pressure groups have united to exert unseeming pressure to prevent the confirmation of President Nixon's nominee as Associate Justice of the U.S. Supreme Court, Judge Clement Haynsworth.

Their real objection, the Judge's constitutionalist philosophy, has been masked behind the recitation of other thin objections. Mr. Haynsworth's philosophy is the real issue, and I hope the Members of the other body will come to see the matter in that light. Neither political opportunities nor faulty vision should stand in the way.

I wish to insert herewith, by unanimous consent, a timely and perceptive editorial which recently appeared in the Milwaukee Sentinel:

BATTLE OF PHILOSOPHY

As the Clement F. Haynsworth, jr., debate grinds on, it is becoming increasingly obvious that organized labor is the main force behind the opposition to his confirmation as a supreme court associate justice.

There has been considerable said about pressure exerted by President Nixon in behalf of the Haynsworth nomination. But there has been too little said about the pressure that unions evidently are exerting on various senators to vote against Haynsworth. The political arm twisting by the unions might make the White House efforts seem relatively gentle.

Just why the unions are so dead set against Haynsworth is not clear. His judicial record is not that antilabor. He has sat on eight labor cases that were reversed by the supreme court but none of the reversals suggested that the decisions overturned were "antilabor." Haynsworth has written eight prolabor opinions and joined in 37 other prolabor rulings.

Having failed to find any damaging conflict of interest evidence and apparently unable to smear him as antilabor, the opposition to Haynsworth has swung back to an original complaint, that he is a southerner, ipso facto, a segregationist. But his record in civil rights cases shows him to be a moderate.

One is left with the feeling that the opposition to Haynsworth is motivated by a desire to try to preserve the philosophical status quo of the court. One senator, in fact, candidly says he will vote against him simply because he disagrees with his socio-economic philosophy.

President Nixon, in defending his nomination, effectively answered this attitude by saying that "if Judge Haynsworth's philosophy leans to the conservative side, in my view that recommends him to me.

"I think the court needs balance, and I think that the court needs a man who is conservative—and I use the term not in terms of economics, but conservative, as I said of Judge Burger, in respect to his attitude toward the Constitution.

"It is the judge's responsibility, and the supreme court's responsibility, to interpret the Constitution and interpret the law, and not to go beyond that in putting his own socio-economic philosophy into decisions in a way that goes beyond the law, beyond the Constitution."

This, we believe, is the fundamental issue involved in the Haynsworth nomination, and the basic reason for the opposition to him is that the liberals are fighting a desperate rear guard action to keep the supreme court's philosophical scales weighted on the side of social activism—in spite of the fact that the people in the last presidential election in effect voted to redress the supreme court's balance.

SENATE—*Tuesday, November 4, 1969*

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

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

Eternal Father, maker and preserver of all things visible and invisible, we worship Thee in Thine infinite majesty and thank Thee for Thy wondrous gifts to us and to all mankind. We thank Thee for life and reason, for the gifts of nature and of grace, for truth revealed in Thy word and made known through men, for the precious gift of freedom, and the hope of a more perfect world. Make us good men in a good government. Give us the peace of forgiveness and reconciliation that we may find our way to peace among the nations.

Now unto the King eternal, immortal, invisible, the only wise God, be honor and glory forever and ever. Amen.

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of February 7, 1969, Mr. MCCLELLAN, from the Committee on Appropriations, reported favorably, with amendments, on November 3, 1969, the bill (H.R. 12964) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1970, and for other purposes, and submitted a report (No. 91–502) thereon, which bill was placed on the calendar and the report was printed.

INDIAN EDUCATION: A NATIONAL TRAGEDY—A NATIONAL CHALLENGE

Under authority of the order of the Senate of November 3, 1969, Mr. KENNEDY, from the Committee on Labor and Public Welfare, on November 3, 1969, submitted a report entitled "Indian Education: A National Tragedy—A National Challenge" (S. Rept. No. 91–501), which report was printed together with supplemental views.

NOTICE OF MOTION TO SUSPEND THE RULE—AMENDMENT TO STATE, JUSTICE, COMMERCE, AND THE JUDICIARY APPROPRIATION BILL, 1970—RECEIVED DURING ADJOURNMENT

AMENDMENT NO. 262

Mr. PASTORE submitted the following notice in writing:

In accordance with rule XI of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H.R. 12964) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1970, and for other purposes, the following amendment, namely:

"Page 48, at the end of line 17 and before the period, insert the following: ': *Provided*, That all funds herein appropriated to the business loan and investment fund and all moneys hereinbefore or hereinafter appropriated to such fund, together with all moneys otherwise available to such fund, shall be available to meet guarantees bearing the full faith and credit of the United States of America heretofore or hereafter made by the Small Business Administration pursuant to section 303(b) of the Small Business Investment Act of 1958, as amended.'"

Mr. PASTORE also submitted an amendment, intended to be proposed by him, to House bill 12964, making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1970, and for other purposes, which was ordered to lie on the table and to be printed.

(For text of amendment referred to, see the foregoing notice.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, November 3, 1969, be dispensed with.

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

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

PRESIDENT NIXON'S VIETNAM ADDRESS

Mr. MANSFIELD. Mr. President, the President spoke sincerely for peace. He emphasized, once again, that he wants to get the United States out of Vietnam. What is still not clear is the how or when. There were no specifics. The President undoubtedly had his reasons for not making this clarification. Nevertheless, until it is made, I am afraid the issue of Vietnam will remain as divisive as ever in the life of the Nation.

The difficulty in waiting for the "other side" and for Saigon to make up their minds that there has been enough bloodshed and destruction is that we are also

enmeshed in that bloodshed. It is a cancerous and tragic war—in which we had no proper national purpose to become involved militarily in the first place.

The tragedy is compounded, not alleviated, by the continued presence of our forces in Vietnam. Along with the people of Vietnam, we will suffer the more, the longer our involvement persists. And to what end?

I am glad that the President saw fit to refer to the Nixon doctrine which he enunciated on Guam in the course of his visit to Asia. That doctrine, which has my full support, calls for the sharp restriction of American military involvement in Asia and, notably, on the Southeast Asia mainland where our national interests are peripheral at most. That doctrine has not yet been applied anywhere on the mainland. The sooner it is applied by this Government in Vietnam and throughout the Southeast Asia area, in my judgment, the better it will be for this Nation and for all concerned.

Mr. KENNEDY. Mr. President, I and millions of Americans were most disappointed by the President's address last night on Vietnam. The President's speech, simply stated, was more of the same—no new hopes, no new considerations, no new inspiration for an American people who have waited so long and given so much for peace.

I do not wish to be harsh or overly critical, but the time has come to say it: As a candidate, Richard Nixon promised us a plan for peace once elected; as Chief Executive, President Nixon promised us a plan for peace for the last 10 months. Last night he spoke again of a plan—a secret plan for peace sometime.

There now must be doubt whether there is in existence any plan to extricate America from this war in the best interest of America—for it is no plan to say that what we will do depends upon what Hanoi does.

In effect, the President has passed all decisionmaking power for peace over to the government of Hanoi—if they wish the fighting to subside it will subside, if they wish the war to escalate, it will escalate. At this late hour of war and killing and violence, I find that position to both tragic and unacceptable.

I feel that the people of this country had a right to expect more of their leader than a simple reiteration of the past. To say there must be more war to prove our fidelity to friends after 6 years of war is but rhetoric; to hold out the possibility of the horror of killing in Vietnam after we leave, as a reason why we must continue the killing, is almost beyond comment.

And so this administration, by clinging to the policies of the past when the time for peace has come, must expect that those who feel differently will rise to this test. The call for unity cannot be responsibly heeded when a leadership has exhibited no policy or plan that unifies. It is difficult to ask a people to join in support of a position that is no different from that which has split our country before.

I do not feel that the war in Vietnam is worth thousands more American lives. Yet we have been given no indication that there now exists any limit to the number of lives or amount of resources that this country will expend to preserve the government of Saigon.

If real negotiations and peace were more important to us than the continued personal power of President Thieu and the Saigon regime, the August 25 letter from Hanoi could have been seized as an opening, not a closing of communication between adversaries. If that chance is now gone, and the only alternative is war and more war, then there is little hope that the burden of Vietnam will be lifted from America in the near future.

Mr. TALMADGE. Mr. President, for 7 years the American Government has been engaged in a very unpopular war in Southeast Asia. We have refused to make an all-out effort to achieve victory, and our Government has likewise refused to end the war by withdrawing. This has divided the American people to a greater degree than at any time since the War Between the States.

The President made a candid, forthright statement about his plans and intentions. I doubt that his statement will result in bringing harmony to the American people. There will be many Americans who want to leave Southeast Asia now. There will be other Americans who will want to achieve a victory on the battlefield. Still others will support the President's position on a timed and orderly withdrawal. Our people need unity now as never before. We can have only one Commander in Chief, and as long as he is making a serious effort to bring this unfortunate war to a conclusion, he should have our support.

To persist in demonstrating against our own Government provides aid and comfort to the enemy. It only serves to further stymie our efforts in Paris. It pushes further away the date at which the last U.S. combat soldier can be removed from the battlefield. This is what we all want. Increased division among our people makes this goal more difficult to attain, and this is certainly no time to parrot the propaganda slogans of Hanoi.

AN EXERCISE IN RESPONSIBILITY

Mr. GRIFFIN. Mr. President, last evening President Nixon spoke to the American people and to people throughout the world. His address was an act of great courage. I believe it will prove to be a turning point in history.

In words of eloquence and compassion, the President said what needed to be said and what I believe a large majority of the American people wanted to hear.

Even more important, perhaps, he said what Hanoi needed to hear, words that Hanoi should heed if there is any sincere desire on the part of Hanoi for peace.

In a message of unusual candor—one straight from the shoulder—the President has charted a course that will bring peace in Southeast Asia—and contribute toward peace throughout the world.

The word which first came into my mind when I heard President Nixon deliver his speech on Vietnam was the word "responsibility." In his rejection of gimmicks, his refusal to be spectacular, his plea for reason, his candor in telling what had heretofore been secret, his realism in assessing the progress in Paris, his caution in pinning us down to a definite timetable, his assurance that we would be out of the war regardless of what happens in the negotiations—in all of these ways, the President's speech was the essence of responsibility.

Winston Churchill once said:

> The question which we must ask ourselves is not whether we like or do not like what is going on, but what we are going to do about it.

It was that question to which President Nixon addressed himself in his television speech. He wasted no time in complaints about how we got to our present position, he did not go in for recrimination. He indulged himself in no emotional rhetoric. Clearly, calmly, responsibly, he faced the problem of Vietnam as it now exists and he told us "what he is going to do about it." He also told us—and the point is equally important—what he wants us to do about it.

In brief, he wants us to be responsible citizens. That does not mean that we should never criticize. It does not mean that we must agree on all points with him. It does mean, however, that we should carefully judge our actions in view of their impact on all the parties to the conflict, doing always what we believe will help our country achieve the most rapid and most lasting settlement.

"Let us be united for peace," said the President. That is a call which all of us should readily answer. For unity and peace are truly two sides of the same coin in our current situation. The fastest way to end the war is to unite the country and the truest way to achieve a lasting unity is to win the peace.

Together let us pursue both these goals. Let us see to it that the American public proves itself to be as responsible in dealing with this difficult issue as has our President.

The PRESIDENT pro tempore. Is there further morning business?

Mr. ALLOTT addressed the Chair.

The PRESIDENT pro tempore. The Senator from Colorado is recognized.

Mr. ALLOTT. Mr. President, on this rather historic morning I want to say a few words about the speech of our President last evening and to join in the support of the position he has taken.

I know that this is not and was not an easy decision for him to make. I know that politically it would have been a far greater gimmick to say, "I am going to withdraw all of the troops immediately," or "I am going to withdraw 50 percent of them by Christmas," or "I am going to withdraw a certain percentage on a given timetable."

I think one thing most people have missed and forgotten is the complete intransigence of the Communists in the negotiations at Paris. To describe as cynical their appearances there, their talks, and negotiations would be kind to them, far beyond what they deserve.

I have been looking at the mortality of our situation in Vietnam, and while I would be disposed to speak at some length on the mistakes and errors which I think have brought us to this point, it seems to me that the President has said regardless of what has occurred or how

much we disagree with those things, this is the situation we are in and this is my plan to end the war, and we will negotiate on anything except the final ability of the South Vietnamese to choose their own government.

When I think of an all-out retreat at this point in Vietnam, and the immediate withdrawal of troops, as proposed by some people, I cannot help but wonder—and this figure is as of early this year, March 22—about the 33,641 battle deaths The figure is much higher now, of course.

If I were one of the wives or one of the parents, and we were to turn our tails without giving the Vietnamese people a chance to pursue freedom in their own way, I would have to ask, "For what did my son die?" or "For what did my husband die?"

The President has offered us the only clear choice of concluding that war and making these sacrifices meaningful. I do not think the President was asking that the people be deprived of their right to dissent or their right to discuss or their right to march on the streets. All these things are inherent in our American principles. I think probably he put his finger on the basic point when he said:

> I want to end the war so that the energy and dedication of our young people, now too often directed into bitter hatred against those they think are responsible for the war, can be turned to the great challenges of peace, a better life for all Americans and for people throughout the world.

In these hard, difficult days today in the Senate, when we worry about solving the problems of our cities, solving the problem of our ghettos, solving the problems of the quality of education, work opportunity, and housing for all the people in this country—all of them—and when we look hopefully at what the dollars spent in the war in Vietnam might do and might have done in that area, it causes a great challenge to come to those who are serious minded about the efforts to solve the problems of this country.

In the Revolutionary War, in the Civil War, in World War I, in World War II, and in the Korean war we had those people who voiced their opinions, those people who dissented from the course that the Government had taken; and yet, over all, we had a solidarity and a community of interest that it was our country. I feel our community of interest as a country is as great now and as much at stake as it has ever been in our history. So I would hope that while people dissent and offer their views, that they will be constructive. Continuing to damn what has occurred in the past, while tempting, will not solve our problems now.

This can only be done through a realistic look, as the President did last night, at where we are and how we can meaningfully end the war and bring our troops home and achieve a peace which will have significance not only to Vietnam but perhaps to all of Southeast Asia.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the concurrent resolution (S. Con. Res. 12) to express the sense of Congress on participation in the Ninth International Congress on High Speed Photography, to be held in Denver, Colo., in August 1970.

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

H.R. 4244. An act to raise the ceiling on appropriations of the Administrative Conference of the United States;

H.R. 8662. An act to authorize command of the U.S. ship *Constitution* (IX–21) by retired officers of the U.S. Navy;

H.R. 8664. An act to authorize an increase in the number of flag officers who may serve on certain selection boards in the Navy and in the number of officers of the Naval Reserve and Marine Corps Reserve who are eligible to serve on selection boards considering Reserves for promotion;

H.R. 9564. An act to remove the restrictions on the grades of the director and assistant directors of the Marine Corps Band;

H.R. 10317. An act to adjust the date of rank of commissioned officers of the Marine Corps;

H.R. 11548. An act to amend title 10, United States Code, to permit naval flight officers to be eligible to command certain naval activities and for other purposes; and

H.R. 14252. An act to authorize the Secretary of Health, Education, and Welfare to make grants to conduct special educational programs and activities concerning the use of drugs and for other related educational purposes.

HOUSE BILLS REFERRED

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

H.R. 4244. An act to raise the ceiling on appropriations of the Administrative Conference of the United States; to the Committee on the Judiciary.

H.R. 8662. An act to authorize command of the U.S.S. *Constitution* (IX–21), by retired officers of the U.S. Navy;

H.R. 8664. An act to authorize an increase in the number of flag officers who may serve on certain selection boards in the Navy and in the number of officers of the Naval Reserve and Marine Corps Reserve who are eligible to serve on selection boards considering Reserves for promotion;

H.R. 9564. An act to remove the restrictions on the grades of the director and assistant directors of the Marine Corps Band;

H.R. 10317. An act to adjust the date of rank of commissioned officers of the Marine Corps; and

H.R. 11548. An act to amend title 10, United States Code, to permit naval flight officers to be eligible to command certain naval activities, and for other purposes; to the Committee on Armed Services.

H.R. 14252. An act to authorize the Secretary of Health, Education, and Welfare to make grants to conduct special educational programs and activities concerning the use of drugs and for other related educational purposes; to the Committee on Labor and Public Welfare.

VIETNAM—PRESIDENT NIXON'S ADDRESS TO THE AMERICAN PEOPLE LAST NIGHT

Mr. DOLE. Mr. President, last evening the American people heard one of the most direct, straightforward, and revealing discussions of national policy ever presented to them. President Nixon very carefully and meticulously defined the U.S. commitments, its goals and, most important, the steps which have been taken to fulfill our commitments and achieve our goals in Vietnam. Briefly, our commitment is to the assured and secured right of the South Vietnamese freely to choose their own destiny; our goal is to end American military involvement as quickly as is consistent with our commitment.

As President Nixon said:

> The question before us is not whether some Americans are for peace and some against it. The great question at issue is not whether Johnson's war becomes Nixon's war.
>
> The question is: how can we win America's peace?

The President very carefully and thoroughly explained what he and his administration have done, even before taking office in January, to bring a just and lasting peace. He told of specific initiatives which he undertook in utmost good faith and generosity. He disclosed the unprecedented step of a direct letter, outside regular diplomatic channels, to Ho Chi Minh seeking to promote meaningful progress at the Paris negotiations.

As he said many, many times and emphasized many, many times—

Each and every gesture, feeler, and contact made by the United States has been summarily dismissed by the North Vietnamese and the Vietcong.

In spite of the Communists' total lack of cooperation in the diplomatic field, the President has pursued his policy for peace in Vietnam itself. The foremost feature of this policy has been the process of Vietnamization, the success of which has permitted a timetable to be established for the withdrawal of American combat forces from the country. This plan for peace, which is to some extent independent of the Paris negotiations, has produced tangible results and is proceeding.

Critics have been saying that President Nixon has no plan, but he obviously does have a plan and he has had a plan for many months. It is the result of deliberate study and weighing of alternative policies and the consequences of these policies. President Nixon very clearly explained these alternatives last night. That the President does not announce specific details of his policy in an illustration of his understanding of international politics and the fundamentals of negotiation. He surely would have liked to have announced further withdrawals and other moves toward peace, but it would not be in the best interests of our dealings with the Communists to do so. We must maintain our bargaining position, while at the same time we make efforts to achieve peace away from the table at Paris.

Mr. President, President Nixon has leveled with the people. We now know where he stands and what he seeks to achieve. We should meet this honesty and directness with full vocal support of his efforts.

TELL IT TO HANOI

Mr. President, President Nixon has given America the facts. He has not ducked the hard questions. He has made

clear that there has been little progress in Paris, and that continued sacrifice is going to be necessary in Vietnam itself if the war is to be brought to a satisfactory conclusion.

At the same time, he has demonstrated persuasively that the path to peace does have an end, and that that end is in sight. This, of course, has been indicated by the announcements of withdrawals of U.S. combat ground forces, which withdrawals have already begun under this administration and which are going to continue, until eventually—and sooner rather than later—the burden of actual fighting will once again be borne by the South Vietnamese, but with a difference: they will at last have been strengthened sufficiently so that they can carry that burden.

This leaves one thing to be done: For the American people to "tell it like it is" to "tell it to Hanoi", to tell it to the enemy and carry the message, loud and clear, that we are not going to be pushed off this path to peace; that we are behind the President; and that Hanoi might just as well give up its hopes of winning in the streets of America what it cannot win on the battlefields of South Vietnam.

If that message gets through, then maybe we will have some progress in Paris—and maybe we will have peace sooner than many think. So, let us shout about it, let us write about it, let us wire about it—let us "tell it to Hanoi."

Mr. GRIFFIN. Mr. President, I ask unanimous consent to have printed in the RECORD the full text of President Nixon's address to the American people of last evening.

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

TEXT OF ADDRESS BY PRESIDENT RICHARD NIXON, DELIVERED NOVEMBER 3, 1969

Tonight I want to talk to you on a subject that deeply concerns every American and other people throughout the world—the war in Vietnam.

I believe that one of the reasons for the deep division in this nation about Vietnam is that many Americans have lost confidence in what their government has told them about our policy. The American people cannot and should not be asked to support a policy which involves the overriding issues of war and peace unless they know the truth about the policy.

Tonight I would like to answer some of the questions that I know are on the minds of many of you listening to me.

How and why did America get involved in Vietnam in the first place?

How has this Administration changed the policy of the previous Administration?

What has really happened in the negotiations in Paris and on the battlefront in Vietnam?

What choices do we have if we are to end the war?

What are the prospects for peace?

Let me begin by describing the situation I found when I was inaugurated on January 20.

The war had been going on for four years.

31,000 Americans had been killed in action.

The training program for the South Vietnamese armed forces was behind schedule.

540,000 Americans were in Vietnam with no plans to reduce the number.

No progress had been made at the negotiations in Paris and the United States had not put forth a comprehensive peace proposal.

The war was causing deep division at home and criticism from many of our friends as well as our enemies abroad.

In view of this circumstances there were some who urged I end the war at once by ordering the immediate withdrawal of all American forces.

From a political standpoint this would have been a popular and easy course to follow. After all, we became involved in the war while my predecessor was in office. I could blame the defeat which would be the result of my action on him and come out as the peacemaker. Some put it quite bluntly: This was the only way to avoid allowing Johnson's war to become Nixon's war.

But I had a greater obligation than to think only of the years of my Administration and the next election. I had to think of the effect of my decision on the next generation and the future of peace and freedom in America and the world.

Let us all understand that the question before us is not whether some Americans are for peace and some against it. The great question at issue is not whether Johnson's war becomes Nixon's war.

The question is: how can we win America's peace?

Let us turn now to the fundamental issue. Why and how did the United States become involved in Vietnam in the first place?

