D. Fish
Jon T. Flint
Kim E. Fox
Constantine Gofas
David B. Gregory
John J. Guenther
Allen C. Hadley
William A. Hall
Bartholomew G. Halliday
James G. Hanrahan
Myron C. Harrington Jr.
Phillip L. Harrington
Charles B. Hartzell
John H. Havel
Edward M. Healey
Thomas E. Hemingway
George F. Hoffman
Carl J. Horn
Arthur L. Houston Jr.
Gerald F. Humi
William F. Hurley
Lajon R. Hutton
Charles M. Isbell
Orville E. James Jr.
Kenneth W. Johnson
Donald W. Johnston
Raymond W. Kalm Jr.
Edmund M. Keefe Jr.
Thomas J. Kennedy
Richard T. Kerrigan
Philip R. Kruse
William P. Lakin
Raymond M. Lawseth
Otto J. Lehrack III
James W. Lent Jr.
James W. Livezey
Thomas J. Lyman Jr.
William D. Major
Frank Mann Jr.
Paul S. Marcani
Elliott R. Markell Jr.
Matt J. Marshall
Charles M. McCain
William O. McClellan Jr.
David J. McGraw
James P. McHenry
Kenneth A. McVay
Charles J. Mears Jr.
Antonio Mediavilla
Donald O. Meece
Richard H. Meydag
David C. Mills
Harry R. Mills
Gerry M. Mizer
Robert W. Molyneux Jr.
Raymond R. Moore
Harmon S. Morgan Jr.
Philip R. Morris
Michael P. Mulqueen
Donald J. Myers
Dominik G. Nargele
Ralph Nelms

Charles F. Norton
Richard A. O'Neil
Merton J. Oss
Arthur P. Padios Jr.
Rabun N. Patrick Jr.
Wilber E. Pernell Jr.
Joel N. Peterson
Joseph R. Phaneuf
Herbert E. Pierpan
Kenneth W. Pipes
Russell C. Prouty
Henry J. Radcliffe
Robert J. Regan Jr.
Kenneth L. Rider
Willie G. Roberson
Ronald C. Rook
Donald W. Rourke
William E. Russell
Robert E. Salisbury
William P. Schlotzhauer
Ronald W. Schmid
Adolfo P. Sgambelluri
Russell R. Sherzer
Troy T. Shirley
William N. Simmons
Robert W. Smith
James P. Smyth
Louis M. Spevetz
Bayliss L. Spivey Jr.
James L. Steele
Stanley R. Stewart
Leo J. Still Jr.
Marion F. Stone
Alan B. Stout
William C. Stroup
Andrew P. Taylor Jr.
Orville M. Thompson
Jack L. Throckmorton
George V. Thurmond
Thomas M. Truax
James B. Way
John L. Whaley
Roy Whitehead Jr.
James L. Williams
Ronald N. Wilson
Peter D. Winer
Joseph J. Yetter

### CONFIRMATIONS

Executive nominations confirmed by the Senate October 27, 1969:

IN THE MARINE CORPS

The nominations beginning Joseph C. Abrams, to be captain, and ending John D. Wright, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on Sept. 25, 1969.

# HOUSE OF REPRESENTATIVES—*Monday, October 27, 1969*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*The Lord will give strength to His people; the Lord will bless His people with peace.*—Psalm 29: 11.

O Thou who art the Good Shepherd of our human hearts, restore our minds and renew our spirits as we wait upon Thee in this our morning prayer. We would linger silently and reverently in Thy presence until Thy spirit comes to new life within us. Then with courage, strength, and wisdom we would face the trying duties of this turbulent day.

To Thy loving care we commend our Nation. So guide our President, so bless our Speaker, so direct these Members of Congress that filled with Thy spirit they may lead our people in right paths, by just ways, and along the solid road that ultimately brings us to an honorable peace, an enduring good will, and a willingness to work for the welfare of all mankind.