Fifteen years ago North Vietnam, with the logistical support of Communist China and Soviet Union, launched a campaign to impose a Communist government on South Vietnam by instigating and supporting a revolution.

In response to the request of the government of South Vietnam, President Eisenhower sent economic aid and military equipment to assist the people of South Vietnam in their efforts to prevent a Communist takeover. Seven years ago, President Kennedy sent 16,000 military personnel to Vietnam as combat advisors. Four years ago, President Johnson sent American combat forces to South Vietnam.

Many believe that President Johnson's decision to send American combat forces to South Vietnam was wrong. Many others—I among them—have been strongly critical of the way the war has been conducted.

But the question today is—now that we are in the war, what is the best way to end it?

In January I could only conclude that the precipitate withdrawal of all American forces from Vietnam would be a disaster not only for South Vietnam but for the United States and for the cause of peace.

For the South Vietnamese, our precipitate withdrawal would inevitably allow the Communists to repeat the massacre which followed their takeover of the North fifteen years ago.

They then murdered more than fifty thousand people and hundreds of thousands more died in slave labor camps.

We saw a prelude of what would happen in South Vietnam when the Communists entered the city of Hue last year. During their brief rule there, there was a bloody reign of terror in which some 3,000 civilians were clubbed and shot to death.

With the sudden collapse of our support, these atrocities of Hue would become the nightmare of the entire nation—and particularly for the million and a half Catholic refugees who fled to South Vietnam when the Communists took over the North in 1954.

For the United States, this first defeat in our nation's history would result in a collapse of confidence in American leadership, not only in Asia but throughout the world.

Three American Presidents have recognized the great stakes involved in Vietnam and understood what had to be done.

In 1963, President Kennnedy said with his characteristic eloquence and clarity, "we want to see a stable government there carrying on the struggle to maintain its national independence. We believe strongly in that. We're not going to withdraw from that effort. In my opinion for us to withdraw from that effort would mean a collapse not only of South Vietnam, but Southeast Asia, so we're going to stay there."

President Eisenhower and President Johnson expressed the same conclusion during their terms of office.

For the future of peace, precipitate withdrawal would thus be a disaster of immense magnitude.

A Nation cannot remain great if it betrays its allies and lets down its friends.

Our defeat and humiliation in South Vietnam would without question promote recklessness in the councils of those great powers who have not yet abandoned their goals of world conquest.

This would spark violence wherever our commitments help maintain peace—in the Middle East, in Berlin, eventually even in the Western Hemisphere.

Ultimately, this would cost more lives.

It would not bring peace but more war.

For these reasons, I rejected the recommendation that I should end the war by immediately withdrawing all our forces. I chose instead to change American policy on both the negotiating front and the battlefront.

In order to end a war fought on many fronts, I initiated a pursuit for peace on many fronts.

In a television speech on May 14, in a speech before the United Nations, and on a number of other occasions I set forth our peace proposals in great detail.

We have offered the complete withdrawal of all outside forces within one year.

We have proposed a cease-fire under international supervision.

We have offered free elections under international supervision with the Communists participating in the organization and conduct of the elections as an organized political force. The Saigon Government has pledged to accept the result of the elections.

We have not put forth our proposals on a take-it-or-leave-it basis. We have indicated that we are willing to discuss the proposals that have been put forth by the other side and that anything is negotiable except the right of the people of South Vietnam to determine their own future. At the Paris peace conference, Ambassador Lodge has demonstrated our flexibility and good faith in 40 public meetings.

Hanoi has refused even to discuss our proposals. They demand our unconditional acceptance of their terms; that we withdraw all American forces immediately and unconditionally and that we overthrow the government of South Vietnam as we leave.

We have not limited our peace initiatives to public forums and public statements. I recognized that a long and bitter war like this usually cannot be settled in a public forum. That is why in addition to the public statements and negotiations I have explored every possible private avenue that might lead to a settlement.

Therefore, tonight I am taking the unprecedented step of disclosing some of our other initiatives for peace—initiatives we undertook privately and secretly because we thought that we thereby might open a door which publicly would be closed.

I did not wait for my inauguration to begin my quest for peace.

Soon after my election through an individual who is directly in contact on a personal basis with the leaders of North Vietnam I made two private offers for a rapid, comprehensive settlement. Hanoi's replies called in effect for our surrender before negotiations.

Since the Soviet Union furnishes most of the military equipment for North Vietnam, Secretary of State Rogers, my Assistant for National Security Affairs, Dr. Kissinger, Ambassador Lodge, and I, personally, have met on a number of occasions with representatives of the Soviet Government to enlist their assistance in getting meaningful negotiations started. In addition we have had extended discussions directed toward that same end with representatives of other governments which have diplomatic relations with North Vietnam. None of these initiatives have to date produced results.

In mid-July, I became convinced that it was necessary to make a major move to break the deadlock in the Paris talks. I spoke directly with an individual who had known Ho Chi Minh on a personal basis for twenty-five years. Through him I sent a letter to Ho Chi Minh.

I did this outside of the usual diplomatic channels with the hope that with the necessity of making statements for propaganda removed, there might be constructive progress toward bringing the war to an end. Let me read from that letter:

"DEAR MR. PRESIDENT: I realize that it is difficult to communicate meaningfully across the gulf of four years of war. But precisely because of this gulf, I wanted to take this opportunity to reaffirm in all solemnity my desire to work for a just peace. I deeply believe that the war in Vietnam has gone on too long and delay in bringing it to an end can benefit no one—least of all the people of Vietnam.

* * * * *

"The time has come to move forward at the conference table toward an early resolution of this tragic war. You will find us forthcoming and open-minded in a common effort to bring the blessings of peace to the brave people of Vietnam. Let history record at this critical juncture, both sides turned their face toward peace rather than toward conflict and war."

I received Ho Chi Minh's reply on August 30, three days before his death. It simply reiterated the public position North Vietnam had taken in the Paris talks and flatly rejected my initiative.

The full text of both letters is being released to the press.

In addition, Ambassador Lodge has met with Vietnam's chief negotiator in Paris in 11 private meetings.

We have taken other significant initiatives which must remain secret to keep open some channels of communication which may still prove to be productive.

The effect of all the public, private and secret negotiations which have been undertaken since the bombing halt a year ago and since this Administration came into office on January 20, can be summed up in one sentence—

No progress whatever has been made except agreement on the shape of the bargaining table.

It has become clear that the obstacle in negotiating an end to the war is not the President of the United States. And it is not the South Vietnamese Government.

The obstacle is the other side's absolute refusal to show the least willingness to join us in seeking a just peace. It will not do so while it is convinced that all it has to do is to wait for our next concession, and the next until it gets everything it wants.

There can be now no longer any doubt that progress in negotiation depends above all on Hanoi's deciding to negotiate seriously.

I realize that this report on our efforts on the diplomatic front is discouraging but the American people are entitled to know the truth—the bad news as well as the good news where the lives of our young men are involved.

Let me now turn, however, to a more encouraging report on another front.

At the time we launched our search for peace, I recognized that we might not succeed in bringing an end to the war through negotiation. I, therefore, put into effect another plan to bring peace—a plan which will bring the war to an end regardless of what happens on the negotiating front.

It is in line with a major shift in U.S. foreign policy which I described in my press conference at Guam on July 25. Let me briefly explain what has been described as the Nixon Doctrine—a policy which not only will help end the war in Vietnam, but which is an essential element of our program to prevent future Vietnams.

We Americans are a do-it-yourself people—an impatient people. Instead of teaching someone else to do a job, we like to do it ourselves. This trait has been carried over into our foreign policy.

In Korea and again in Vietnam, the United States furnished most of the money, most of the arms, and most of the men to help the people of those countries defend their freedom against Communist aggression.

Before any American troops were committed to Vietnam, a leader of another Asian country expressed this opinion to me when I was traveling in Asia as a private citizen. "When you are trying to assist another nation defend its freedom, U.S. policy should be to help them fight the war but not to fight the war for them."

In Guam, I laid down these three principles as guidelines for future American policy toward Asia:

1. The United States will keep all of our treaty commitments.

2. We shall provide a shield if a nuclear power threatens the freedom of a nation allied with us or of a nation whose survival we consider vital to our security.

3. In cases involving other types of aggression, we shall furnish military and economic assistance when requested in accordance with our treaty commitments. But we shall look to the nation directly threatened to assume the primary responsibility of providing the manpower for its defense.

After I announced this policy, I found that the leaders of the Philippines, Thailand, Vietnam, South Korea and other nations which might be threatened by Communist aggression welcomed this new direction in American foreign policy.

The defense of freedom is everybody's business—not just America's business. And it is particularly the responsibility of the people whose freedom is threatened. The policy of the previous Administration not only resulted in our assuming the primary responsibility for fighting the war but even more significantly it did not adequately stress the goal of strengthening the South Vietnamese so that they could defend themselves when we left.

The Vietnamization Plan was launched following Secretary Laird's visit to Vietnam in March. Under the plan, I ordered a substantial increase in the training and equipment of South Vietnamese forces.

In July, on my visit to Vietnam, I changed General Abram's orders so that they were consistent with the objectives of our new policy. Under the new orders the primary mission of our troops is to enable the South Vietnamese forces to assume the full responsibility for the security of South Vietnam.

Our air operations have been reduced by over twenty percent.

We have now begun to see the results of this long overdue change in American policy in Vietnam.

After five years of Americans going into Vietnam, we are finally bringing American men home. By December 15, over 60,000 men will have been withdrawn from South Vietnam—including twenty percent of all of our combat troops.

The South Vietnamese have continued to gain in strength. As a result they have been able to take over combat responsibilities from our American forces.

Two other significant developments have occurred since this Administration took office in January.

Enemy infiltration over the last three months is less than twenty percent of what it was over the similar period last year.

Most important—United States casualties have declined during the last two months to the lowest point in three years.

Let me turn now to our program for the future.

We have adopted a plan which we have worked out in cooperation with the South Vietnamese for the complete withdrawal of all U.S. ground combat forces and their replacement by South Vietnamese forces on an orderly scheduled timetable. This withdrawal will be made from strength and not from weakness. As South Vietnamese forces become stronger, the rate of American withdrawal can become greater.

I have not and do not intend to announce the timetable for our program. There are obvious reasons for this decision. As I have indicated on several occasions, the rate of withdrawal will depend on developments on three fronts:

One is the progress which may be made at the Paris talks. An announcement of a fixed timetable for our withdrawal would completely remove any incentive for the enemy to negotiate an agreement.

They would simply wait until our forces had withdrawn and then move in.

The other two factors on which we will base our withdrawal decisions are the level of enemy activity and the progress of the training program of the South Vietnamese forces. Progress on both these fronts has been greater than we anticipated when we started the withdrawal program in June. As a result, our timetable for withdrawal is more optimistic now than when we made our first estimates in June. This clearly demonstrates why it is not wise to be frozen in on a fixed timetable.

We must retain the flexibility to base each withdrawal decision on the situation as it is at that time rather than on estimates that are no longer valid.

Along with this optimistic estimate, I must—in all candor—leave one note of caution.

If the level of enemy activity significantly increases we might have to adjust our timetable accordingly.

However, I want the record to be completely clear on one point.

At the time of the bombing halt last November, there was some confusion as to whether there was an understanding on the part of the enemy that if we stopped the bombing they would stop shelling cities of South Vietnam. I want to be sure there is no misunderstanding on the part of the enemy with regard to our withdrawal program.

We have noted the reduced level of infiltration and the reduction of our casualties and are basing our withdrawal decisions partially on those factors.

If the level of infiltration or our casualties increase while we are trying to scale down the fighting, it will be the result of a conscious decision by the enemy.

Hanoi could make no greater mistake than to assume that an increase in violence will be to its own advantage. If I conclude that increased enemy action jeopardizes our remaining forces in Vietnam, I shall not hesitate to take strong and effective measures to deal with that situation.

This is not a threat. This is a statement of policy which as Commander-in-Chief of our Armed Forces I am making in meeting my responsibility for the protection of American fighting men wherever they may be.

I am sure that you can recognize from what I have said that we have only two choices open to us if we want to end the war.

I can order an immediate, precipitate withdrawal of all Americans from Vietnam without regard to the effects of that action.

Or we can persist in our research for a just peace through a negotiated settlement if possible, or through continued implementation of our plan for Vietnamization if necessary—a plan in which we will withdraw all of our forces from Vietnam on a schedule in accordance with our program, as the South Vietnamese become strong enough to defend their own freedom.

I have chosen the second course.

It is not the easy way.

It is the right way.

It is a plan which will end the war and serve the cause of peace—not just in Vietnam but in the Pacific and in the world.

In speaking of the consequences of a precipitate withdrawal, I mentioned that our allies would lose confidence in America.

Far more dangerous, we would lose confidence in ourselves. The immediate reaction would be a sense of relief as our men came home. But as we saw the consequences of what we had done, inevitable remorse and divisive recrimination would scar our spirit as a people.

We have faced other crises in our history and have become stronger by rejecting the easy way out and taking the right way in meeting our challenges. Our greatness as a nation has been our capacity to do what had to be done when we knew our course was right.

I recognize that some of my fellow citizens disagree with the plan for peace I have chosen. Honest and patriotic Americans have reached different conclusions as to how peace should be achieved.

In San Francisco a few weeks ago, I saw demonstrators carrying signs reading: "Lose in Vietnam, bring the boys home."

One of the strengths of our free society is that any American has a right to reach that conclusion and to advocate that point of view. But as President of the United States, I would be untrue to my oath of office if I allowed the policy of this nation to be dictated by the minority who hold that view and who attempt to impose it on the nation by mounting demonstrations in the street.

For almost two hundred years, the policy of this nation has been made under our Constitution by those leaders in the Congress and in the White House who were elected by all the people. If a vocal minority, however fervent its cause, prevails over reason and the will of the majority this nation has no future as a free society.

I would like to address a word to the young people of this nation who are concerned about the war.

I respect your idealism.

I share your concern for peace.

I want peace as much as you do.

There are powerful personal reasons I want to end this war. This week I will have to sign 83 letters to mothers, fathers, wives and loved ones of men who had given their lives for America in Vietnam. It is very little satisfaction to me that this was only one-third as many as I signed during my first week in office. There is nothing I want more than to see the day come when I no longer must write any of these letters.

I want to end the war to save the lives of those brave young men in Vietnam.

I want to end it in a way which will increase the chance that their younger brothers and their sons will not have to fight in another Vietnam someplace in the world.

I want to end the war so that the energy and dedication of our young people, now too often directed into bitter hatred against those they think are responsible for the war, can be turned to the great challenges of peace, a better life for all Americans and for people throughout the world.

I have chosen a plan for peace. I believe it will succeed.

If it does succeed, what the critics say now will not matter. If it does not succeed, anything I say then will not matter.

I know it may not be fashionable to speak of patriotism or national destiny these days. But I feel it is appropriate to do so on this occasion.

Two hundred years ago this nation was weak and poor. But even then, America was the hope of millions in the world. Today we have become the strongest and richest nation in the world. The wheel of destiny has turned so that any hope the world has for the survival of peace and freedom in the last third of this century will be determined by whether the American people have the moral stamina and the courage to meet the challenge of free world leadership.

Let historians not record that when America was the most powerful nation in the world we passed on the other side of the road and allowed the last hopes for peace and freedom of millions of people on this earth to be suffocated by the forces of totalitarianism.

And so tonight—to you, the great silent majority of my fellow Americans—I ask for your support.

I pledged in my campaign for the Presidency to end the war in a way that we could win the peace. I have initiated a plan of action which will enable me to keep that pledge.

The more support I can have from the American people, the sooner that pledge can be redeemed; for the more divided we are at home, the less likely the enemy is to negotiate in Paris.

Let us be united for peace. Let us also be united against defeat. Because let us understand: North Vietnam cannot defeat or humiliate the United States. Only Americans can do that.

Fifty years ago, in this very room and at this very desk, President Woodrow Wilson wrote words which caught the imagination of a war-weary world during World War I. He said: "This is the war to end wars." His dream for peace after that war was shattered on the hard realities of great power politics, and Wilson died a broken man.

Tonight I do not tell you that the war in Vietnam is the war to end wars.

I do say that I have initiated a plan which will end this war in a way that will bring us closer to that great goal of a just and lasting peace to which Woodrow Wilson and every President in our history has been dedicated.

As President I hold the responsibility for choosing the best path to that goal and then for leading our nation along it.

I pledge to you tonight that I will meet this responsibility with all of the strength and wisdom I can command in accordance with your hopes, mindful of your concerns, sustained by your prayers.

[From the office of the White House Press Secretary, Nov. 3, 1969]

(NOTE.—In the President's address to the nation, he refers to an exchange of correspondence he had with President Ho Chi Minh of the Democratic Republic of Vietnam. For your information and use, this exchange of correspondence follows:)

THE WHITE HOUSE,
July 15, 1969.

His Excellency HO CHI MINH,
President, Democratic Republic of Vietnam, Hanoi.

DEAR MR. PRESIDENT: I realize that it is difficult to communicate meaningfully across the gulf of four years of war. But precisely because of this gulf, I wanted to take this opportunity to reaffirm in all solemnity my desire to work for a just peace. I deeply believe that the war in Vietnam has gone on too long and delay in bringing it to an end can benefit no one—least of all the people of Vietnam. My speech on May 14 laid out a proposal which I believe is fair to all parties. Other proposals have been made which attempt to give the people of South Vietnam an opportunity to choose their own future. These proposals take into account the reasonable conditions of all sides. But we stand ready to discuss other programs as well, specifically the 10-point program of the NLF.

As I have said repeatedly, there is nothing to be gained by waiting. Delay can only increase the dangers and multiply the suffering.

The time has come to move forward at the conference table toward an early resolution of this tragic war. You will find us forthcoming and open-minded in a common effort to bring the blessings of peace to the brave people of Vietnam. Let history record that at this critical juncture, both sides turned their face toward peace rather than toward conflict and war.

Sincerely,

RICHARD NIXON.

HANOI,
August 25, 1969.
(Received in Paris August 30)

His Excellency RICHARD MILHOUS NIXON,
President of the United States, Washington.

MR. PRESIDENT: I have the honor to acknowledge receipt of your letter.

The war of aggression of the United States against our people, violating our fundamental national rights, still continues in South Vietnam. The United States continues to intensify military operations, the B–52 bombings and the use of toxic chemical products multiply the crimes against the Vietnamese people. The longer the war goes on, the more it accumulates the mourning and burdens of the American people. I am extremely indignant at the losses and destructions caused by the American troops to our people and our country. I am also deeply touched at the rising toll of death of young Americans who have fallen in Vietnam by reason of the policy of American governing circles.

Our Vietnamese people are deeply devoted to peace, a real peace with independence and real freedom. They are determined to fight to the end, without fearing the sacrifices and difficulties in order to defend their country and their sacred national rights. The overall solution in 10 points of the National Liberation Front of South Vietnam and of the Provisional Revolutionary Government of the Republic of South Vietnam is a logical and reasonable basis for the settlement of the Vietnamese problem. It has earned the sympathy and support of the peoples of the world.

In your letter you have expressed the desire to act for a just peace. For this the United States must cease the war of aggression and withdraw their troops from South Vietnam, respect the right of the population of the South and of the Vietnamese nation to dispose of themselves, without foreign influence. This is the correct manner of solving the Vietnamese problem in conformity with the national rights of the Vietnamese people, the interests of the United States and the hopes for peace of the peoples of the world. This is the path that will allow the United States to get out of the war with honor.

With good will on both sides we might arrive at common efforts in view of finding a correct solution of the Vietnamese problem.

Sincerely,

HO CHI MINH.

DRAFT REFORM

Mr. GRIFFIN. Mr. President, an editorial published in this morning's New York Times reads in part as follows:

The need for more comprehensive reform than the President has proposed or the House has seen fit to consider does not excuse the Senate from acting now on the limited improvement in draft procedures that could still be achieved during the current session. Promises of a major Selective Service overhaul next year would be more credible if the Senate followed up the House vote this year to institute a random selection system. Some reform is better than none.

Mr. President, I ask unanimous consent that the editorial be printed in full in the RECORD and that an article written by David S. Broder in today's Washington Post, entitled "Senate Democrats Mistaken in Postponing Draft Reform" also be printed in the RECORD.

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

[From the New York Times, Nov. 4, 1969]

PARTIAL DRAFT REFORM

The draft lottery legislation approved by the House last week is, as the Senate majority leadership pointed out, only a partial step toward needed Selective Service reform. Both Houses of Congress have been delinquent this year in failing to enact sweeping changes in a system that was described by a Federal judge in New York recently as a "mind-numbing maze of statutes, regulations and memoranda . . . inscrutable not only to laymen but also to most lawyers."

But the need for more comprehensive reform than the President has proposed or the House has seen fit to consider does not excuse the Senate from acting now on the limited improvement in draft procedures that could still be achieved during the current session. Promises of a major Selective Service overhaul next year would be more credible if the Senate followed up the House vote this year to institute a random selection system. Some reform is better than none.

[From the Washington Post, Nov. 4, 1969]

SENATE DEMOCRATS MISTAKEN IN POSTPONING DRAFT REFORM

(By David S. Broder)

CAMBRIDGE, MASS.—In deciding to postpone until next year consideration of the draft reform bill that President Nixon recommended and the House passed, the Democratic leaders of the Senate have taken a heavy responsibility on themselves and their party.

The inequities of the present draft law are so obvious and the corrosive effects of its continuance so severe that the decision to delay relief—even the partial relief promised by the Nixon plan—is one for which the Democrats can properly be held to political account.

Some of the arguments for delay are reasonable enough in themselves. The Senate calendar for the remainder of the year is crowded with matters of some urgency, including the Haynsworth nomination, the tax-reform bill and most of the tardy appropriations measures.

While Congress itself is at least partially to blame for the logjam, there is no doubt that adding draft reform to the agenda would be burdensome.

But this would not be the case if the advocates of major draft reform—including Senators Hart, Hatfield and Kennedy—were willing to pass the simple measure the President requested, authorizing a random lottery system, and to delay consideration of other changes until next year. In rejecting the half-load proposition passed by the House, the liberals have exposed themselves to accusations of political opportunism, which are probably unjust. What can be questioned is whether their holdout tactics take into account the urgency of some immediate relief from the inequities of the present system.

Just how urgent draft reform is can perhaps be better seen from this college community than from Washington. The present system keeps young men in a state of jeopardy for the unconscionable period of 7½ years. Their fate is controlled by a complex of regulations, which are subject to constant change and which are applied by local boards in so capricious a manner as to make the ultimate decision on induction or deferment seem highly arbitrary to the individual concerned.

The present regulations discriminate against the poor, the less educated and the minorities, and work in favor of the wealthy, better educated whites, who can find temporary and sometimes permanent draft havens, in college, in graduate school, in teaching and in other favored professions.

It is easy to guess the kind of resentment this stirs among draftees toward those who enjoy draft exemptions while preparing themselves for lucrative, high-status careers. If the veterans of Vietnam do not despise the college-trained contemporaries who manage to avoid the draft, they are a darn sight more forgiving than we have any right to expect.

Equally serious is the effect of the current system on the draft-exempt college students themselves. From their privileged sanctuaries, they have become the most severe critics of the Vietnam war, the "military-industrial complex" and the purposes of American foreign policy. One cannot say to what extent their criticisms stem from their need to rationalize their own advantageous position in the draft, but the connection between privilege and protest is hard to overlook.

Today's campus culture sanctions the use of almost any lawful tactic—and some of questionable legality—to avoid the draft.

Career decisions are routinely altered to improve the odds on staying out of the Army. Uncounted numbers of young men have taken up teaching because it is draft-except, thus increasing the likelihood that their views of military service are passed on to those still below draft age.

What it will do to this country if a whole generation of its potential leaders grow up with this cynical view of the obligations of national service cannot be calculated. But that is the price we pay for the present draft law.

The Senate Democrats note quite correctly that Mr. Nixon's plan will not reach all these evils, and they claim he can do almost as much by executive order as by legislation. They vow to consider major reform next year.

But is that enough, under the circumstances? When the system of government is as seriously challenged as ours is today, is there not a duty to act when the opportunity for action exists? A Congress that procrastinates is no help in an era of confrontation politics.

AUSTIN, TEX., REAL ESTATE TRANSACTION QUESTIONED

Mr. WILLIAMS of Delaware. Mr. President, last Thursday I commented upon the highly improper, if not actually illegal, manner wherein land valued at $2 million had been given away during the closing days of the preceding administration.

I ask unanimous consent that an editorial entitled "Light on a Dubious Venture," published in yesterday's Washington Post on that subject be printed in the RECORD.

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

LIGHT ON A DUBIOUS VENTURE

Sen. John J. Williams's report on the concealed gift of land valued at $2 million to an Austin foundation headed by three friends of former President Johnson should not be an end of the matter. From what is now known, the transaction has the smell of slick maneuvering as well as of favoritism. The country, the Congress and presumably the Department of Justice will want to know what strings were pulled to set this transaction in motion and by whom and whether any law was violated.

Apparently the venture had a worthy purpose—to build a nonprofit nursing and housing center for the aged. But laudable ends do not justify irregular or unlawful means. If Senator Williams's account of what happened is accurate, the first error came in saving the General Services Administration declare the land in question surplus property four days after the Interior Department had declared that it had no further need of the site. The law contemplates that when one department finds land in its possession is no longer necessary to its operations, other governmental agencies be given a chance to obtain it. In this instance, it appears that the HEW rushed in with a gift of the land to the foundation represented by L.B.J.'s friends without any effort to determine whether it might be needed by any other governmental agencies.

The reduction in the appraised value of the site from more than $2 million to $642,000 is equally mysterious. Even at that reduced value, however, the Austin Geriatrics Center was able to use the gift (plus a geriatric research contract from HEW and grants from federal housing agencies) as the basis for government-guaranteed loans totaling $8.5 million, suspiciously approved on the last day of the Johnson administration.

The current demand of the HEW for return of the land should not preclude a full airing of the transaction. Congress should also review the law to see if it contains ample safeguards against repetition of undercover deals of this kind. There may be some occasions when the government can properly give surplus land to nonprofit projects, but if so, they should be subjected to the closest public scrutiny. There can be no excuse whatever for short-circuiting give-away procedures to favor friends of the President.

IMMORAL UNDECLARED WAR

Mr. YOUNG of Ohio. Mr. President, more than 56,000 Americans have been killed in combat in Vietnam since 1961 or killed in what Pentagon terms "accidents and incidents," most of which are really combat deaths. In addition, more than 265,000 have been wounded. Recently, the Wall Street Journal reported:

In many cases, the men are coming back with wounds far worse than those suffered by the survivors of other wars . . . For many the price of survival will be to go through the rest of their lives badly mutilated. "We're saving them, but I don't know what for" says one top Army medical officer.

In addition to the tragic human loss, more than 6,000 U.S. aircraft have been lost in combat and more than $115 billion of taxpayers' money been wasted—all blown up in smoke.

While Americans fight and die in that immoral undeclared war, most ARVN

divisions, the so-called friendly forces, still cling to relatively safe areas. The desertion rate in the South Vietnamese Army is one out of five each year. Newsweek reports:

Relations between the allied armies are already so strained, in fact, that the U.S. command has drawn up contingency plans for fighting the South Vietnamese, if necessary, during a final American withdrawal.

Unfortunately if the President continues to withdraw troops at the present rate, it will take at least 10 years to remove all of our forces from Vietnam.

It has been mentioned here today that President Nixon had a secret plan to end the war. Our President, more than a year ago, while campaigning for the Presidency in New Hampshire and elsewhere, said he had a secret plan to end the war. The Senator from Ohio listened intently, following the ballyhoo and buildup for his speech last evening, and the Senator from Ohio reports that, in his mind, that plan is still the President's secret. His speech must have disappointed millions of Americans. The President revealed no new initiatives toward peace. His talk about a secret schedule of withdrawal reminded me of his promised secret plan to end the war—a plan announced more than 13 months ago which remains his secret. His plea to the American people was not successful and will only serve to increase opposition to our continued involvement in that immoral undeclared war in Vietnam.

We sent our men to South Vietnam to fight in this undeclared, immoral, and unpopular war in ships and in planes. At the present time there are more than half a million American fighting men in South Vietnam and in Thailand. In addition, there are at least 35,000 men of the U.S. Navy in the ships of the 7th Fleet in the Gulf of Tonkin, in the China Sea, and off the coast of South Vietnam.

Of that huge number, we could easily withdraw this year, before December 31, at least 100,000 men. We could readily bring home in the same manner in which we sent them over there—by ship and plane.

ACCEPTABLE UNEMPLOYMENT

Mr. YOUNG of Ohio. Mr. President, when the unemployment rate recently rose to 4 percent, Secretary of the Treasury Kennedy stated that this was "acceptable" to the administration. In addition, he stated that the administration believed that it was necessary to continue present economic policies that might force unemployment even higher. The recent unemployment increase indicates that in a short period of time more than half a million Americans were thrown out of gainful employment. Evidently, the Treasury Secretary has no conception how that "acceptable" level of unemployment affects working men and women who have rent to pay and children to feed and clothe. This economic policy is more disastrous than a hurricane, or tornado, for the family with no paycheck. What would the Treasury Secretary say were a doctor to dismiss a small cancer lesion as "acceptable?" It appears that the only casualties in the administration's war against inflation are working men and women. They are the expendable victims—the forgotten Americans.

Very definitely, an unemployment rate of approximately one of 20 working men and women should not and must not be considered acceptable, even though Secretary of the Treasury Kennedy says otherwise.

THE PRESIDENT'S SPEECH ON VIETNAM

Mr. GURNEY. Mr. President, I want to commend the President of the United States on his remarks to the Nation last night on Vietnam. It seems to me he struck just about the right note we need at this time in this unhappy affair. It seems to me it was a very serious speech, pitched in a low key, to a majority of responsible Americans, a group which has been supporting the President in his plan to bring peace to Vietnam and extricate us from the war over there.

He reviewed, I think, in very thorough fashion, the history about Vietnam, how we got involved, who involved us, how much we have been involved.

He said, of course, we have two courses in Vietnam. One is to pull out—and there are many voices in this country who are urging us to do that, some here in the Senate of the United States. The other course, of course, is to follow what the President is attempting to do in Vietnam, and that is to withdraw American troops in an orderly fashion and turn the fighting over to the South Vietnamese.

The President, of course, hit the nail on the head when he said that to pull out right now in Vietnam would be the most disastrous thing we could do, not only as a nation but also in the interest of peace around the world. Of course, the first thing that would happen by our throwing one of our allies to the wolves and jeopardizing the whole peace in Southeast Asia would be to further invite the Communists to troublemake the world. Indeed, if we have learned anything from history since World War II, it is that this, indeed, would follow.

This course was unacceptable, the President said; and I think he is right.

The other course, of course, is the one he is trying to follow. That is to deescalate the war, withdraw our troops, turn it over to the South Vietnamese, and let them fight their own war—something that should have been done a long time ago and that the President initiated as part of his policy about 6 months ago.

There are some national leaders who say that this is "more of the same." As a matter of fact, I think the distinguished majority whip made those remarks on the floor just a short time ago.

It seems to me the course in Vietnam is completely different under the President's plan for peace than what occurred before. He has indeed turned the war over. He has indeed withdrawn American combat troops. He has indeed turned more and more of the fighting over to the South Vietnamese Army, which will go on in accelerated fashion in the coming months.

If that is "more of the same," then the people who make that statement just have not reviewed the facts on Vietnam, or else they are drawing conclusions which can only be termed to be exaggerated, to say the least.

There was one other thing the President said that I thought was very significant, and should have been said a long time ago by other people and other leaders. He served notice on the leaders in Hanoi that if they did not cooperate with the President of the United States in achieving deescalation of this war and bringing peace in Vietnam, then they would have to answer for the consequences. He reminded Hanoi that, indeed, we do have forces at our disposal which we can use if we are forced to do so. Obviously the President does not want to do that; but I hope that Hanoi, if it learns nothing else from the speech the President made last night, took note of the fact that there is the capability within this country of ending this war in another fashion if we have to do it.

The PRESIDING OFFICER. The Senator's time is expired.

Mr. GURNEY. I ask unanimous consent to proceed for another 5 minutes.

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

Mr. GURNEY. Perhaps one way of paraphrasing what the President said in that part of his speech would be to repeat what another President said years ago. I refer to President Theodore Roosevelt, and that part of his philosophy on foreign policy which he enunciated by saying, "Walk softly and carry a big stick." I think that is what President Nixon was saying.

I do, then, commend the President on his remarks to the Nation on Vietnam last night. He is on the right course. I support him 100 percent. If we can read anything from the pulse of America today, I believe it is that the majority of responsible Americans, even though they may not be seen on the television tube every night or read about in the press every day, are behind the President in his attempts to extricate us from Vietnam. I hope more and more of those people will become vocal, and indicate to the President their support of his, I think, extremely sound plan to get us out of this war in Vietnam.

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

Mr. GURNEY. I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, as I stated previously, I certainly endorse the message conveyed last night by President Nixon. I am not surprised that some Senators have appeared already on the Senate floor and expressed great disappointment because we cannot have peace now, because there was not some magic plan unveiled last night.

It is unfair to President Nixon to say, as has been said on the Senate floor today, that there is not a plan, that he is in the same old Johnson-Kennedy rut we have been in all along. He has had a plan, as I have stated before, even before his inauguration and, in my opinion, it is high time we start talking about what North Vietnam should do. It is time the Averell Harrimans stop trying to

second guess what is good for America, and start thinking about the enemy in this war. It is time for President Nixon to negotiate with the enemy. He should not try to appease the Averell Harrimans.

I have nothing personally against Mr. Harriman and I have never criticized him. I did not criticize President Johnson or Cyrus Vance, because they had a grave responsibility. But I was a little frustrated, and in fact, as an American and as a Member of the Senate, a little discouraged, to hear the media critics—not analysts—after the speech last night, ask leading questions of those who were on the program, and everything they could to discredit President Nixon saying, in effect, "There is nothing new; why did he not say this 6 months ago?"

I believe the President when he said we have not been able to negotiate. The question was asked by the Senator from Massachusetts this morning, "Why do we not negotiate?" We cannot negotiate; but President Nixon is trying to wind the war down. It was Americanized by President Kennedy and President Johnson, and now, under President Nixon, he is trying to Vietnamize the peace. I believe this is a step in the right direction. It has been a part of President Nixon's policy, as enunciated last summer after his trip to the South Pacific.

I hope those who criticize will reread what was said last night, and for once unite behind our President in his efforts for peace. That is all he asks.

Mr. GURNEY. I thank the Senator from Kansas for his contribution. As he says, everyone knows about the President's efforts to extricate us from Vietnam. I certainly join my colleague from Kansas in saying, too, that I think more voices should be heard in this country, especially from the political leadership, asking why we do not ask some questions of Hanoi as to why it does not cooperate in trying to bring this war to an end, instead of always being so critical of our own leaders and their worthwhile efforts to terminate the war. There has been too much criticism of our leadership and that of our allies, and very little criticism of the Communist leadership, which started the war in the first instance, has escalated the war on down through the years, and is making very little if any effort to bring peace to Vietnam now.

So I certainly endorse the remarks of the Senator from Kansas.

Mr. HOLLAND. Mr. President, I happened to come on the floor at the moment that my distinguished colleague (Mr. GURNEY) was beginning his remarks. I merely wish to say I approve of the portion of his remarks I heard, and to state for the RECORD my own reaction to the President's speech of last night.

I listened carefully, attentively, and sympathetically to the speech of President Nixon. I think that every American who listened probably listened in that same spirit, because all of us know that the problem which he has upon his heart and within his executive responsibility is a very grave one, and must be handled as probably the most serious problem, short of a declaration of war, that any President could possibly be confronted with.

I thought the President spoke with great candor, and I wish to say for the RECORD that I approve that candor. I think, moreover, that, when he spoke of the unofficial negotiations which he had had, and particularly of his exchange with the late Ho Chi Minh, stating that he was making available his letter to the late leader of North Vietnam and the response which he had had from Ho Chi Minh, such candor must have appealed to the average American citizen.

I hope I am an average American citizen, Mr. President. I am a veteran. My two sons are veterans. I know what it is to fight for my country. I have two grandsons now of military age and awaiting their call, one of them already in the Reserves; and I think I have the same interest in the difficult Vietnam situation confronting not only the President but the entire country as the average citizen must have in that problem.

As I say, I appreciated President Nixon's candor. I appreciated also the fortitude with which he stood by a position which is not altogether easy to do, but which I think is the sound position for him to take. I think his approach to the withdrawal of our forces is a responsible approach, and I think the average American citizen does not want any withdrawal that is not responsible; because we do have heavy responsibilities, not only to our allies who are there with us, and not only to our men who are there, but particularly to the South Vietnamese people; and we should not have much question as to what is likely to happen to them in the event some precipitate withdrawal should be attempted.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLAND. I ask unanimous consent to proceed for 3 additional minutes.

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

Mr. HOLLAND. So his fortitude and his candor appealed to me, and I wish to say that I am particularly strong in my support of his attempt to achieve a responsible withdrawal from South Vietnam, and of his insistence upon an honorable peace, because I think that is the only kind of peace that America should want, and I believe it is the only kind of peace that the average American does want.

Mr. President, I listened this morning also to the statement of our distinguished majority leader, the Senator from Montana (Mr. MANSFIELD) on his appearance on the television program "Today". I thoroughly subscribe to the way in which he stood behind the President and the President's statement of last night.

We all wish that we were easily out of this dilemma. Of course, it is easy to wish. But the President made it very clear that he is approaching the problem in a responsible way, and seeking only an honorable peace; and our distinguished majority leader made it clear this morning that on that basis, he stood by him, and approved of his statement and would back him. I call special attention to that.

For the record, I was not able to attend the session of the Senate earlier today. I have been in conference on the space authorization bill, and I hurried here as soon as we had finished with the conference. I want to make it very clear that I think the distinguished majority leader was speaking for most of the Senators who sit on this side of the aisle.

So far as I am concerned, the majority leader was speaking for me. He approves of what the President is trying to do and will support him in his position. I wish for the President the greatest of good fortune and success in his efforts.

PRESIDENT NIXON'S SPEECH ON VIETNAM POLICY—IT IS NOT THE SAME OLD POLICY

Mr. BELLMON. Mr. President, like everyone else in this country, I have fervently hoped for a quick and simple solution to the Vietnam war. I am sure that the President fervently wants peace as much as or more than anyone else. However, the Vietnamese war is a complex situation of long duration. And there is not any simple or quick way to get out of it.

Perhaps the most frequent of the early criticisms of President Nixon's Vietnam speech was this one: "It is nothing but the old Johnson-Rusk policy, dressed up in new clothing."

In my view, no one looking at the President's speech objectively could possibly reach that conclusion. The only thing about the policy that is similar to President Johnson's, and this is the point which evidently motivated the critics, is the President's insistence that unilateral withdrawal would be disastrous. But along with that important similarity to past statements, the President's speech included a host of important contrasts.

In almost every paragraph of his speech, President Nixon went to great lengths to demonstrate the differences between his new policy and that of the past administration. In fact, he went so far that I have heard some critics say that the speech might be considered partisan.

First, he pointed to our new comprehensive peace proposal—including an offer of complete withdrawal, a proposed cease-fire, and a plan for free elections. The United States has indicated that it is willing to negotiate even on these proposals. All this is new with President Nixon.

Second, we have increased our contact with the other side—not only in Paris, but in a number of private channels, not only since the inauguration, but even before. All this was revealed for the first time in the President's speech—and all this is new with Nixon.

Third, in keeping with a dramatically new foreign policy doctrine which the President described at great length, we have begun to Vietnamize the war. And because of Vietnamization, the President was able to say with complete assurance that he will "bring the war to an end regardless of what happens on the negotiating front."

I repeat, and I cannot emphasize this enough, the President has promised to end the war—no matter what happens in the negotiations.

Now, that certainly is something far different from the position of the past administration. President Nixon put it this way in a line which was interpolated

into his speech after the advance copies were distributed to the press:

In the previous Administration, we Americanized the war in Vietnam. In this Administration, we are Vietnamizing the search for peace.

That is it in a nutshell—and it is a fact of the greatest importance.

That this Vietnamization policy is working is readily evident. Battlefield orders have been changed. The training of the South Vietnamese Army has been stepped up. American casualties are lower than they have been in 3 years. Most importantly, our soldiers are coming home. By December 15, over 60,000 Americans will have been withdrawn—including one-fifth of all our combat forces.

On top of all of this, the President was even more optimistic with respect to the future than he has ever been before. In unmistakably clear language, he indicated that he has a definite schedule for the complete withdrawal of all U.S. ground combat forces. And he even went beyond that statement to make this one: The rate at which we are implementing that schedule is now faster than he thought would be possible this summer. I have never heard any responsible person say that he wants unilateral, precipitate withdrawal.

The only thing that the critics seem to desire is some timetable for withdrawal. I believe that such a timetable would be useless because we could not set a timetable and keep it in the face of possible additional action by the Communists.

All of these are dramatic departures from the policy of the past administration, one which had no clear negotiating position, one which was not making frequent overtures to Hanoi, one which had no conception of Vietnamization, one which was bringing more and more soldiers into Vietnam, one which was experiencing higher and higher American casualty rates, one which promised indefinite fighting unless North Vietnam could be forced to negotiate. In view of all the departures from that position, I find it difficult to believe that responsible critics could charge that this is the same old policy.

In truth, it is a new and hopeful approach. The ironic thing is that the critics may be able to make their prophecies of doom come true. If they persuade the American people that this policy cannot possibly succeed, then—and only then—will this fresh, new policy fail. It is up to us to see that this does not happen.

THE VIETNAM WAR

Mr. GORE. Mr. President, I ask unanimous consent that I be recognized for 15 minutes.

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

Mr. GORE. Mr. President, a careful reading of the address to the American people last evening by President Richard M. Nixon causes me to reach the following conclusions:

First. Hopes are dim for an early peace.

Second. Reliance on a negotiated settlement has been all but abandoned.

Third. Military victory has been ruled out.

Fourth. A one-sided withdrawal of U.S. troops on an uncertain, but long, drawnout incremental basis tied to maintenance of the Thieu-Ky regime in power is now the U.S. policy.

Fifth. The President has retreated from the constructive positions for a political settlement taken in his speech of last May 14, to wit—genuine self-determination by the South Vietnamese people through elections held "under agreed procedures and under the supervision of the international body," and acceptance of the principles of the Geneva accords, "as the central elements of a peaceful settlement."

Sixth. The ultimate survival of the democratic process in South Vietnam is jeopardized.

It has been my strongly held conviction that a negotiated political settlement held the best hopes for an early peaceful settlement and for the ultimate survival of the democratic processes in South Vietnam. Because of this conviction, I found hope in the speech by President Nixon last May 14. In that speech, the President specifically "ruled out" two programs which would, in my opinion, lead to disaster for the United States, on the one hand, and imperil the survival of democratic processes in South Vietnam, on the other. I refer to the following:

First, "a purely military solution on the battlefield," and

Second, " a one-sided withdrawal from Vietnam."

President Nixon specifically said on May 14 that both of these courses of action had been "ruled out."

In fact, President Nixon condemned a "one-sided withdrawal" three times in his speech of May 14. For instance, he said:

Almost without exception, the leaders of non-Communist Asia have told me that they would consider a one-sided American withdrawal from Vietnam to be a threat to the security of their own nations.