"O Thou who dost the vision send
And givest each his task,
And with the task sufficient strength;
Show us Thy will we ask;
Give us a conscience bold and good;
Give us a purpose true,
That it may be our highest joy,
Our Father's work to do."

Amen.

### THE JOURNAL

The Journal of the proceedings of Thursday, October 23, 1969, was read and approved.

### MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries.

### 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. 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;

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; 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.

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

S. 232. An act to promote the economic development of the Trust Territory of the Pacific Islands;

S. 1455. An act to amend section 8c(2)(A) of the Agricultural Adjustment Act to provide for marketing orders for apples produced in Colorado, Utah, New Mexico, Illinois, and Ohio; and

S. 1968. An act to authorize the Secretary of the Interior to permit the removal of the Francis Asbury statue, and for other purposes.

The message also announced that the Vice President, pursuant to Public Law 83–420, appointed Mr. YARBOROUGH to be a member of the board of directors of Gallaudet College in lieu of Mr. Brewster.

### THE LATE HONORABLE EDWARD H. REES

(Mr. SHRIVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHRIVER. Mr. Speaker, it is with a feeling of personal loss and sadness that I inform my colleagues in the House of the passing of a former distinguished Congressman, Edward H. Rees of Emporia, Kans., on Saturday, October 25, 1969. It was my privilege to succeed Ed Rees as Kansas' fourth district Congressman following his decision to retire in 1960 after 24 years of outstanding service in the House.

Funeral services for Ed Rees will be held this afternoon in his hometown of Emporia.

For 24 years he was a dedicated and courageous Member of this House. Ed Rees was a man of integrity and responsibility. He fought for what he believed in and for the people whom he represented. His belief in what was right was never subject to compromise.

Ed Rees was a warm and sympathetic person, interested in the problems of the people he served. He was deeply appreciated by his own people and everyone who knew him had a deep affection for him.

He was born on a farm near Emporia, Lyon County, Kans., and attended the public schools and the Kansas State College at Emporia.

Ed Rees' long career of public service began in 1912 when he became clerk of the court of Lyon County. He was later to be admitted to the bar. His legislative service began in 1925 when he was elected to the Kansas House of Representatives, and 4 years later became majority leader. He was elected to the Kansas Senate in 1933, and to Congress in 1936.

Ed Rees was a member of the Post Office and Civil Service Committee for 16 years, and twice was its chairman. He was responsible for many improvements in Government working conditions, particularly wage improvements.

He was sponsor of legislation signed by President Eisenhower establishing an annual Veterans' Day on November 11 to honor America's servicemen of all wars.

One of his final legislative achievements in Congress was the authorization of the Cheney Dam and Reservoir in Sedgwick County, Kans., which has provided much-needed water resources and development for the Wichita area.

Upon his retirement from Congress nearly 9 years ago, Ed Rees returned to his hometown of Emporia to practice law.

He will be greatly missed not only by all of us in Kansas who knew and admired him, but also by his friends here in Congress and the Nation as well.

Mrs. Shriver and I extend our heartfelt sympathy to his widow, Agnes; to his son, John; and his sister, Mary Jane Rees.

Mr. PELLY. Mr. Speaker, will the gentleman yield?

Mr. SHRIVER. I am glad to yield to the gentleman from Washington.

Mr. PELLY. Mr. Speaker, I am sure that all those of us who served with him will remember Ed Rees well. Everyone liked him. Everyone respected him. He was an able legislator.

I think of him as a gentle person; as kindly and helpful and patient.

Yet, I think of him as a person of great integrity and inward strength and firmness.

I have a group picture of some of us taken on the White House steps with President Eisenhower in 1953. It hangs on the wall of my office in the Rayburn Building. He is smiling, and that is the way many of us will remember him.

Meanwhile, history will record his public service and place him high in the ranks of those who served their country well.

Mr. RHODES. Mr. Speaker, will the gentleman yield?