On the contrary, the President proposed on May 14 what I regarded as a constructive program for settlement through a political compromise that offered, I thought, a plan for peace that would give democratic processes and freedom a chance to survive in South Vienam. He said "its basic terms are very simple: mutual withdrawal of non-South Vietnamese forces from South Vietnam and free choice for the people of South Vietnam."

Though I took heart from the President's speech of May 14, which I expressed in a speech to the Senate on May 20, I found it necessary, in addition, to express my apprehension over plans which, I had been informed, had already been formulated in both Washington and Saigon military circles. I said:

One deep apprehension I have is that out of an inability to achieve a peaceful settlement, or out of an unwillingness to accept the kind of peaceful settlement that may be available, President Nixon might turn to the alternative that I believe has been already prepared, which is a phased withdrawal of troops with a commitment that sufficient American troops would remain to maintain the Saigon regime in power. In my view, this would not be a formula for peace but, instead, for prolonged war and long-term commitment on the order of South Korea, a costly client-state.

The piecemeal withdrawal that was started in June, Mr. President, is the very one-sided withdrawal plan to which I referred and which President Nixon ruled out in his speech of May 14. There have been no mutual withdrawals. We have no record of any withdrawal of the North Vietnamese from South Vietnam. But such a one-sided withdrawal appears to be the cornerstone of U.S. policy as enunciated by the President last evening, though the planned schedule of further withdrawal was kept secret.

It is my view that we should utilize our overwhelming presence in Vietnam to persuade the establishment of a broadly based government that would include the diverse factors, sects, and factions to serve as a means of concluding a peaceful settlement and to provide some hope for the ultimate survival of democratic processes and freedom in South Vietnam.

A withdrawal of U.S. troops—whether "onesided" or "precipitate"—with an unpopular, unstable, military junta in power, would seem severely to jeopardize the survival of processes of freedom.

Every American who is returned home from Vietnam gladdens our heart, the more the better. But the peace program that is in the vital interest of the United States and in the interest of worldwide peace, and one which I believe the American people earnestly desire, is one which will lead to a peaceful settlement of the war and one which will permit all U.S. troops, not just a few at a time over a long withdrawal period, to be disengaged and returned to the peaceful and fruitful pursuits of a normal life.

The President asked for unity and support of the American people. As for me, I earnestly desire to support a policy for peace. I cannot in good conscience, however, endorse President Nixon's policy on a matter as serious as ending this tragic conflict simply because he happens to occupy the White House, any more than I could similarly endorse the policy of previous Presidents, if I found myself in disagreement with those positions.

Presidents—Republican and Democratic—were responsible for getting our Nation into this war. The Nation's highest leadership—civilian and military—has been far from infallible in Vietnam. My own error in permitting myself to be misled into voting for the Tonkin Gulf resolution testifies to the plentitude of mistakes. There is no evidence to date that the present incumbent of the White House is an exception to the rule.

Pleas for unity are not a substitute for sound policy, and a President has no right to ask the American people to accept a policy involving grave issues of war or peace on faith alone. To urge the public to unite behind the President in support of a policy which has not been defined—after years of erosion of public confidence in the Nation's leadership because of the war—is, as the song popular with the young people says, like "blowing in the wind." And I might add further

that Presidential credibility on Vietnam war policy can only come from deeds; words will no longer suffice.

For 9 months, the American people have waited patiently for the unfolding of the administration's peace plan. Our people—those who are bearing the burden of this war in lives and treasure—deserve details, not further rhetoric. President Nixon has repeatedly stated that "self-determination" was the U.S. basic, nonnegotiable objective in Vietnam. It was for the last administration, too. But what does the President mean by "self-determination"?

The recent administration fact sheet on Vietnam sheds little light on this crucial issue. It states that:

> We have proposed free elections organized by Joint Commissions under international supervision; and that
>
> We and the Government of South Vietnam have announced that we are prepared to accept any political outcome which is arrived at through free elections.

The record indicates that either we mean one thing and the South Vietnamese something else or that it is only a phrase aimed at world public opinion, meaningless as a gesture for genuine political compromise.

On May 14 the President did, in fact, say that "We are prepared to accept any government in South Vietnam that results from the free choice of the Vietnamese people themselves." But events in South Vietnam make it obvious that Saigon's view of the election process was of one which would insure continuation in power of the Thieu government. President Nixon did not dispel that impression on his visit to Saigon, after which he described President Thieu as one of the four or five best politicians in the world. He did not dispel it in his speech last evening, either.

The divergence between the Washington and Saigon postures on self-determination was apparent in the events surrounding the announcement of South Vietnam's policy. The President, in patting President Thieu on the back for agreeing to hold internationally supervised elections, pledged that "We will accept the result of those elections and the South Vietnamese will as well, even if it is a Communist government." But Mr. Thieu obviously had different ideas. The day after President Nixon spoke, he said that his country "will not stop short of victory, no matter what happens in Washington." And he went on to define victory as "no Communist domination and no coalition with the Communist." The Thieu government has made it clear that the elections it envisions will be organized and controlled by the Saigon government. Shortly after the Midway Conference, in fact, President Thieu stated:

> There will be no coalition government, no peace cabinet, no transitional government, not even a reconciliatory government.

Self-determination will never be possible, in my view, as long as our primary aim is to maintain the Thieu government in power.

I hope the President will explain the "Vietnamization" program sometime and tell us what this means in terms of ending the war and of bringing all our forces home. The fact sheet recently issued by the administration said:

> We have instituted a Vietnamization program which envisages South Vietnamese responsibility for all aspects of the war—coping with both Viet Cong insurgency and regular North Vietnamese forces—even if we cannot make progress in the political negotiations.

What does "Vietnamization" mean? Where is "Vietnamization" actually taking us?

Secretary Laird has spoken lately of a "residual force" of thousands of U.S. troops to remain in Vietnam indefinitely for training and support purposes; Secretary Rogers has said that Vietnamization "contemplates complete removal of the troops in Vietnam;" and President Thieu said recently:

> You came here to help us repulse the aggressors. As long as we are not capable of doing this by ourselves, you must remain to help us.

Will the South Vietnamese, not the United States, be the judge of their capability—thus setting our pace for incremental withdrawals.

The PRESIDING OFFICER. The time of the Senator has expired.

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

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

Mr. GORE. Mr. President, only about 3 weeks ago President Nixon alluded to a possible ending of the war in about 3 years.

If Vietnamization is a policy and not merely a slogan, there are some important questions.

Is Vietnamization a program to win a military victory by proxy?

Have we given up on political negotiations in Paris?

Does Vietnamization mean that 200,000 or more U.S. support troops will be kept in Vietnam indefinitely to back up South Vietnamese ground forces? If not, what is the timetable for bringing all our forces home?

Is it a means to avoid a compromise political settlement?

Does it work at cross purposes with self-determination, in providing permanent backing for the Thieu government?

These and other questions must be answered before Vietnamization, as a policy, can be weighed rationally, and be supported by the unity of the American people.

The fact sheet stated:

> We have emphasized to our military commanders the requirement that losses be held to an absolute minimum, consistent with their mission to protect allied forces and the civilian population.

Secretary Rogers, on October 12, said:

> President Nixon has changed the orders from maximum pressure to protective reaction, which means that we are not maintaining the same maximum military pressure on the enemy.

Secretary Laird later said that the orders to Vietnam commanders had never really used the phrase "maximum military pressure" and that the new orders made only one essential change—that "Vietnamization was to be given the highest priority.

But U.S. Forces in the field seem to be taking the confusion in stride. In answer to a question as to changes in operations since June, Maj. Gen. John Wright, commander of the 101st Airborne Division, was quoted in the October 23 New York Times as saying:

> I wouldn't say there has been any change in strategy or tactics. We continue to maintain surveillance over the entire area and attempt to find the enemy any place we can. If and when we do find him, we put as much force in as it takes to meet that requirement. And when we're no longer in contact we go back to looking again.

Lt. Gen. Frank Mildren, head of U.S. Army Forces in Vietnam, when asked if the Army was following a policy of "protective reaction" said he did "not know what the term means" and went on to say he had heard of no orders to scale down the fighting. One Army spokesman in Vietnam, asked the meaning of "protective reaction," said:

> Protective reaction. Hey, that's good. Give me a half an hour and I'll dream up something.

The American people have a right to ask "What goes on here?"

There has been much discussion in recent days of a possible cease-fire. The fact sheet stated:

> We have offered to negotiate supervised cease-fires under international supervision to facilitate the process of withdrawal.

The distinguished Republican leader, Senator SCOTT, recently proposed a cease-fire, an idea promptly rejected by Secretary Laird, who cautioned against a cease-fire without some indication from the other side that they will go forward with it. President Thieu warned:

> We will not agree to a cease-fire without first arranging that which will follow it.

Mr. President, most issues concerning the future course of Vietnam policy come down to our relationship to the Thieu government. Several weeks ago, a Time magazine reporter, in an interview with President Thieu, posed this question:

> Q. Let us consider a hypothetical proposition. If someone came to you and said, "If you resign, I can guarantee that peace will be restored and South Vietnam will have the right to determine its own fate," would you resign?
>
> A. I have no reason to resign. I am doing well.

General Thieu may be doing well, as are many South Vietnamese, but the American people who have sacrificed the lives of 46,000 of our finest young men, and the health and limbs of many more thousands, and 100 billions in tax dollars in a war in which our vital interests have never been involved, are not doing so well.

The President has begun a gradual withdrawal of U.S. forces from Vietnam. This, as I have said, is not a policy to bring about a political settlement of the war but evidence of a lack of a real policy for peace. It appears to me to be,

instead, a policy to continue the war and to continue our involvement indefinitely.

If the President has decided to bring about the complete and early one-sided withdrawal of U.S. forces without laying the foundation for a compromise political settlement, we will be inviting the death knell of democratic processes in South Vietnam and a bloodbath of vast proportions. President Nixon foresaw in May the same consequences of a one-sided withdrawal as he foresaw last evening for a precipitate withdrawal.

The PRESIDING OFFICER (Mr. HARTKE in the chair). The time of the Senator has expired.

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

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

Mr. GORE. Mr. President, to avoid rampant political retaliation and widespread bloodshed in Vietnam as a consequence of our departure, the United States must use its influence now to bring about political change in Saigon that will result in a representative government which can deal effectively with the National Liberation Front.

The Thieu government is not now, and never has been, willing to share power based on the political realities of South Vietnam. It is futile to expect it ever to be willing to do so. General Thieu, instead of broadening the base of his government, has narrowed it. And he recently said that there is "no pressure from within or without" to come forth with new peace proposals.

The other side, as we are wont to call the opposition, cannot reasonably be expected to believe that the United States seriously wants a political compromise so long as it gives a policy veto to the government whose leader says, "We will not concede any village, any hamlet to the Communists, we will concede no inch of land even though it might be useless." Mr. Thieu has assumed a stance, supported by the United States, of seeking total political victory, a victory which has neither been won on the battlefield nor in the hearts of the Vietnamese people.

The United States possesses vast power over Vietnamese affairs and it must use that power to create the political changes that can bring this war to an end. By supporting the Thieu government we are buying false stability, of a sort, at a frightful price to the Vietnamese and to our own society. The American people owe no obligation to Mr. Thieu.

President Nixon is obligated to the American people to end this war. Let it be said to his credit that he frankly acknowledges this. We will not end the war, as I see it, but assuredly continue it, by giving unflinching support for the Thieu regime. Until the United States shows to the other side that it is no longer wedded to the Thieu government and uses its influence to bring a representative government into power, I fear the killing will go on.

And with the departure of each plane load of our troops, America's ability to bring about political accommodation will diminish. To be effective we must act while we are there, not as we are on the way out.

Like it or not, we bear the burden for policies of the Saigon government. We bear that responsibility before the world. Saigon is our albatross, but unlike the Ancient Mariner we can rid ourselves of this burden by using the power available to us. We have sacrificed enough to maintain that particular government in office.

As President Nixon said on last May 14:

> The time has come for some new initiatives. Repeating the old formulas and the tired rhetoric of the past is not enough. When Americans are risking their lives in war, it is the responsibility of their leaders to take some risks for peace.

The hopes of the American people for peace "have too often been raised and cruelly dashed over the past 4 years."

Mr. DOLE. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I gladly yield to my distinguished colleague from Kansas.

Mr. DOLE. Let me say at the outset that I have listened with great interest and have read the remarks of the Senator from Tennessee. The Senator from Tennessee has stated clearly his views on what might be done to bring about peace in Vietnam.

The Senator indicates on the first page of his remarks, almost in his first statement, that he feels, after listening to President Nixon last night, that hopes are dim for an early peace.

I got the opposite impression, that we are on the road to peace, that we do have a program and do have a plan, that there has been a reduction in the fighting, that there has been a reduction in infiltration, that some 60,000 Americans will be home by December, and, even more, as time goes on, which indicates that we are on the road to peace.

What does the Senator mean by the word "early." Is the Senator looking at it in terms of a month, a year, or 2 years?

Mr. GORE. The quicker the better.

Mr. DOLE. I agree with that.

Mr. GORE. I would not be satisfied, nor do I believe the American people would be satisfied, to continue the war for another 3 years which President Nixon indicated in his statement at the White House 3 weeks ago Sunday.

Mr. DOLE. There is a difference in talking about——

Mr. GORE. I do not—let me finish, please—I do not mean 3 more years of war. When I use the term "early peace"——

The PRESIDING OFFICER. The time of the Senator from Tennessee has expired.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senator from Tennessee may proceed for 5 additional minutes.

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

Mr. DOLE. These terms need some clarification. As I understand what President Nixon said—after listening very carefully to every word—and having discussed his policy in the presence of the President, I assume the Senator means, when he uses the term "war," that Americans will do the fighting.

As I understand President Nixon's policy, we will have all combat forces out of Vietnam probably quickly. There may be some support forces there to render assistance to the South Vietnamese Government but they will not be engaged in the fighting, there will be fewer combat deaths, as is already the case under President Nixon, and that is an indication of progress. Hopefully the Senator from Tennessee would agree.

Mr. GORE. Well, I must say again, as I tried to make clear in my previous remarks, I think a mutual withdrawal would be an acceptable policy, at least in part. This is the kind of program which President Nixon urged in his policy speech on May 14. I have the gravest of reservations about unilateral action. I have grave reservations about a unilateral cease-fire which some of our distinguished colleagues have proposed. Equally I have reservations and apprehensions about unilateral withdrawal, either precipitate or over a long-drawn-out period.

I have apprehensions for two reasons: One, how many can we withdraw unilaterally or, as the President described it in his speech of May 14 "one sided," without subjecting those of our forces who remain to the gravest of dangers, dangers which might impel us to return a military expeditionary force in post-haste to Vietnam; second, a unilateral withdrawal of U.S. forces or, as President Nixon described it, a one-sided withdrawal of U.S. forces, leaving in South Vietnam as unstable, unpopular, uncertain military regime in Saigon, and an army of many thousands of North Vietnamese still in South Vietnam with another army of many thousands just across the border, plus there are unreconciled Vietcong, would, in my view, invite the deathknell of democratic processes in South Vietnam and perhaps invite the bloodbath to which the President referred last night as a consequence of a precipitate withdrawal.

After I heard the President's speech last night, I went back and read his speech of May 14. I studied both. I interchanged the term "precipitate withdrawal" with "one-sided withdrawal." It seemed to me that he was forecasting the same consequences whichever term was used. Yet, unilateral withdrawal now appears to be the principle thrust of the program.

Thus, I say to my distinguished and able friend from Kansas, to whom it is an honor to yield, that I have apprehensions about the phased withdrawal policy in the absence of any agreement for mutual withdrawal or in the absence of any agreement whatsoever for reciprocal withdrawal of forces from South Vietnam by North Vietnam. It seems to me that what we need is a negotiated peace based upon the Geneva accords.

The PRESIDING OFFICER. The time of the Senator from Tennessee has expired.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senator from Tennessee may proceed for 5 additional minutes.

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

Mr. GORE. Based upon the Geneva accords, as I interpreted the President's speech of May 14, this was his view at that time. Perhaps my interpretation was not fully accurate at that time. Perhaps my interpretation of his speech last evening is not fully accurate. But to the best of my lights, in his speech last night the President retreated from the constructive proposals for a political settlement which he advanced in his speech of May 14.

Mr. DOLE. I say to the distinguished Senator from Tennessee—with whom I do not always disagree—but on this particular problem, we do, that we both agree in wanting peace. Everyone wants peace. As the President said last night, and also on May 14, and as he has said almost every day since his inauguration, he wants peace as strongly as did President Johnson and President Kennedy.

Mr. GORE. Could I interject there, if the Senator will let me interrupt the flow of his eloquent language, I am happy to say that I have no question whatsoever that President Nixon desires peace, and desires peace as earnestly as any living American. I think he can end the war. The question is, Will he? When and how?

Mr. DOLE. Well, the Senator has so many reservations. He has many reservations, but he does not give the President the right to have any. The Senator has reservations about a precipitate withdrawal. The Senator has reservations about a one-sided withdrawal. And he has other reservations about how to win the peace in Vietnam. I would guess the President has some reservations. But there is one striking difference. He must make the hard decision. The Senator from Tennessee does not have to make it. I do not have to make it.

As I listened to your answer to my question about an early peace, the Senator indicated some question about withdrawal of our troops from Vietnam now. Does he think they should stay there at the same level we have now, or perhaps add more and escalate the war?

President Nixon pointed out what he had done privately, before taking office, to work out negotiations with the enemy, and their refusal, time after time after time, including a reply from Ho Chi Minh 3 days before his death.

What does the Senator from Tennessee suggest President Nixon do if the enemy will not negotiate and the Senator is against withdrawing American troops? What would the Senator do? What would be the alternatives of the Senator from Tennessee?

Mr. GORE. The Senator has made some interesting observations and has posed three questions. I will take them as he has posed them, seriatim.

First, with respect to his remarks that the President of the United States has to make the hard decisions and that we as Senators do not, I think they deserve some analysis. True, the President of the United States is Commander in Chief. True, he is our leader in foreign policy. And because he is our leader and because only the President can lead, he has a grave responsibility. His responsibility is heavy, indeed. His decisions are hard ones.

But, Mr. President, the Constitution places a grave responsibility upon U.S. Senators, too. It is the responsibility of the U.S. Senate to advise and consent to policies, or to advise and not consent to policies which Senators regard as unwise and contrary to the public interest. The Constitution places the President and the U.S. Senate in a limited partnership for the conduct of international affairs. However, the President, the chief executive officer, is the leader. The Senate serves as a board of directors, more or less, as it were.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senator may proceed for an additional 10 minutes.

The PRESIDING OFFICER. Without objection, the Senator may proceed for an additional 10 minutes.

Mr. GORE. The people of our respective States who have honored Members of this body with service and responsibility as U.S. Senators would not, I fear, quite agree with the able Senator's dismissal of the obligation of Senators in this regard. These decisions are hard for Senators, too, and hard for Members of Congress, because Members of the House and Members of the Senate have the responsibility of appropriating funds to prosecute the war, or declining to do so. Yes, the policy of war or peace is something which the elected leadership of the people of our great country must share, and share to the fullest concept of the Constitution.

Now, to go to the second question, the Senator inquires if I oppose withdrawal of U.S. troops from Vietnam. Perhaps the able Senator is not as familiar with my record with respect to the Vietnam war issue as I would that he were. I tried to keep us out of this war. I undertook to dissuade President Johnson from sending combat troops to Vietnam. Even before that, I undertook to express my view in opposition to the sending of paratroopers to Dienbienphu when President Eisenhower was our Chief Executive, at which time then Vice President Nixon was urging the dispatch of paratroopers. Later, once we had committed the tragic error of getting into the war, I undertook to dissuade our Government from escalating the war.

I was the first U.S. Senator to urge a negotiated settlement of the war, in January of 1965. I have urged for years the kind of peace settlement which would permit not just a few of our men at a time, over a long period of time, to return home, but the kind of peaceful settlement which would permit the entire disengagement of U.S. forces.

Mr. DOLE. Mr. President, will the Senator yield at that point?

Mr. GORE. Just let me respond, please. The Senator had one other question, to which I wish to refer, and I shall do so.

The Senator asks what kind of peace settlement I would suggest. Perhaps it is presumptuous, in a brief time, in a brief colloquy here, under the limitations of the morning hour, to undertake it; but if the distinguished Senator will permit me to be brief, I have the honor to say that, in my view, the Geneva accords, to which the United States adhered in 1954, constitute, as President Nixon said in his speech of May 14, a basis for peaceful settlement of the war.

I would that the President had pursued it; that he now pursue it. I hope I am in error in interpreting his speech of last night as a retreat from that position.

If the Senator will now pardon my brevity and the imprecise formulas which I could give extemporaneously and in such a brief period, I thank him for his interrogation.

Mr. DOLE. I thank the Senator from Tennessee. I reread the May 14 speech and listened carefully to the President last night. I do not see any change in position or retreat.

But the point is that the Senator from Tennessee has certain reservations on the withdrawal of the American troops. He condemns the Thieu government. As pointed out by the majority leader this morning on the "Today" show, it is the only government there is. It may not be perfect, but it is the only government there we can deal with.

Another thing that concerns me very deeply—and I say this in all respect to the Senator from Tennessee—I read his statement carefully and listened to the senior Senator from Massachusetts earlier today. I do not find any recognition on their part that before we can negotiate there must be some willingness on the part of the enemy. I was never critical of President Johnson. Perhaps I should have been, but I felt he had information not available to me. But it is the Vietcong, the North Vietnamese, the enemy, who were and are killing Americans.

It seems to me, as I have said earlier this morning, that it would be very helpful to President Nixon, the Senator from Tennessee, the Senator from Kansas, and all of us who want peace, to serve notice on the National Liberation Front and the Hanoi government that we are not going to be pushed out of Vietnam. We want peace; we are going to achieve it. If we cannot negotiate, what other choice do we have? The President has made it very clear that the enemy has rebuffed, time after time, his efforts to negotiate. They have rebuffed every suggestion he has made. What other choice does he have, except some plan of phased withdrawal?

I believe he is making progress; perhaps not as rapid as he wants, or as rapid as you and I want; but American boys are coming home alive now, for the first time in 5 or 6 years; I happen to believe we should serve notice on the enemy that the U.S. Senate and the leadership of this country, Democratic and Republican alike, wants peace in America and peace in the world, but not at any price.

I would hope the Senator from Tennessee might join in sponsoring my resolution, Senate Resolution 271, which calls upon the Hanoi government to respond and indicate some willingness to negotiate for peace. I am certain the Senator from Tennessee wants that as badly as anyone. But it seems to me that

to say, "Well, I have reservations about troop withdrawal; I believe we should negotiate," is not very helpful. If they will not negotiate, how can we possibly ever end the war on the basis the Senator suggests?

Mr. GORE. I thank the able Senator. I am not acquainted with the text of the resolution to which he refers. I shall be happy to review it.

Insofar as the remarks the able Senator from Kansas has just made are concerned, I am happy, here and now, on the floor of the U.S. Senate, to join him in the message he has just spoken to North Vietnam and to the Vietcong.

I think, if I may respond further, there is one other message we should give to the other side, so to speak, and that is that we are willing to compromise and to use our influence to seek compromise with respect to the character of government in Saigon. That is the central issue. Indeed, that is what the war is about. Unless we are willing to compromise that central issue, then we really have not offered a basis for political compromise and negotiation.

Such may have been offered in secret. That I do not know. If so, it seems to me that such secrecy is hardly justified, in view of the divisive character of the issue before the American people.

Yes, I say to my able friend from Kansas, I join in the message to Hanoi which he has so eloquently stated. I too, am an American. I, too, wish to achieve a settlement of the war that casts honor upon the United States of America, and that attests to the valor and the bravery of the American soldiers who have sacrificed their lives, their limbs, and their health.

Mr. GRIFFIN. Mr. President, will the Senator yield at that point?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GORE. May I have 5 additional minutes?

The PRESIDING OFFICER. Without objection, 5 additional minutes are granted to the Senator from Kansas.

Mr. GORE. I did not wish to conclude until the Senator from Kansas had finished his interrogation.

Mr. DOLE. I wish to ask one further question.

Mr. GRIFFIN. Let me make just this one point——

Mr. GORE. I must insist, Mr. President, that it is only fair that the two Senators in colloquy be permitted to conclude. Then I shall be happy to yield, if given more time, to the Senator from Michigan. I yield now to the Senator from Kansas.

Mr. DOLE. President Nixon has stated, and the Thieu government has acquiesced in, the principle of free elections. We have made it clear it will be under international supervision. I have reread President Nixon's May 14 speech, and in that speech and again in his statement last night, he has made it clear the only thing that is not negotiable is the right of self-determination for the South Vietnamese. In fact, that is the primary purpose of our being there, if I understand the history of our involvement.

The Senator from Tennessee agrees with that; as the Senator made such a statement in his speech today.

Mr. GORE. Mr. President, it is not easy to deal with this subject in the context of the conditions that prevail in South Vietnam.

Mr. DOLE. Is the Senator suggesting we topple the government in South Vietnam?

Mr. GORE. If I may proceed at the time President Nixon and President Thieu met on Midway, a joint statement was issued which referred to self-determination and elections in South Vietnam. I watched on television as President Nixon landed at the airport in Washington upon his return. He said, as I recall—and I think I recall it accurately, though I do not wish to be held to the exact words, because I do not have them before me—"We have opened the door of peace." He then referred to the process of elections.

But when President Thieu returned to Vietnam, he had an entirely different interpretation. As I have quoted him in my speech earlier, he said:

> There will be no coalition government. Indeed, there will be no reconciliatory government.

He has made it perfectly plain that any elections held in South Vietnam will be held by his regime.

That is not what President Nixon said on May 14, from which I took heart. The division between the United States and the South Vietnam governments with respect to this issue is an interesting study in itself. I have alluded to it in some detail in my speech earlier.

The essence of self-determination in South Vietnam is not represented by the unpopular minority military junta. If an international body is created—which President Nixon proposed on May 14—and has the responsibility and the authority to supervise and conduct a genuine plebiscite of the forces and the factors, the religious sects, the tribal groupings, the individuals, the Bao Dai, the Vietcong, the South Vietnamese, the Buddhists, the Catholics—all the diverse elements within Vietnam—then there is hope for self-determination. This was envisioned by the Geneva accords. This was proclaimed as policy by President Nixon, as I interpreted his speech, on May 14.

Mr. DOLE. I think it is still the policy.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOLE. I ask for 5 additional minutes.

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

Mr. DOLE. Let me add just one thing, to conclude the colloquy. I appreciate the Senator's patience.

Mr. GORE. I consider it an honor.

Mr. DOLE. I noticed in the Senator's statement that he mentioned there were some 46,000 deaths. Even one death is tragic enough, but I think the figure is more accurate about 39,300 combat deaths as of this date. I hope that the RECORD might reflect the exact number.

Then, finally, let me say again to the Senator from Tennessee—and I am certain he is just as strongly in favor of ending the war and in his desire for peace as anyone on this floor. We do have perhaps somewhat different points of view but as I said earlier, it seems that as some of us make speeches, some demonstrate, and some take to the streets, the actions of some make it appear that the real enemy and the real block to peace is not the North Vietnamese, but the South Vietnamese.

I do not share that view. I do not know for a fact that everything is bad in South Vietnam. There is some corruption, and there have been problems with land reform; but it is a new government, and I would guess that George Washington had a few problems in his first few years. It is not perfect.

We cannot compare any government that is 2 or 3 years old with our Government today. We are not perfect. We have corruption. We have problems. We have people who make statements, in and out of politics, not always in accord with what we think should happen or should be said.

I would guess that President Thieu has political problems, just as we do.

President Nixon has not deviated from his course. He is still following a plan and a strategy for peace and I hope that the Senator from Tennessee will find it in his heart to support the President.

The statement of the Senator from Tennessee is not particularly critical of President Nixon and of course there is room for division. The Senator said a moment ago that he agrees the President does desire peace. However, the Senator should realize it is difficult for the President to hold negotiations if the other side refuses to talk and therefore if the Senator does not agree with the action of the administration in withdrawing American troops. What choice does the President have?

Mr. GORE. Mr. President, the able Senator has made so many points that it is difficult to respond briefly to all of them.

First, I must refer to his reference to the RECORD with respect to the number killed. There have been some 46,000 U.S. troops killed in Vietnam. The smaller figure that the distinguished Senator has used is, I believe, the number classified as killed by hostile action.

I have made some considerable inquiries into the classification. I do not wish to be critical of the classification. It seems that in general one killed by hostile action falls directly by the weapon of the enemy, but that if a helicopter that has been in combat crashes on its return and its crew is killed, those casualties are not listed as killed in hostile action.

I hope that statement clarifies the RECORD. I believe that the figure I have used is correct. In fact, it was taken from statistics furnished by the U.S. Department of Defense.

The able Senator is very generous in his remarks when he points out that I have acknowledged that the President wished for peace. I believe he used the words "admitted" or "confessed." I have forgotten his exact terms. However, let me say at this time that I proudly assert my belief that the President of the

United States wishes for peace earnestly and devoutly.

The Senator was also, I thought, generous—and I thank him for it—in saying that he did not interpret my speech as being particularly critical of President Nixon.

I had not so intended it. I think if the Senator searches the RECORD, he will find that the strongest speech in support of President Nixon's May 14 speech was delivered by me.

My concern, my earnest desire, is to make, if possible, a constructive contribution to the formulation of a feasible policy for peace. I do not believe that we yet have one. I think that the Senate, the Senate Foreign Relations Committee, and individual Senators are dutybound to undertake to make a contribution to end this war. It is horrible. It is devastating. It is divisive to our people. What it costs this country internally is priceless and precious; staggering. So, I thank the able Senator.

I am happy to yield to the distinguished junior Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, I thank the senior Senator from Tennessee for yielding to me.

I have not been on the floor throughout the discussion. However, I have been on the floor from time to time. At one point in the remarks of the senior Senator from Tennessee—and I have reviewed a copy of his remarks to make sure I would not misquote him—I heard him say "as long as our primary aim is to maintain the Thieu Government in power."

I do not know whether the senior Senator from Tennessee means exactly what he said in that sentence or not. I can understand the Senator's criticism of the Thieu government and his criticism concerning some of the statements of Mr. Thieu himself. However, certainly as far as our Government is concerned, President Nixon has never said that our primary aim is to maintain the Thieu government in power.

The only nonnegotiable item, as far as our Government is concerned, is the proposition that the people of South Vietnam shall have a free choice as to their government. We have indicated that, if the Thieu government is overthrown or replaced in a free election, our Government will accept the result.

I therefore challenge the statement that our primary aim is to keep the Thieu government in power. I want the RECORD to reflect such a challenge.

Mr. GORE. Mr. President, I thank the able Senator. His challenge serves the useful purpose, I think, of bringing into sharp focus the paradox here presented. President Nixon says, on the one hand, that he strongly supports the right of self-determination by the people of South Vietnam, and then he adds that this is nonnegotiable. However, he has said, and has repeatedly made it very plain, that he stands firmly beside and behind President Thieu. Indeed, he stood on the steps of the capitol in Saigon beside Mr. Thieu—a symbolic act in itself—and made it perfectly plain that the U.S. policy was alined with the maintenance of the Thieu regime in power.

Upon departure from Vietnam, he characterized Mr. Thieu as one of the four or five best politicians in the world. And in a news conference at the White House, he made an additional remark—which I cannot exactly quote at this time—to make it unmistakably clear that he was firmly backing Mr. Thieu.

So, in essence what our distinguished President seems to be offering is a contradiction—self-determination they may have if they determine to keep our man Thieu.

I say to the distinguished Senator from Michigan that this is an inconsistency. This is a contradiction. And until we are willing to reach a political compromise with respect to the character of the political regime in South Vietnam, the war is apt to continue.

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

Mr. GORE. I yield.

Mr. GRIFFIN. Mr. President, I recognize absolutely nothing that the Senator has said which gives any substance whatsoever to his earlier statement that our primary aim is to maintain the Thieu government in power.

For President Nixon to recognize that Thieu is now the leader of the South Vietnam Government, having been elected to that position—for the President to otherwise recognize Thieu's position—does not, by any stretch of the imagination, lead to proof or even of substance to a statement that our primary aim is to maintain Thieu in power.

Our primary aim is to see that the people of South Vietnam can choose their own destiny.

I find it very difficult to understand the Senator from Tennessee in his criticism of our Government because we do not agree to a coalition government or some kind of compromise on that point.

What is wrong with a free election in South Vietnam in which the Communists have the right to vote, in which the Communists have a say concerning international supervision of that election? Why are we not unified behind that principle?

Mr. GORE. Mr. President, the Senator has touched upon a very vital and sensitive area. We seem to have a cacophony of contradiction which some have called a peace policy.

If the language I have used is not precisely what the Senator thinks it should be, then I will be glad when time permits to state as precisely as possible what I believe to be the record, the central issue.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. ALLEN in the chair). The hour of 2 o'clock having arrived, the morning business is concluded.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1970

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 497, H.R. 12964.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 12964) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1970, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDENT'S SPEECH ON VIETNAM

Mr. STEVENS. Mr. President, last night the Nation heard a man of courage describe the path this Nation must travel if it is to live up to its commitments, if it is to stand by its allies, and if it is to face unblinkingly the verdict of history.

That man, of course, was the President of the United States. Last night he had his choice—the same choice he has had for more than 9 months. He could take the easy way, leading the Nation along by the hand until it was too late to turn back. Or he could take the hard road and the high road of honor and purpose, and he could exhort the Nation to follow, telling them that the way was not easy, but the goal was worth the effort.

The President chose the second road—the right road.

He could do no less. No American President has done less.

Mr. President, the road the President chose for himself and the Nation last night was not a partisan road. Neither was it the road traveled exclusively by either the hawk or the dove.

It was the road to an honorable peace, the road we all seek.

He took it despite strident voices urging peace, now, and peace at any price.

He took it despite the threats of those who take to the streets instead of to the polls in an effort to force their will on the Nation.

He took it because he knows of the consequences. "I mentioned," he told us, "that our allies would lose confidence in America" if we chose the road to precipitate withdrawal. "But far more dangerous, we would lose confidence in ourselves."

The President knows—we all know—that the immediate reaction to withdrawal now would be a great sense of relief as our men came home. "But," he went on, "as we saw the consequences of what we had done, inevitable remorse and divisive recrimination would scar our spirit as a people."

Of course, the President is right.

And, frankly, there are none so blind as those who cannot see that he is right.

Those who stand ready to attack him for refusing to submit to the politics of surrender should read that speech again. They should look closely at what the President has proposed to Hanoi.

And they should note Hanoi's reaction, a contemptuous refusal to negotiate in any manner, either publicly or privately.

Those who stand ready to attack the President are aiming at the wrong target.

Instead of seeking to rally world opinion against their own President, why do they not seek to rally world opinion against those who murder, those who torture, those who mistreat prisoners and use them for political purposes? Why do they not turn on the real culprits—not the President of the United States—but the dictators of North Vietnam?

Mr. President, it is time the nation rallied behind its leaders the way it always has in time of crisis and war. As the President works for peace in accordance with our hopes, it is time we sustained him with our prayers.

We are, as we all know, divided as a Nation regarding the support we have given to the military effort in Vietnam; but, we cannot, we must not, be divided in the search for peace. President Nixon needs and must have the support of a united America as he searches out each avenue and each prospect for peace.

Mr. President, after the Senator from Oklahoma (Mr. BELLMON) and I returned from Vietnam in July, we pointed out that over 84.2 percent of the total population of Vietnam lived at that time in pacified areas.

We pointed out that only 7.8 percent of the total population of Vietnam lived under control of the Vietcong or the North Vietnamese. We pointed out that, as of May 1969, 1,360,272 South Vietnamese had pledged their support of the Thieu government and to become members of the Home Guard. We pointed out that over 860,000 of these people had been trained and had been armed by our Nation and that 300,000 of them had been armed with our automatic weapons.

One of the young Vietnamese colonels told me, when we were in Vietnam:

A nation which does not have the support of its people does not arm its people; particularly, it does not arm its people with automatic weapons.

The results of total pacification in Vietnam are there for anyone who wants to see the results. I would point out that in this year alone, 145 villages and 1,109 hamets have held free elections. I cannot understand my colleagues when they insist that the Thieu government is not supported by the South Vietnamese people. The evidence is there to the contrary. The South Vietnamese people today contain more power to defend themselves than does any nation on this globe.

I ask unanimous consent to have an article entitled "One in Every Nine Citizens of RVN Trained To Fight," published in the Army magazine of October 1969, printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. STEVENS. This article points out the number of forces that have been trained by our people under the Vietnamization program in South Vietnam. I might add that it is current only up to the end of the fiscal year, until June 30, 1969, and much has been done since that time.

But how can we stand here today, when there are almost one and a half million Home Guard people supplementing the forces of Vietnam, and say that these people, who are armed with automatic weapons, who are ready and have the ability to either support or overthrow their Government, are not supporting the Thieu government, when in fact no revolt has taken place in South Vietnam and the situation is to the contrary?

Senator BELLMON and I spent considerable time traveling in all four corps areas, and I wrote a series of reports at that time concerning what we had found in those four corps areas. I ask unanimous consent to have those reports printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. STEVENS. Those reports to my constituents show my conclusion that the South Vietnamese people do, in fact, support the Government of Vietnam and that there is no substance to the claim that we must have a coalition government in South Vietnam.

I think the one thing the President said in his address last evening that is definitely representative of the will of the people of the United States is that self-determination still is not a negotiable item so far as the conditions for peace in South Vietnam are concerned. I am hopeful that we will hold to that course, that we will withdraw our troops as they can be replaced by South Vietnamese troops, and that we will support that Government so long as it wishes to stand up to Communist aggression.

I believe that the road to peace as the President has chosen it is the road that the majority of the American people support, and I am proud to support him on the floor of the Senate.

EXHIBIT 1

ONE IN EVERY NINE CITIZENS OF RVN TRAINED TO FIGHT

The Republic of Vietnam (RVN), now fully mobilized for the first time in two decades of warfare, has trained one out of every nine citizens to fight the Viet Cong and the North Vietnamese Army. With 1,045,500 uniformed servicemen recently augmented by nearly as many civilian home-defense recruits, 11.7 percent of the population bears arms.

South Vietnamese national, territorial and para-military troops, strongly reinforced as a result of a general mobilization call in 1968, today represent six percent of the country's 17,400,000 people. According to figures released in Saigon, on a proportionate population basis, these full-time warriors—excluding the unpaid civilians trained and armed to protect their home villages—constitute a force 3½ times the size of the standing military establishment of the United States. (If the United States had six percent of its population in uniform, it would have 12 million instead of 3.4 million servicemen.)

Before the end of 1969, the Republic's force of 1,045,500 uniformed men is due to be augmented by another 71,000 soldiers, 8,000 sailors and 10,000 policemen. Already they make up nearly 63 percent of all forces opposing the communists in Vietnam. And casualties, a prime measure of activity, indicate the degree of combat responsibility assumed by the South Vietnamese forces. They are carrying a burden of the fighting so heavy that they have lost twice as many men killed in the past 15 months as have all the allied forces put together—forces from six free world nations totaling nearly 625,000 men. According to President Nguyen Van Thieu, from January 1968 through March 1969, the South Vietnamese lost 39,307 troops to the allies' 19,433 men killed. Since 1960, the Vietnamese armed forces have lost 108,500 men killed in action.

"We have made great sacrifices," said President Thieu on 19 April as he marked the 14th anniversary of the Vietnamese Air Force. A professional soldier with the rank of lieutenant general, the commander in chief added, "We will continue to make even greater sacrifices."

The nation's armed forces include:

The regular 10 infantry divisions and three independent regiments of the Army of the Republic of Vietnam (ARVN) totaling 384,000 men.

More than 46,000 elite striking forces like the three brigades of the airborne division, the 20 battalions of the rangers, the 9,500 marines, and the few but highly trained men of the Vietnamese special forces.

The territorial or militia troops, including 218,000 Regional Forces (RF) and 173,000 Popular Forces (PF) for a total of 391,000 men.

A navy of more than 21,000 men, including 11 percent officers and 27 percent petty officers.

An air force of 18 squadrons, including two jet squadrons (to be increased to at least four), some 400 aircraft and 21,000 men, including more than 1,000 pilots.

Paramilitary troops totaling 182,000 men, including more than 79,000 national police, 45,000 troops of the Civilian Irregular Defense Groups, or CIDG (tough combat patrol specialists — Montagnards, Vietnamese, Khmer and Nung Chinese—led by the special forces), 4,000 former Viet Cong in armed propaganda teams, 1,500 former Viet Cong serving as Kit Carson scouts for U.S. marines, 46,000 armed Revolutionary Development (RD) team members, and 7,000 Truong Son (pacification teams) members doing similar RD work in hamlets of the Central Highlands.

While not listed as members of the armed forces, an important adjunct in urban neighborhoods and rural hamlets are the People's Civil Self-Defense Forces (PCSDF) of about one million youths, women, veterans and older men, organized since May 1968 to defend their own communities, with some 800,000 already trained and with weapons already issued to them on the basis of one submachinegun, rifle, carbine or shotgun to every three members.

The communist Tet offensive of February 1968 marked a turning point for the armed forces in terms of morale, manpower and equipment. During that lunar new year holiday the Viet Cong and the North Vietnamese Army hurled 84,000 troops against the South Vietnamese and their allies, and Hanoi assured its troops that ARVN units would desert to them in droves. But not a single squad went over to the enemy, and the communists lost half their attacking force (20,300 to the South Vietnamese, 18,581 to the Americans, the rest to other allied forces). The ARVN went over to the offense in mid-year and has not lost the initiative since then. Amid a rare burst of public praise for their showing against the heaviest attacks the enemy could mount, the regulars of the ARVN divisions and the "Ruff Puffs" of the RF companies and PF platoons experienced a soaring of morale unequaled in the army's 20-year history.

The Tet offensive spurred the Saigon government to new action. In mid-June the National Assembly answered President Thieu's call for general mobilization by low-

ering the minimum and raising the maximum draft ages. It passed a law inducting men from 18 to 38 into military service and ordering youths of 17 and men from 39 through 43 into civil defense duty. The primary goal was to augment army strength by 268,000 recruits before December 1968, a 33 percent increase (excluding casualties suffered during the mobilization period). The quota was met well before the deadline, 220,000 being inducted before the summer was out. Of them, 161,000 chose their branch of service by volunteering for induction.

At the same time, with the help of its foreign allies, the Saigon government embarked on an extensive program to upgrade the weapons and equipment of its fighting forces, as well as a program of fringe benefits for servicemen to raise morale. Delivery of fast-firing M16 rifles to ARVN units, for instance, was such a stimulus to the Vietnamese soldiers' aggressiveness that it was immediately reflected in enemy casualty rates. Viet Cong facing ARVN units armed with the M16 left more of their dead on the battlefield than neighboring communist forces opposing ARVN units that had not yet received their M16s. Said one Green Beret on a front near the Cambodian border, "Give a Vietnamese soldier an M16 and you make a tiger out of him!"

Stronger aggressiveness is shown in current battlefield statistics. Each day now, the ARVN mounts from 40 to 60 operations by battalions or large units, and the "kill ratio" has risen from one to 2.9 in 1965 to one ARVN killed for every 5.9 of the enemy slain today. The daily battalions-in-combat statistics are also significant. During 1967, an average of 101 ARVN battalions were engaged in combat operations each day. The number rose 16 percent during 1968 to 118 battalions. Weekly tactical sorties by the Vietnamese Air Force, which now flies one out of every five missions throughout the country, rose from 2,242 in 1967 to 3,510 during the first 11 weeks of 1969. Vietnamese Navy missions rose from 2,428 per week in early 1968 to 2,860 in the same period of 1969.

What makes the South Vietnamese armed forces so different from the usual military aggregation is the fact that the military is responsible not only for the defense of the nation but for much of its civil administration as well.

The regular divisions of the ARVN are striking forces directed by the general officers who command the four corps tactical zones (CTZ) into which South Vietnam is divided. In addition to his military functions, each corps commander is responsible for civil administration within his CTZ.

The Regional Forces companies come under the tactical command of the chiefs of the 44 provinces, who are usually ARVN lieutenant colonels or colonels; yet the province chiefs are also responsible for civil administration within their provinces.

The Popular Forces, usually in static defense near each platoon's home village, recently have come under the direct supervision of the village chiefs, civilians elected to head the committees administering the routine civil life of the villages. But the village chief's military commissioner is a PF officer, and in practice both RF and PF units are deployed and led in local operations by the district chief. District chiefs are ARVN captains or occasionally majors, and they are responsible through channels for RF–PF actions and civil activities within their 243 districts.

While neither province chiefs nor district chiefs deploy the regular ARVN divisions within their jurisdictions—company-grade and field-grade officers do not make troop dispositions for a general officer's command—they do coordinate their RF–PF operations with the local ARVN commander, often can "borrow" ARVN elements for their offensive requirements, and occasionally take part in massive cordon operations involving all regular, territorial and paramilitary forces in the area.

Within each CTZ there is a dual-command structure. The principal military channel goes from corps commander to division and regiment. A second channel goes from corps commander through province chiefs to district chiefs. Each channel has its own prerogatives and forces. In recent years there has been a trend away from concentration of all civil power in corps headquarters, province chiefs now being appointed by Saigon rather than by corps commanders and central government ministries communicating directly with province chiefs. Most villages and hamlets now elect their own chief and administrative bodies, so province and district chiefs have advisory, coordinating and occasionally veto functions in the villages rather than administrative tasks. But some 291 military officers from general to captain stationed at headquarters of corps, provinces and districts still bear heavy responsibility for the day-to-day activities and the general well-being of their jurisdictions.

This dual civil-military responsibility evolved from the necessity of martial law in a country at war, and continued even after popular elections were held under the Second Republic because it was found that, in a society so long at war, it was inevitable that the best manpower resources, the best leaders and administrators, were in uniform. Cabinet ministers, mayors and some other government officials have had to be recruited from the ranks of the military. One benefit is that officers experienced in the dual system develop a comprehensive grasp of the war in its total military, political and psychological compass.

By their votes at the polls the people of South Vietnam have endorsed this military administration. Much of this acceptance of military administration by the country's majority seems to stem from the fact that the army has built a tradition of civic responsibility, a reputation for bringing relative stability out of chaos in order to permit the government to govern. It was the army that prevented the Viet Cong insurrection from sweeping the country. The army toppled a mandarin dictatorship that was losing the war in 1963. It took over direct administration of the government in 1965, ending a period of revolving-door regimes in Saigon that had brought political chaos to the country. It was the army that in 1967 voluntarily gave up total power in favor of an elected, constitutional republic.

The Army of the Republic of Vietnam was created on 28 May 1948 (now celebrated as Armed Forces Day) by decree of Bao Dai, who had earlier abdicated as emperor but retained power as chief of state until Ngo Dinh Diem's election to the presidency of the First Republic. From a force of fewer than 100,000 men—some units tracing their lineage back to Vietnamese units fighting as part of the French Union forces and some created by Bao Dai's decree—the ARVN in the past score of years has developed into a modern, well-trained and aggressive army of professional soldiers.

Today, the Republic's armed forces are headed by a minister of defense. Under him comes the Joint General Staff, made up of the army, navy, air force and logistics and political warfare commands. Also directly under the JCS is the national strategic reserve, the marines and some of the 20 ranger battalions.

The regular ARVN divisions are triangular, normally having three regiments, a cavalry squadron and two artillery battalions, or about 10,000 men. Each regime has three battalions and each battalion three companies. Recently, support elements—engineers, transport, ordnance, logistics—were brought into a division support command in a more modern organizational structure for each division. The ten regular ARVN divisions as well as ARVN's three independent regiments were, at mid-summer of 1969, deployed under CTZ commanders as follows:

In the I CTZ, embracing the five northern provinces, are the 1st Division at Hue, the 2nd Division at Quang Ngai, the 51st Independent Regiment at Hoi An and the 54th Independent Regiment at Tam Ky.

In the II CTZ, covering the central coast and the Central Highlands, are the 22nd Division at Qui Nhon, the 23rd Division at Ban Me Thuot and the 42nd Independent Regiment north of Kontum.

In the III CTZ surrounding Saigon are the 5th Division at Phu Loi, the 18th Division at Xuan Loc and the 25th Division at Duc Hoa.

In the IV CTZ, in the populous Mekong Delta, are the 7th Division at My Tho, the 9th Division at Sadec and the 21st Division at Bac Lieu.

The 1st Division, guarding the two northern provinces just below the Demilitarized Zone, has been judged one of the finest divisions to take the field of battle. U.S. Defense Secretary Melvin Laird recently awarded this division the Presidential Unit Citation for repeated bravery in action during engagements in Quang Tri and Thua Thien provinces. This elite division includes an elite company, the Hac Bao—the Black Panther assault company that stopped an entire North Vietnamese battalion on the Hue airfield during the Tet offensive and later emerged victorious from a 72-hour battle against overwhelming NVA forces with 19 of its 240 men alive.

During that battle in the Hue citadel, the 1st Division successfully tackled two NVA divisions. Through 10 October 1968, the division's men killed 12,661 NVA and VC troops, took 2,571 prisoners and picked up 5,622 weapons. In that period the division lost 1,600 killed, 6,675 wounded and 238 weapons.

No army ever is a good as its best units, and the ARVN has its 25th Division as well as its 1st Division. Until last year, by the candid acknowledgment of a JGS general at Saigon's Camp Tran Hung Dao, the 25th was "the worst division ever to enter any battlefield east of Suez." Working out of Duc Hoa in Hau Nghia province west of Saigon and extending into Long An province south of the capital, the 25th operated as most divisions did in the Orient during the 1930s: it shunned combat to conserve resources.

The 25th, therefore, carried out the traditional role of preparing and holding strongly fortified positions near major population centers and road routes, but did not commit troops to offensive patrolling except at the stern and insistent direction of higher headquarters. As the 25th improved its intelligence network, learning more about enemy dispositions, it improved its ability to march its troops in the opposite direction. Then, early in 1968, Brig. Gen. Nguyen Xuan Thinh took command with the announcement that "I am cultivating aggressiveness." Launching joint operations with their "brother" division in the area—the U.S. 25th Infantry Division—the men of the ARVN 25th Divison showed what capable soldiers can do under capable leadership. Today, the 25th stands firm in a blocking position across a major enemy infiltration route from the Cambodian border to Saigon. It is pulling its weight there in Hau Nghia, and is conducting an important pacification operation in Long An as well.

Other South Vietnamese units have similarly distinguished themselves.

The Vietnamese troops suffering the heaviest casualties and inflicting the most casualties on the enemy in proportion to their numbers are the "Ruff Puffs," the Regional Forces and the Popular Forces. The RF operate in 123-man companies under the province chiefs, though often led on operations by district chiefs. The PF are organized into

35-man platoons for local village and hamlet security. Originally the Ruff Puffs were regarded as guard troops and as the first line of community defenders they often were the first target of any attacking force. No longer are they in static defense positions, however. Now better armed, the RF does much the same work as company-size units from the regular ARVN divisions, going on extended operations against Viet Cong forces, doing village pacification work, joining in combined operations with allied forces, and utilizing the helicopter and artillery support services of the big divisions.

The PF, also much better armed as a result of a militia modernization program, still maintain static defense posts but also send out roving patrols to meet the enemy before he reaches the PF perimeter.

Statisticians list the National Police as a paramilitary force (without listing U.S. police in comparative military establishment figures) because usually the police are the first to be informed of a Viet Cong raid and the first to rush to the scene.

The police special branch is the core of Operation *Phung Hoang*, a nationwide pooling of intelligence data to flush out the Viet Cong infrastructure (VCI). The VCI are the leadership elements who run the communist political apparatus, control the guerrilla bands, collect taxes, order assassinations, set up front organizations, draft men and women as soldiers, guerrillas and laborers, spread propaganda and direct terror campaigns. About 80,000 cadres originally were estimated to hold VCI jobs. In the first 11 months of a campaign that jumped off at the beginning of 1968, Operation *Phung Hoang* resulted in 13,404 of these cadres being rooted out of their underground positions in the communist shadow government. Under *Phung Hoang* the national police and other government intelligence agents man district centers which collect information on the VCI, check it against files and dossiers and, where warranted, arrange for operations.

Viet Cong who have turned their backs on communism and rallied to the government's side under the Chieu Hoi (Open Arms) program engage in various paramilitary activities. More than 104,000 have defected since the program started.

Most are in regular ARVN divisions and about 4,000 are in armed propaganda teams (APT). Another 1,500 former VC are serving as Kit Carson scouts, helping in pacification and village development, identifying members of the VCI, passing on knowledge of terrain, people, guerrilla fighting methods and booby traps. Some former VC have joined such specialized groups as provincial reconnaissance units (PRU), whose stock in trade is terror against Viet Cong terrorists.

Other important paramilitary forces are the 46,000 revolutionary development and the 7,000 Truong Son members, the men (and a few women) who help villagers reinstate local democratic government in newly pacified areas. Lightly armed, they provide hamlet defense until the people can be motivated, trained and armed to protect their own communities.

While RD teams, some working in 59-man units and others in 39-man units, have for some years been teaching self-defense methods to villagers, the program to build hamlet-level civilian home protection units did not begin to snowball until after the communist Tet offensive. The general mobilization decree helped, for it called for drafting 17-year-old boys and men from 39 to 43 into civil self-defense units. In most cases, the draft was not necessary, for young boys and older men were quick to volunteer in order to have a voice in their local unit's organization. In many units, teen-age girls and women, who are not subject to the draft, volunteered in such numbers that they constitute the majority of the members of the People's Civil Self-Defense Force. Since the Tet offensive, about one million PCSDF members have been recruited across the country.

The average Vietnamese soldier is 19 to 24 years old, with litle more than a rural education. Of peasant stock, he is small, lithe, but surprisingly muscular, and he can carry a 60-pound pack for hours without tiring. He has undergone 12 weeks of basic training (cut to nine weeks during the general mobilization drive of 1968) but often has had advanced training in division camps. Properly led, he develops a dash and fighting spirit under the most difficult combat conditions. He must be at home in Delta rice paddies, mountain rain forests and city streets. He must fight often, and in his less hectic hours he is expected to help the rural people build a new life. He must guard long stretches of road and railroad and canals, thousands of bridges, thousands of hamlets and government facilities. For this, if he is a private with no dependents, he earns 3,000 piasters (about $25) a month. Ruff Puffs earn less, but they are closer to home than the ARVN regular, who may be sent to serve in any of the South Vietnam's 44 provinces. Men with dependents and elite troops—those wearing the jaunty berets (green for special forces, red for paratroopers, black for armored troops, maroon for rangers)—earn more.

Promotions do not come easily in the ARVN. A colonel may command a division. Regiments are given to lieutenant colonels and sometimes majors. Captains often command battalions. Rank is tight, but programs have been begun recently to award merit promotions in the field, especially in raising promising young noncommissioned officers to company-grade officer ranks. But most promotions still are based more on seniority than merit, and a number are across-the-board promotions of one grade for all enlisted ranks ordered by the government to celebrate, for instance, a new national holiday.

Two years ago, extra efforts were made to upgrade the training of officers and noncoms. The Thu Duc Officers School was expanded and its curriculum improved. Special command and staff schools were established for field-grade officers at Dalat, with attendance a prerequisite for promotion. The Dalat Military Academy this year graduated its first class of 90 students after four years of education. Since its founding in 1948 it has had only nine-month and two-year courses, and the expanded curriculum is considered a major step in providing the army with an educated corps of professionally trained young officers. Ranking officers now are being given advanced command training at the newly established National Defense College in Saigon. Key officers continue to be sent to advanced schools in the United States such as the infantry course at Fort Benning and the command and general staff schools at Fort Leavenworth. Since 1957, more than 8,000 officers and men have been trained in U.S. military schools.

Improved leadership has done much to boost ARVN morale and proficiency, but one of the greatest spurs to aggressiveness has been the refitting of the armed forces with modern weapons. Morale had been badly shaken when the North Vietnamese in 1965 and 1966 began equipping their infiltrating troops with weapons the South Vietnamese could not match—modern Soviet-design automatic weapons, including the RPD light machine gun, the AK47 assault rifle, and armor-piercing rocket launchers. Then the United States offered to re-equip the ARVN with a newer family of U.S. weapons. In addition to the M16 rifle, these included LAW antitank rockets, the useful M79 grenade launcher and the M60 light machine gun. First issued to regular ARVN divisions, these weapons now are being given the Ruff Puffs, with completion of the rearming program expected by the end of this year. Some 350 mobile advisory teams of U.S. officers and noncoms have been assigned to help upgrade the RFs–PFs, through training in battle tactics, weapons use, and tighter security.

The number of artillery battalions is being doubled, and newer pieces, such as the light M102 howitzer of 105-mm. size, are being introduced. At the start of 1968 the ARVN had only 600 armored personnel carriers, but by the end of 1969 it is expected to have 1,500. The ten armored cavalry squadrons also have some older M41 tanks.

A major spur to ARVN offensive operations has been improved mobility. Now able to call on transport planes and helicopters for troop airlift, and now assured of good communications and artillery support, field commanders order combat sweeps, enveloping maneuvers and direct assaults that would have been unthinkable in 1965 and 1966. Today, even militia companies and platoons can be tactically deployed by helicopter, and are being so deployed, in ever-increasing numbers.

The areas in which the ARVN has made the most improvement—firepower and mobility—are still the areas of its greatest weaknesses. The ARVN is quite capable of fighting and defeating the 20,000 main force Viet Cong troops and the 70,000 local force VC guerrillas in the country. In open combat on a particular battlefield the ARVN could defeat the 110,000 North Vietnamese Army regulars now in the South, despite their modern Chinese and Soviet-bloc weapons. But with the ARVN's basic responsibility for territorial defense that the NVA does not have, and with the NVA's proclivity for regrouping in inaccessible sanctuaries, it would be a formidable task for the ARVN to drive the NVA back. It could not conceivably do so without the helicopter, jet-strike, artillery, communications and logistical support now provided by U.S. forces. An ARVN division is a potent force, but even in the case of the 1st Division, one of the factors making it an elite unit is its ability to call in helicopter and artillery support from the neighboring U.S. 101st Airborne Division. Because the average ARVN division, particular since the war became a big-unit war in mid-1965, has been able to rely on its ally's artillery, air strike and transport capabilities, it has not yet developed its own similar capabilities to a point that would make it self-sufficient on a modern battlefield. Even when the 300 new helicopters all have been added to the present fleet of 100 choppers, the entire Vietnamese Air Force still will have fewer helicopters than the U.S. 1st Cavalry Division's 425. (Some 3,000 helicopters are assigned to all U.S. forces in Vietnam.) Even when the 60 new jet attack bombers are added to the 40 fighter jets now in action, the VNAF's jet capability still will be little better than that of a single U.S. aircraft carrier with its 75 to 80 jets aboard. The average American division has about twice the number of howitzers and mortars available to an ARVN division.

One way to help make up this deficiency is a plan announced on 23 March by U.S. Defense Secretary Laird, and that is to hand over the equipment of disbanding U.S. units to ARVN units remaining in the field. The first such turn-over took place that March weekend near Can Tho, in the Delta. The 6th Battalion of the 77th Artillery, attached to the now disbanded U.S. 9th Infantry Division, sent some of its men on normal rotation back to the United States and assigned the rest to other outfits in Vietnam. Although the battalion was inactivated, overall U.S. troop strength was not lowered. After spending two months in training ARVN artillerymen to use its 105-mm. howitzers, the 6th, in its last formal act as an active battalion, turned over its howitzers, trucks, radios, ammunition and repair equipment to the newly activated 213th Artillery Battalion of the ARVN 21st Infantry Division.

The ARVN, once a loose force of diverse troops, has developed during 20 years of bit-

ter fighting into an effective, highly motivated army. Its improvement, particularly since the Tet offensive, is regarded by U.S. officers as exceptional.

EXHIBIT 2

[From the Congressional Record, July 14, 1969]

Mr. STEVENS. Mr. President, I am pleased to be able to join with the minority leader and our able colleagues to support the action taken by President Nixon in his endorsement of the position of Vietnamese President Thieu in his call for free elections in South Vietnam.

From June 29 until July 4 of this year, I was in Vietnam with my good friend Senator HENRY BELLMON of Oklahoma. It was our privilege to be able to visit with our American forces in every area of South Vietnam as well as the forces of the South Vietnamese.

Mr. President, the impact of our visit on me was that the results of the pacification program in South Vietnam have not been fully appreciated here at home. For instance, 76.4 percent of the rural population of South Vietnam—10,783,300—now live in areas under control of the Thieu government; another 11.8 percent of the rural population are in areas occupied by, but not completely controlled by, the Thieu government; and only 11.8 per cent of their rural population are now in areas not controlled by the government. If all urban and rural areas are considered together, 84.2 percent of the total population—17,219,100—now live in pacified areas under complete South Vietnamese Government control while 8 percent live in areas occupied by, but not completely pacified by, the Thieu government and only 7.8 percent of the total population does not live in pacified areas.

The most significant reason that the Thieu government now has the control of the vast populated areas of South Vietnam is that there has been organized the Peoples' Self-Defense Force. By the end of May of 1969 1,360,272 individual South Vietnamese pledged their support of the Thieu government and agreed to become a member of this "home guard." Of that number 863,208 of these people have been trained and over 300,000 of them have been armed—mostly with automatic weapons.

Mr. President, as one of the young South Vietnamese colonels told me:

"A nation which does not have the support of its people does not arm its people; particularly it does not arm its people with automatic weapons."

The results of the total pacification program are shown in the election results in South Vietnam for 1969. I ask unanimous consent that these results be printed at the end of my statement and I point out that 145 villages and 1,109 hamlets conducted free elections in June of 1969. In this year alone 791 villages and 4,461 hamlets have held free elections.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. STEVENS. It is obvious from these statistics why the North Vietnamese want to insist on a coalition government rather than await the outcome of free elections to determine to what extent Communist elements in South Vietnam should have membership in a new post free election government.

It is my feeling that it is only a matter of time—and a very short time at that—before the South Vietnamese will be able to completely defend themselves. When that time comes all of our troops will be able to come back home, and this, I feel, emphasizes the position taken by President Nixon. If there is to be peace in Vietnam, it will be because the North Vietnamese realize that they cannot win the war and that this Nation is united behind our President and his policies which are designed to bring our boys home alive while at the same time preserving the right of self-determination to the people of South Vietnam.

EXHIBIT 1

ELECTION RESULTS, JUNE 1969

	Village		Hamlet	
	Planned	Conducted	Planned	Conducted
I CTZ	38	68	125	
II CTZ	23	18	328	300
III CTZ	12	13	135	137
IV CTZ	42	46	474	482
Total	115	145	1,062	1,109

OFF THE CUFF COMMENTS

(By Senator TED STEVENS)

Soon after becoming a member of the Senate it was apparent to me that almost every returning member of the Senate had visited Vietnam to see first hand the total effort there. Regardless of whether these members supported or opposed the war, each said a Vietnam trip was necessary to understand the country, the war, the pacification efforts, and particularly the work of the Agency for International Development (AID). (This Agency has made remarkable strides through measures to prevent inflation in Vietnam and to assist the civilian community—both in providing health care to injured civilians and assistance for economic growth.)

After discussing the subject with our good friend Senator Henry Jackson, from our neighbor State of Washington, and with the Department of Defense, Senator Henry Bellmon and I were authorized to travel to Vietnam and the Pacific Trust Territories for the Interior and Insular Affairs Committee, of which Senator Jackson is Chairman.

Before leaving Washington we were briefed by the staff of the Joint Chiefs of Staff (J.C.S.) on the Vietnam war situation—including troop locations, mission, casualties, enemy strength, and the South Vietnam capability. Also, we were briefed by A.I.D. Unfortunately, one absolute requirement was that we renew the shots we had received in World War II. I found that Senator Bellmon had been a 1st Lt. in the Marines in the Pacific—while I had served as a 1st Lt. in the Air Force in China. We had sore arms and rear ends for about a week prior to leaving because of those shots.

An Air Force C–141 took me from Dover Air Force Base in Delaware to Elmendorf in Anchorage, where Senator Bellmon, arriving from Oklahoma, joined me. We were greeted in Anchorage by Brig. Gen. F. J. Roberts, and Col. R. S. Culet, and after a brief meeting with my Anchorage secretary Barbara and her husband, Don Andrews, we left for Yakota, Japan.

It was 11:30 p.m. when we arrived in Yakota—and we had lost a day going across the date line. Having two hours to wait for the C–141 to proceed to Phu Cat in Vietnam, Senator Bellmon and I wandered about the PX—which is open 24 hours a day.

We left Japan for Vietnam, scheduled to arrive at 6 A.M. Monday morning—and our plan is to go to Saigon for a briefing from General Creighton W. Abrams, Commander in Vietnam before noon in Saigon. We will be in the Mekong Delta with the units of the IV Corps by Monday afternoon.

OFF THE CUFF COMMENTS

(By Senator TED STEVENS)

SOUTH VIETNAM, SECOND DAY

After visiting with Col. Harry Trimble and his men of the 37th Tactical Fighter Wing at Phu Cat, and inspecting the new version of the F–4, we left for Tan Son Nhut, Saigon's military airport. Escorting Senator Henry Bellmon and me from Phu Cat through the balance of our Vietnam trip was Lt. Col. George A. Custer III.

George, who long ago became steeled against comments about his "last stand" and shed his hair to escape being called "Yellow Hair" was able to get us in and out of each installation we visited with a minimum of difficulty.

In Saigon, we moved into the "White House"—a white compound for transients. We hurried immediately to a briefing being given for General Creighton W. Abrams, Commander of the Military Assistance Command, Vietnam (MACV). He is referred to as COMUSMACV. General Abrams, a man obviously dedicated to his job, emphasized that he believed the South Vietnamese had "turned the corner" and were able now to assume a greater role in the defense of their country. It was, however, my conclusion that the burdens and tensions of command in this conflict were really taking their toll from General Abrams.

Senator Bellmon and I were also briefed by the Commanding Officer of our Naval Forces in Vietnam (COMNAFORV), Admiral Zumwalt, and at lunch we were joined by his Deputy Admiral Flanigan. Strangely, the delta area of Vietnam has given rise to a new form of naval activity—the Riverine Force. Admiral Flanigan explained for us the network of rivers and canals which are the traditional "highways" of South Vietnam. And we immediately left for Ben Luc—a base for Game Warden, the code name for the River Patrol Force. Traveling in a UH–1 helicopter (a "Huey") to the Tien River, my first feeling was we were over the Kuskokwim Delta in the summertime—but this flat delta area was cultivated and filled with green rice paddies. At Ben Luc we saw the "Monitor"—an armored steel small river patrol boat with a turret that obviously reminds you of its famous predecessor.

Next the "Huey" took us to the U.S. Benewah, anchored in the Mekong river. The Benewah is an APB which is the command post for the River Assault Flotilla—comprised mainly of fast PBR's (River Patrol Boats) which escort the ACT's (Armed Troop Carriers).

Here at the Benewah we met units of the VNN—the Vietnamese Navy—units trained this year, which were replacing American naval units in the Riverine Force.

And, to prove to us the capability of the PBR's the VNN took us out on the river for a short trip. In the quick briefing given us at the river, VNN and U.S.N. personnel pointed out that it was only a matter of time before South Vietnamese forces could perform not only the patrol activity but also maintain the maintenance and repair functions.

Our next stop was Binn Thuy where we visited the 74th VNAF (Vietnamese Air Force) Wing, commanded by an aggressive young Colonel Anh. This wing is now equipped with Cessna A–37 jets and O–1 twin engine prop observation planes. Colonel Anh proudly told us his unit was up to 100% strength and was flying almost 170% of the sorties programmed for his wing. The A–37, a small twin jet, carries a tremendous load—yet it is so small I could stand on the ground and look into the cockpit. This plane, I predict, will find its way into Alaskan civilian flying—mainly because it can cruise in excess of 300 knots on one engine—and uses two engines only on take off, climb and when landing.

One thing at Binn Thuy struck me—the maintenance and repair of every single vehicle, whether it was a jeep, T–37, crane or fork lift—showed this was an on the ball outfit. I remembered my days as a pilot in World War II in China—maintenance and repair at an advance base is tough for anyone. This VNAF operation was so good that the 74th Wing had just received a U.S. Presidential citation for their performance.

We left Col. Anh and flew in our "Huey" to Soccer Field, at Can Tho, where we spent the night with General Wetherill and the IV Corps headquarters staff. It had been a long day—this was Monday night and I had last been in bed on Friday, the night before I left Washington, D.C. (having lost Sunday going across the date line).

The day had left me with many impressions—the strongest of which was that I had not known how capable and well trained the South Vietnamese were. And, I now understood President Nixon's comments when he announced the withdrawal of 25,000 troops. These troops were being replaced by Vietnamese, trained by U.S. forces, and equally capable of defending this troubled country. I went to bed with the feeling that the U.S. is not involved in fighting an interminable war—and that it really is only a matter of time before Vietnamese forces will replace all our fighting men.

OFF THE CUFF COMMENTS

(By Senator TED STEVENS)

VIETNAM, THIRD DAY

On Tuesday morning, Senator Bellmon and I joined the General Staff of IV Corps for its morning briefing. Significantly, the bulk of this briefing concerned pacification efforts—the formation of peoples forces (P.F.) and regional forces (R.F.) and the reopening of hamlets and villages previously abandoned by friendly South Vietnamese. No significant incidents were reported except the movement of a North Vietnamese regiment to a position opposite IV Corps just across the border in Cambodia.

Our first stop Tuesday was My Tho—the headquarters of the 7th ARVN Division. We were met by General Nguyen Thanh Hoang. On the way we flew over a portion of the contested area of the Mekong Delta. General Hoang and his Senior American Advisor Col. Tansey, seemed confident that the build up of local political organizations—hamlet and village councils—provided the deterrent necessary to prevent the Viet Cong or the North Vietnamese from taking the initiative in this area.

Through this 7th Division we learned of the arming of the people of this area. Not only carbines, which are semiautomatic, but also our M–16 automatic rifles had been issued to over 101,000 men. This represents the Peoples Self Defense Force (PSDF)—and in and of itself demonstrates the increasing confidence of the Thieu government in the people and vice versa, for these guns have been issued to Catholic, Buddist and Cao Dai alike. The PSDF is the South Vietnamese "home guard"—an almost limitless source of reserve strength.

We had lunch that day with the NCO's of the U.S. Advisory team assigned to the 7th ARVN Division. Apparently, a Newsweek article had been written about this area—because several of the sergeants asked me what I thought about it. Unfortunately, neither Henry nor I had read the article, issued last week, but it demonstrated to each of us that the men of the U.S. forces here were informed—very current in their exposure to public opinion at home. These NCO's were as Senator Bellmon put it "evangelists for the U.S. effort in South Vietnam". Only one expressed any reservation about the ability of the 7th ARVN Division to defend this area of South Vietnam—the area from which the 9th U.S. Infantry Division is being withdrawn in accordance with President Nixon's decision to commence withdrawal of troops.

Our "Huey" helicopter lifted us from My Tho to Cu Chi where we discussed the withdrawal with Col. Homer Long. Significantly again, our conversation was about the success of the pacification effort: The 25th U.S. Infantry is being reassigned because its job is done and it has been done well. The South Vietnamese have reformed their Provincial government, organized and trained its army, and organized and armed its home guard.

Major General Ellis Williamson joined us in Cu Chi and went with us as we traveled by "Huey" again to Duc Hoa, where we were briefed by Major General Nguyen Xuan Thinh, Commander of the 25th ARVN Division. This Division, which patrols the Cambodian border, faces the greatest threat today. We were shown aerial photographs of North Vietnamese troops just across the Cambodian border. And, for the first time, our briefings included reference to substantial enemy and ARVN losses due to engagements in the past few days. General Thinh, however, has confidence in his ability to meet North Vietnamese invasion, and his opinion was shared by Col. George Robbins, his senior advisor.

We met with the Chief of the local province, Col. Hanh, in Bao Trai, and the Province Senior Advisor, Lt. Col. Bremer. Despite the continuing military engagements in the area, pacification, primarily due to the PF, RF, and PSDF programs, was proceeding at a rapid pace, we went to Rung Tre where U.S. Captain Dewese of the 27th Infantry and the 494th R.F. Company had established protection for an area formerly occupied by NVA. This small group—one U.S. rifle company and one Vietnamese RF company had, in the past three weeks, "pacified" the area. What they had done sounds simple—traveling at night, they had searched out the North Vietnamese in the area and had cleared their district of enemy troops. Then they had repaired the homes in the hamlets, and encouraged the villagers to return. In pouring rain, this young U.S. Captain spoke to us of "his" hamlets, his district—and as we walked through these hamlets his hamlets his accomplishments were obvious. School was full, the elders—and they really were ancient men—were planning new public buildings to replace those destroyed in the war, and most important, the rice fields were in the process of being restored and replanted.

From Rung Tre we went, again by "Huey" to Fire Support Base (FSB) Jackson. It was hard to realize that we were only 8 to 10 miles from Cambodia—and that the area in between was almost a no-man's land. In this Boa Trai Province we visited another hamlet, spoke with the District Chief Major Ai and inspected the 1st ARVN Armored Cavalry, commanded by Lt. Col. Ty. Without doubt, these were first rate, well trained troops. And all of the U.S. advisors were outspoken about the effectiveness of this ARVN force if properly equipped and supplied.

Our "Huey" lifted us away from these front line troops and deposited us on the heliport of the American Embassy in Saigon. There we met Ambassador Ellsworth Bunker—a silver haired, soft spoken man who spoke of peace and the hope for the future of Vietnam. Senator Bellmon and I found Ambassador Bunker to be a man of inspiration—a man with an insight brought about a vast knowledge of the history of this Southeastern Asian area and the potential of the people once peace is restored.

We completed the day by having dinner with General Abrams, his son Captain Abrams, Ambassador Bunker and members of the General's staff. Our frank, personal exchange with these men set the stage for our visit on July 2 with the U.S. Marines who have the prime responsibility for I Corps—the area just South of the DMZ in South Vietnam.

OFF THE CUFF COMMENTS

(By Senator TED STEVENS)

VIETNAM, FOURTH DAY

DaNang, in Quang Nam Province, lies in the center of a small peninsula on the coast of the South China Sea. We had left Saigon's Tan Son Nhut airfield at 6:30 a.m. in a small plane—and were greeted at DaNang by Lt. Gen. H. Nicherson, Jr., commander of I Corps. General Nicherson is a marine, and his staff was one of the best I've ever met. We joined the morning briefing at 8:15 a.m. and found there was sporadic activity the night before just south of DaNang.

Most importantly, this briefing dealt with the increasing effectiveness of the VNAF (South Vietnamese Air Force) and the expanding Combined Action Program. The VNAF, in the I Corps area, under the command of Lt. General Lam, has made the transition to A–37 jets and has accelerated its training program to the point that it provides substantial support for ground troops and reconnaissance activities for I Corps.

The Combined Action Program (CAP) is designed to utilize the facilities of both U.S. and South Vietnamese forces—and effectively combines a unit of each so that the Vietnamese are being trained while performing their mission. General Nicherson explained to Senator Bellmon and me that the CAP mission was primarily defensive—a CAP team works with the local forces (RF of PF companies) to establish defenses for each village. Pacification in this area just south of the DMZ has been most difficult because the North Vietnamese have had easy access to it through infiltration. And most of the village people had fled from their homes in the TET offensive of 1968.

But, with CAP activity almost 70 percent of these villages had been re-established.

After visiting General Lam's office we flew by helicopter to Hill 37, about 40 miles south of DaNang. There we were told of the activities of the 1st Marine Division which operates in the river valley from Hoi An to the Laotian Border. This valley, a fertile agriculture area, had almost been abandoned because of enemy activities. However, working with the Corps of Engineers, and using the CAP approach, the 1st Marine Division had reopened the roads, re-established villages in the area, and was finishing up the task of pushing a North Vietnamese element out of the valley. While we were on Hill 37 an "arclight" mission—6 B–52's—bombed the hills about 8 miles away, an area where the North Vietnamese unit was holed up.

Hill 37 is one of three artillery positions which command the Thee Bon Valley. The area is now protected by the 51st ARVN regiment—another combat ready organization commanded by Colonel Throng Tan Thuc. Despite the continuing fighting in this area, a "county fair" to stimulate interest in new varieties of rice and vegetables available for planting was being held just four miles from the area of the B–52 strike.

One of the most interesting demonstrations we witnessed was the LSA operation—the logistic support area—at Hill 55. Here, through the use of "palletized" cargo, supplies were prepared for shipment to troops in the field by helicopter flying cranes and chinook helicopters. These supplies included water and fuel in huge plastic bags, and even ice cold beer and coke which an enterprising NCO had packed in the styrefoam containers that had been packed around artillery ammunition for shipment to Vietnam.

We witnessed another interesting demonstration when the 7th Marines showed us how a "Lob Bomb" works. This bomb was devised by enemy guerrilla forces—and is just what the name describes, an explosive device which is "lobbed" into our sites by a small detonation, the effect of which is similar to a football player making a place kick. The first detonation lifts the bomb and lobs it into its target.

At lunch I met four young Alaskans stationed at or near Hill 55. These young marines, two from Fairbanks, one from Bethel and one from Anchorage, were alerted by a notice on their bulletin boards of our visit—

and were interested in the North Slope oil boom, the attitude of Congress toward the Vietnam war, and what was happening at the University of Alaska.

From Hill 55 we flew by "Huey" to CAM Lo, and I was surprised to meet April Johnson, a friend of Larry Fanning, Publisher of the Anchorage Daily News. She asked me what Senator Bellmon and I thought we could gain by such a short visit to Vietnam. I told her five days didn't seem short to me. When Wally Hickel and I inspected the coal mines in Pennsylvania we were at the mines about six hours, and I thought we learned more in those six hours than we could have learned through hours of testimony in a hearing. And, I still feel that this is true—in five days we visited all four Corps areas of Vietnam, talked with GI's, Generals, South Vietnamese elements of every type and description, saw the navy riverine forces being turned over to the VNN, inspected the new A–37 jets, and, most important, we saw the people of the country from North to South, coast to border, on the ground and from the air, in hamlet, village, air base, on rivers and in cities. And, if we are to know what is involved as the issues of defense appropriations and the AID program come up in the Senate, this five days was well spent, in my opinion.

From Cam Lo we went to Gia Dang, a new fishing village, formed by residents of several destroyed areas. North of Gia Dang we could see the Cruiser *Boston*, patrolling the waters south of the DMZ. Residents of this area told us, through interpreters, that they had lived in caves and hidden along the beach until the pacification program brought defense to the area. Now, some 80 boats, manned by small weathered men, with big smiles, and the look of the sea, go to fish daily. A new road, built to the Province Capital at Quang Tri has opened a vast new market to these people. They had pride in their new hondas, new outboard motors, new fish nets, and their new homes with aluminum roofs—and well they might because this village was self supporting and their income was close to $200 (U.S.) per month per family—a tidy sum in Vietnam.

Senator Henry Bellmon was fascinated by a liquid produced here—Nuoc Mam. This is made from the juice of fermented salted fish, and although it is reported to contain enormous protein and vitamin values, it is slightly less sweet smelling than decayed limburger cheese. Henry's fascination led to a present of a full bottle of Nuoc Mam, given to him by General Lam—I hope he keeps it in Oklahoma.

Hue' is the capitol of Thua Thien province. Located on the railbelt, which used to join Saigon with Hanoi, Hue is making a comeback from the Tet offensive of 1968. In fact, my impression was that the reaction of all South Vietnamese, regardless of religious, ethnic or regional differences of the past, to the bloody battles of that 1968 offensive was probably the most significant cause of solidarity behind the national government of President Thieu.

Hue' is surrounded by level plains—full now of rice paddies under cultivation—solidly protected by the armed home guard (PSDF) assisted by Marine and Vietnamese Ranger Combined Action Teams. And, in Hue the Chinese ancestry of the Vietnamese people is apparent. Ancient sunken gardens, and the ruins of a walled fortress, containing a citadel of the ancient capital, made me think of Peking and the Summer Palace there as I saw it in 1945 just before leaving China. We flew over this area—and wondered how soon it would be before tourists from all the free world would be lured here and to the endless miles of white sandy beaches along the coast line as we returned to DaNang.

General Nicherson's quick mind put a sparkle in his eye as he prodded Senator Bellmon and I to discuss inflation, the problems of our separate states, and our impressions of Vietnam. He had stayed with us all day—and had given us the good news that at Ben Het the ARVN had routed the North Vietnamese.

Henry, as an ex-marine, had obviously enjoyed the day. And as I went to bed it seemed to me that anyone who believes we should abandon South Vietnam before the South Vietnamese are ready to defend themselves should talk to the villagers of Gia Dang or the marines at Hill 37. They have seen this war at its worst—and now their hope for peace depends entirely upon the ability of the ARVN to deter renewed aggression from the North.

OFF THE CUFF COMMENTS

(By Senator TED STEVENS)

SOUTH VIETNAM, FIFTH DAY

Having visited the other three corps areas, we left DaNang early Thursday morning for Plei Ku. This is the headquarters of II Corps—it is the largest corps area in South Vietnam, borders on both Cambodia and Laos on the west and has almost one half the South Vietnam coastline for its eastern border.

Senator Henry Bellmon and I were interested in this area because it was the area where intense fighting had taken place in the past three weeks—and Hen Het, the forward artillery post which had been besieged by the North Vietnamese had been released only two days ago.

In Plei Ku, we were briefed on the situation in the whole corps area. North Vietnamese enter this area from several directions—from the Ho Chi Minh trail and from the Cambodian sanctuary recently established by the North Vietnamese. Yet, once again the briefing concerned, mainly, the pacification program. This II Corps area embraces 12 provinces of South Vietnam—and only 5 of them, those on the western borders, were concerned primarily with military operations. The Commanding General of II Corps explained to us the problems encountered by his South Vietnamese troops—they have, he said, been shelled by North Vietnamese artillery firing from Cambodia.

But he was extremely proud of the 42nd ARVN Regiment, which had defeated the 16th Regiment of the North Vietnamese army in a decisive encounter around Ben Het. Senator Bellmon and I had not realized the background of this encounter.

In 1967 and again in 1968, there had been substantial fighting in the Ben Het area. In late 1968, responsibility for ground troops in this area had been assigned to the 42nd ARVN Regiment. When the 1969 battle commenced, the North Vietnamese commander in Cambodia, we were told, had written to the ARVN Regimental Commander and demanded his surrender. This North Vietnamese had stated that the Americans had abandoned the ARVN, that they were outnumbered and would be overrun.

It was a battle of the Bulge type of demand. And, the ARVN responded to it by digging in around Ben Het, and bringing up reserves. No U.S. ground forces were used in this battle.

So we could talk to the men directly involved, Senator Bellmon and I asked to be flown to Ben Het—it was no longer under fire, although several small engagements had been reported that morning about 8 miles from Ben Het.

This outpost is the last on the South Vietnamese road #14 which goes through the Montagnard area of South Vietnam. Proud, small mountain people, the Montagnards had been brought into the war by Special Forces personnel who sought their help to stop the flow of supplies from North Vietnam over the Trail. And, as we flew from Plei Ku to Ben Het in another "Huey" helicopter we saw the Montagnard villages—newly established—along the road. Stationed about every mile on this road were parked tanks, half tracks, or personnel carriers of the ARVN regiment. They were taking no chances that remnants of the North Vietnamese Regiment could break through to either Kentum, which is at the junction of the South Vietnamese main roads—#14 and #58, or to Plei Ku.

The Ben Het fortifications were located on three hills—and had two batteries of 155 howitzers which also had one 175 mm gun. It was the monsoon season and the mud came up over our boots. We were met in a tracked vehicle by two young U.S. Captains. One had been there just 18 days—he had come in in the middle of the battle, and was still very much keyed up. The artillery captain told us how the post had been defended—at times, we were told, the artillery pieces were fired at point blank range into the North Vietnamese who tried to take the position. Both Captains warmly praised the ARVN ground troops which had protected the post—three perimeters had been set up, the farthest out being manned by ARVN, the next by ARVN and the inner by the artillery and camp support forces.

The shelling of this post, we were told, was fantastic—and the damage caused was evident. Every vehicle had flat tires, shattered windshields, and evidence of the air drops abounded everywhere.

During the battle, it was discovered that the North Vietnamese had tunneled under the post—and it was necessary for the defenders to sweep away the enemy from the tunnel so that it could be destroyed.

An indication of the intensity of the fighting was demonstrated by the B–52 air strikes which delivered bombs within a mile of the outer perimeter of Ben Het.

The significance of Ben Het was that South Vietnamese troops met and defeated a well supplied North Vietnamese force. And, the command decisions were made by South Vietnamese. As we left Ben Het, we were told that intelligence reports indicated that the enemy had withdrawn to Cambodia and the front line ARVN troops were being relieved.

At Kontum Senator Bellmon and I had a chance to visit with lads from our respective states who are serving with the 2nd Brigade of the 4th Infantry Division. This was at "Mary Lou"—a Fire Support Base near Kontum. (Each of these FBS areas is named by the commanding officer with his wife's first name).

The "Highlander" Division gave each of us an HK–47—the Chinese made automatic rifle used by the North Vietnamese in this area. And, we were shown the most amazing array of weapons taken from the enemy—mortars, machine guns, anti-aircraft rifles, and automatic rifles and pistols of every size and description. Each of these showed—through markings and serial numbers—their origin. I can't read Russian, Czechoslovakian or Chinese, but I can recognize Chinese characters, and the Russian letters—and no doubt rests in my mind that the information given us of the origin of those weapons was correct.

We flew from the Kontum area to Cheo Reo in Phu Ban Province next. This province has no U.S. ground troops—and has only a small advisory team of U.S. people working on pacification projects. We were shown the new water system, a new hospital, a new housing area, experimental fruit tree farms and so many projects it's hard to remember all of them. Obviously, the war was almost over here in Phi Bar Province.

A U–21 flew us to Nha Trang where we spent our last night in South Vietnam with Lt. Gen. Corcoran. At dinner that night Henry Bellmon and I talked with General Corcoran about the future of South Vietnam, the readiness of its forces, and the stability of its government.

This war has been a tough war for all Americans—it has been brutal on our men here in Vietnam, and most of our conver-

sations with these men, regardless of rank, involved their questioning of us about attitudes at home.

Barring an immediate new offensive from the North, this war is about over. We have not won the war—but we have given the South Vietnamese time to train and arm themselves to resist further attack.

We have returned home with confidence that President Nixon's withdrawal policy is sound—and with the conviction that even if there is dissension at home, the American forces in South Vietnam know why they are there. One thing surprised me—that was the number of men serving a second assignment to South Vietnam. Almost half the men I talked with, personally, had been there before and had volunteered to return.

I earnestly hope that the next time I go back it will be when peace has come to Vietnam—when our troops have all returned home—and the beautiful, proud people of South Vietnam are once again restored their fertile, productive land into farms of every size and description.

Mr. PERCY. Mr. President, I support the President's plan of phased withdrawal of all U.S. combat forces from Vietnam without imposing a public deadline.

I also believe very strongly that casualties can be reduced and withdrawal hastened if the administration seizes the earliest opportunity to suspend all offensive operations, concentrating our efforts on the safety and security of our forces.

The President has recognized that honest and patriotic Americans differ on the best means toward achieving peace.

He has spoken candidly about the problems that still face us.

And he has been gentle about the past. Bluntly, in my judgment, the United States made a dreadful mistake in committing combat forces to South Vietnam and allowing our troop levels to swell in excess of a half-million men, misjudging the consequences of such continued escalation and American involvement.

I agree with the President's analysis that progress in the Paris peace talks now depends entirely upon the willingness of the leaders of North Vietnam and the Vietcong to negotiate in good faith. The President has made it clear that the only certain way to insure that all American combat troops are withdrawn quickly is for them to reduce their own level of hostilities.

But whether or not the Paris talks prove fruitful, accelerated troop withdrawals remain the best means we have to force the South Vietnamese to face up to their responsibilities and take upon their own shoulders the main burden of their war.

Mr. CURTIS. Mr. President, the President of the United States last night made a factual, well-reasoned statement on the Vietnam situation. There were no claims in it such as you might hear from the barker outside a circus. We are in a grim war. He told the people the truth, and he projected the only course of action that reasonable men can follow.

The fact that President Nixon's position was unsatisfactory to the extremists on both ends of the Vietnam issue constitutes a compliment. It probably proves that he is right.

I condemn no particular individual. I do say that some of those who advocate immediate and total pullout in Vietnam and abandonment of all responsibility on the part of the United States often forget to say anything critical about the Vietcong, the North Vietnamese or Communists generally.

No American in his right mind would want to walk away and leave the Communists free to impose a reign of terror and slaughter against defenseless people in South Vietnam. The President made this point, and made it clearly. The facts as to what happened after the French pullout were cited by the President.

If the Hanoi government is serious in its quest for peace, then let that government demonstrate its seriousness by calling off the campaign of terror which the Communists are conducting in South Vietnam at this very moment, aimed largely at maiming and killing civilians.

I will cite some specific instances to document the type of ruthless bloodshed that is being fostered by the enemy of the people of South Vietnam.

Starting in 1964 and continuing through August of 1969, the Viet Cong and North Vietnamese slaughtered 19,502 South Vietnamese civilians in terror attacks and raids documented by our own Department of Defense.

These terror tactics have not let up this year, despite the decrease in fighting that has been taking place in recent months. During the first 8 months of 1969, 4,621 civilians were killed in these documented incidents of terrorism. This compared with 5,389 deaths by the same type of tactics during all of 1968, the previous peak year for terrorism in South Vietnam.

Now, let me cite some specific incidents of the type of terrorism of which I am speaking:

From the Department of Defense Report dated September 24, 1969:

Six hamlet and village chiefs were among 420 victims of Viet Cong terrorist attacks on civilians in South Vietnam during the week ending September 20. Two of the hamlet chiefs were killed, two wounded and two were kidnapped.

In a separately reported incident which occurred early Monday morning, September 22, a force of Viet Cong raided PHUOC MY Hamlet in Quang NAM Province and abducted thirty women members of the Peoples Self Defense Force.

Twenty-one civilians were shot to death in a VC terrorist raid on a village in Northern Quang NGAI Province on Tuesday of last week; the terrorists burned down 16 houses in the village.

From the Government of South Vietnam, a press release dated September 27, 1969:

Viet Cong terrorists killed, wounded, or abducted ninety-six People's Self Defense Force members in the week ending September 24. According to reports compiled by National Police and the Combined Information Center Vietnam (CICV, the PSDF were among 525 victims of VC terrorists during the week.

A total of 203 incidents were reported, in which 163 civilians were assassinated, 328 wounded, and 94 kidnapped. In the previous reporting period, there were 245 incidents in which 99 were assassinated, 238 wounded, and 83 kidnapped.

Officials announced that to date since January 1, there have been 8,624 incidents in which 5,193 civilians were assassinated, 13,263 wounded, and 5,558 abducted.

From a Department of Defense report dated October 16, 1969:

Viet Cong elements fired B-40 rockets and automatic weapons fire into a crowded residential area of Chanh Ngai Hamlet October 11th, killing two unidentified civilians and wounding forty others.

Four cakes of TNT (125 grams each) and 300 grams of C-4 plastic were removed from the corner of Cong Ly and Hong Thap Tu by an ARVN (Army Republic of Vietnam) team. The device was located in front of an ARVN Captain's residence. He spotted it and telephoned, whereupon the ARVN team came and dismantled it.

Police officials also made public details of twenty additional provincial incidents, including the incidents mentioned above. They account for nineteen civilians killed, eighty wounded and eight kidnapped.

October 14—One hamlet chief and three PSDF members were wounded when a VC threw two hand grenades into a crowd in My Phuoc Hamlet, My Khanh village in the Phong Dinh District of Phong Dinh Province. The terrorist, identified as Truong Van Di is being detained by local authorities. An unknown number of VC blew up a house belonging to Mr. Cao Van Duong in an Thuong Hamlet, Pho Dai Village, in the Duc Pho District of Quang Ngai Province. The man's son was killed and his wife wounded in the explosion.

October 13—A 17 year-old male youth, identified as Pham Vo, was abducted by the VC from Binh Hoi Hamlet, Binh Phuong Village in the Vinh Son District of Quang Ngai Province. An unknown number of Viet Cong infiltrated Binh My Hamlet in the Phu Giao District of Binh Duong Province and wounded seven civilians.

October 12—A Hoi Chanh was abducted by the VC from his home and shot to death nearby. The incident took place in Nha Do Hamlet, Tan Binh Village in the Phy Giao District of Binh Duong Province.

One unidentified civilian was killed and a young Vietnamese boy kidnapped by the VC in Long Dien Hamlet, Lien Huong Village, Tuy Phong District of Binh Thuan Province. The VC "Arrow Action" team also destroyed the Hamlet Public Office Building.

October 11—VC elements penetrated Thoi Trung Hamlet, Thoi Dong Village and abducted five PSDF members. The incident occurred in the Thuan Trung District of Phong Dinh Province.

A deputy village chief, one PSDF member and four other civilians were killed and another fifteen civilians wounded when the VC threw a grenade into the home of the Deputy Chairman of the Peoples Council. The victims were attending a meeting in the house at the time of the terrorist attack.

Two civilians were killed by the Viet Cong in Cho Hamlet, Phuoc Hiep Village in the Cu Chi District of Hau Nghia Province. The victims, identified as Cao Van Mien, 49, and Vo Van Don, 61, were killed when the VC infiltrated their hamlet at 0230 hours.

October 10—A civilian riding his Honda through Cay Trom Hamlet, Phuoc Hiep Village in the Cu Chi District of Hau Nghia Province was killed by the VC. The Viet Cong assailants took the motorbike.

VC gunners fired five rockets into the Tan Tru District town in Long An Province, killing one child and wounding two civilians. Five homes were also destroyed in the attack.

A VC threw a hand grenade into a PSDF Station in Duc Huu Village, Tam Quan District of Binh Dinh Province, wounding one PSDF member.

October 9—A PSDF member was killed by the VC in the Phu Ly Market, Tan Xuan Hamlet in the Phu Cat District of Phu Yen Province.

A 5-year-old was killed and three civilians, including a 3-year old child, wounded when a VC threw a grenade into a house in Bao

Trai Hamlet. The hamlet is in Tan Thu Thuong Village in the Duc Hoa District of Hau Nghia Province.

October 8—In Phu Yen Province, another VC element threw a grenade into Ngan Son Village in Tuy An District, wounding two civilians.

October 6—A VC platoon entered Long Phung Hamlet in the same district and kidnapped two unidentified civilians.

Viet Cong gunners fired a B-40 rocket at a Lambretta, wounding one of its passengers. The incident took place on a road in the Song Cau District of Phu Yen Province.

A VC Squad infiltrated An Hien Hamlet in Tuy Hoa District of the same province and killed one unidentified civilian.

October 5—Also in Phu Yen Province, an unidentified civilian was wounded when the VC fired a B-40 rocket at the car in which he was riding. The incident occurred in Chinh Nghia Village, Tuy Hoa District.

From a Department of Defense report dated October 17, 1969:

Viet Cong terrorists infiltrated My Thanh Village in the Cai Be District of Binh Tuong Province and detonated an explosive in front of the Village Office, October 14th.

According to National Police authorities today, a Deputy Village Chief, a PSDF member, and one Hoi Chanh were killed and twelve other civilians were wounded in the explosion.

October 15—During the night, an unknown number of VC entered BINH MY Hamlet, BINH MY Village in the PHU GIAO District of BINH DUONG Province. Posters and slogans, left by the VC, were found by National Police Officers the following morning. A Village Police Chief, identified as NGUYEN VAN PHAM, was killed instantly when he removed a poster and triggered a Viet Cong mortar booby-trap.

October 14—Two identified civilians were killed and seven more wounded when they detonated a hidden VC Booby-trap in XUYEN Long Village, HIEU NHON District, QUANG NAM Province.

In the same province, one hour later, four more civilians were wounded when an undetected VC Booby-trap was detonated. This incident occurred in the THANH SON Village of DIEN BAN District.

October 13—Viet Cong elements infiltrated DONG KHANH Hamlet, TAM PHUOC Village, Long THANH District of BIEN HOA Province. The VC spread propaganda leaflets in the area and set Booby-traps. Two children walking in the area later detonated one of the mines. One child was killed and the other wounded.

October 10—A 13-year-old male youth was abducted by the VC from the HOACH ONG PAGODA in BA CHUC Village, TINH BIEN District of CHAU DOC Province, the victim was from nearby AN HOA Hamlet.

October 9—A PSDF Member, identified as LE VAN VON, was murdered by the Viet Cong in CAY DUONG Hamlet, BAN TAN DINH Village in KIEN BIEN District of KIEN GIANG Province.

October 7—Three VC came to the home of Mr. DAN VAN XE. They led him 300 meters from his home and shot him to death with three bullets fired into his head. The VC attached to his body a copy of the "Peoples Court Sentence of VINH LONG Province." The VC claimed that Mr. XE was a GVN Agent, and the incident took place in HOA LONG Village, DUC THANH District of SA DEC Province.

These are just a few examples of terrorism practiced by the Communists in South Vietnam, Mr. President. They provide a compelling moral reason for me to support the President of the United States in his efforts to bring peace with honor, dignity, and responsibility in Vietnam.

I hope and I believe that the vast majority of Americans will join me in this support of our President in his determined efforts to do the right thing.

Mr. JORDAN of Idaho. Mr. President, I was greatly impressed with President Nixon's message last night to the American people. The dominant theme was peace—not only peace in Vietnam but an enduring peace for the years ahead.

For the long pull a most significant part of the message was the President's restatement of the Nixon doctrine. He said:

The defense of freedom is everybody's business—not just America's business. And it is particularly the responsibility of the people whose freedom is threatened . . . we shall furnish military and economic assistance when requested in accordance with our treaty commitments. But we shall look to the nation directly threatened to assume the primary responsibility of providing the manpower for its defense.

In essence the President is repeating what he has said before, "There will be no more Vietnams." As the President said in his message, "But the question today is—now that we are in the war, what is the best way to end it?"

For ending the war the President identified two choices:

(1) Immediate, precipitate withdrawal of all Americans from Vietnam without regard to the affects of that action.

(2) Or we can persist in our search for a just peace through a negotiated settlement if possible or through continued implementation of our plan for Vietnamization if necessary—a plan in which we will withdraw all of our forces from Vietnam on a schedule in accordance with our program as the South Vietnamese become strong enough to defend their own freedom.

The President has chosen the second, adding:

It is not the easy way! It is the right way.

Pointing to the progress that is being made the President said:

After five years of Americans going into Vietnam, we are finally bringing American men home. By December 15th, over 60,000 men will have been withdrawn from South Vietnam—including 20 percent of all of our combat troops . . . It is not wise to be frozen in on a fixed timetable. We must retain the flexibility to base each withdrawal decision on the situation as it is at that time rather than on estimates that are no longer valid.

In essence, what the President is saying is that even if we bungled into this war let us not bungle out of it. Calling on North Vietnam to negotiate the President said:

Anything is negotiable except the right of the people of South Vietnam to determine their own future.

With eloquent reference to the Biblical story of the Good Samaritan, he said:

Let historians not record that when America was the most powerful nation in the world we passed on the other side of the road and allowed the last hopes for peace and freedom of millions of people of this earth to be suffocated by the force of totalitarianism.

In appealing for unity, he said:

North Vietnam cannot defeat or humiliate the United States. Only Americans can do that.

The President has clearly outlined his plan for peace. To repeat, he says it is not the easy way but it is the right way. I applaud him for his forthright statement. It is realistic and timeless.

I support him wholeheartedly in this effort.

EXECUTIVE COMMUNICATIONS, ETC.

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

REPORT ON DEPARTMENT OF DEFENSE NEGOTIATED CONTRACTS

A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report on Department of Defense negotiated contracts for the period January through June 1969 (with an accompanying report); to the Committee on Armed Services.

REPORT OF OFFICE OF CIVIL DEFENSE

A letter from the Director of Civil Defense, reporting, pursuant to law, on the Federal Constributions Program Equipment and Facilities for the quarter ended September 30, 1969; to the Committee on Armed Services.

REPORT OF SMALL BUSINESS ADMINISTRATION

A letter from the Administrator of the Small Business Administration, transmitting, pursuant to law, a report of the Administration for 1968 (with an accompanying report); to the Committee on Banking and Currency.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the examination into the effectiveness of the construction grant program for abating, controlling, and preventing water pollution, Federal Water Pollution Control Administration, Department of the Interior, dated November 3, 1969 (with an accompanying report); to the Committee on Government Operations.

PETITIONS AND MEMORIALS

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

By the PRESIDENT pro tempore:

A resolution adopted by the County Supervisors Association of California, praying for the enactment of legislation to secure for the counties of California relief from the financial burdens borne by counties in administering the present welfare programs; to the Committee on Finance.

A resolution adopted by the County Supervisors Association of California, praying for the enactment of legislation to limit the public ownership of land in the counties; to the Committee on Interior and Insular Affairs.

A resolution adopted by the Board of County Commissioners, County of Lake, Painesville, Ohio, relating to the official sanction and recognition to a program in honor of Veterans' Day, to be held at Veterans' Park, Painesville, Ohio; to the Committee on the Judiciary.

An order adopted by the New York State Labor Relations Board, New York, N.Y., relating to the problem of Federal-State jurisdiction in the field of labor relations; to the Committee on Labor and Public Welfare.

A resolution adopted by the City Council of Philadelphia, Pa., praying for the enactment of House bill 4, providing for the modernization of the postal service; to the Committee on Post Office and Civil Service.

A resolution adopted by the County Supervisors Association of California, in support of the proposed Dos Rios Project, on the Eel River; ordered to lie on the table.

REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 329. A bill for the relief of Doctor Paolo (Paul) Genoese Zerbi (Rept. No. 91–509);

S. 1786. A bill for the relief of James Harry Martin (Rept. No. 91–503);

S. 2353. A bill for the relief of Dr. Leonardo M. Cabanilla (Rept. No. 91–508);

S. 2354. A bill for the relief of Dr. Bernard Weston March (Rept. No. 91–507);

S. 2363. A bill to confer U.S. citizenship posthumously upon L. Cpl. Andre L. Knoppert (Rept. No. 91–506); and

S. 2426. A bill for the relief of Dr. Delsa Evangelina Estrada de Ferran (Rept. No. 91–505).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

H.J. Res. 910. A joint resolution to declare a national day of prayer and concern for American servicemen being held prisoner in North Vietnam (Rept. No. 91–504).

By Mr. EASTLAND, from the Committee on the Judiciary with an amendment:

S. 118. A bill to grant the consent of the Congress to the Tahoe regional planning compact, to authorize the Secretary of the Interior and others to cooperate with the planning agency thereby created, and for other purposes (Rept. No. 91–510);

S. 2339. A bill for the relief of Dr. Maria Luisa Gorostegui de Dourron (Rept. No. 91–512); and

S. 2481. A bill for the relief of Dr. Farid M. Fuleihan (Rept. No. 91–511).

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

S. 614. A bill for the relief of Francis Charles Miller (FranzCanto) (Rept. No. 91–513).

REPORT ENTITLED "IMMIGRATION AND NATURALIZATION"—REPORT OF A COMMITTEE (S. REPT. NO. 91–514)

Mr. EASTLAND, from the Committee on the Judiciary, pursuant to Senate Resolution 238, as amended, 90th Congress, second session, submitted a report entitled "Immigration and Naturalization," which was ordered to be printed.

EXECUTIVE REPORTS OF A COMMITTEE

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

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

S. John Cottone, of Pennsylvania, to be U.S. attorney for the middle district of Pennsylvania;

Denny L. Sampson, of Nevada, to be U.S. marshal for the district of Nevada;

Paul C. Camilletti, of West Virginia, to be U.S. attorney for the northern district of West Virginia;

James T. Lunsford, of Alabama, to be U.S. marshal for the middle district of Alabama;

Robert D. Olsen, Sr., of Alaska, to be U.S. marshal for the district of Alaska;

Thomas Edward Asher, of Kentucky, to be U.S. marshal for the eastern district of Kentucky;

Seiberg W. Lockman, of North Carolina, to be U.S. marshal for the western district of North Carolina;

Leon T. Campbell, of Tennessee, to be U.S. marshal for the middle district of Tennessee;

Raymond J. Howard, of Wisconsin, to be U.S. marshal for the eastern district of Wisconsin; and

Paul J. O'Neill of Florida, to be a member of the Subversive Activities Control Board.

BILLS INTRODUCED

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

By Mr. MATHIAS:

S. 3103. A bill to amend the act entitled "An act to regulate the practice of the healing art to protect the public health in the District of Columbia; to the Committee on the District of Columbia.

By Mr. PROXMIRE:

S. 3104. A bill for the relief of Krikor Telfeyan; and

S. 3105. A bill for the relief of Dominico Piemonte; to the Committee on the Judiciary.

By Mr. YOUNG of Ohio:

S. 3106. A bill authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, navigation, and other purposes; to the Committee on Public Works.

By Mr. YOUNG of Ohio (by request):

S. 3107. A bill to permit the Secretary of Transportation to commence progress payments to a bridge owner upon ordering alteration of the bridge; to the Committee on Public Works.

By Mr. MAGNUSON (for himself, Mr. CANNON, Mr. COTTON, Mr. PASTORE, Mr. SCOTT, Mr. HARTKE, Mr. PEARSON, Mr. HART, Mr. BAKER, Mr. MOSS, and Mr. COOK):

S. 3108. A bill to provide additional Federal assistance in connection with the construction, alteration, or improvement of the airway system, air carrier and general purpose airports, airport terminals, and related facilities, 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. McCLELLAN (by request):

S. 3109. A bill to amend section 6 of title 35, United States Code, "Patents," to authorize domestic and international studies and programs relating to patents and trademarks; and

S. 3110. A bill to amend the Act entitled "An act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of international conventions, and for other purposes," approved July 5, 1946, as amended; to the Committee on the Judiciary.

(The remarks of Mr. McCLELLAN when he introduced the bills appear later in the RECORD under the appropriate headings.)

By Mr. PERCY (for himself and Mr. SMITH of Illinois):

S. 3111. A bill to designate Route 74 of the National System of Interstate and Defense Highways in the State of Illinois as the Everett McKinley Dirksen Highway; to the Committee on Public Works.

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

By Mr. BYRD of West Virginia (for himself, Mr. SCOTT, and Mr. RANDOLPH):

S. 3112. A bill to require an investigation and study, including research, into possible uses of solid wastes resulting from mining and processing coal; to the Committee on Interior and Insular Affairs.

By Mr. MAGNUSON (for himself, Mr. DOLE, Mr. MANSFIELD, Mr. BYRD of West Virginia, and Mr. BAKER):

S. 3113. A bill to provide for a separate session of Congress each year for the consideration of appropriation bills, to establish the calendar year as the fiscal year of the Government, and for other purposes; to the Committee on Rules and Administration.

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

S. 3108—INTRODUCTION OF AIRPORT/AIRWAYS DEVELOPMENT ACT OF 1969

Mr. MAGNUSON. Mr. President, on behalf of myself, Mr. CANNON, Mr. COTTON, Mr. PASTORE, Mr. SCOTT, Mr. HARTKE, Mr. PEARSON, Mr. HART, Mr. BAKER, Mr. Moss, and Mr. COOK, I introduce a bill known as the Airport/Airways Development Act of 1969.

This bill is the result of more than 2 years of hearings, study, and research by the Senate Commerce Committee in the field of national needs for airport and airways development.

Beginning in June 1969, the committee held extensive hearings on four major legislative proposals directed toward this goal. One was the Senate Commerce Committee bill of last year, introduced by the chairman, S. 1637; another was the proposal submitted in June by the Nixon administration, S. 2437; and two others, S. 2651 and S. 2713, introduced by Senator RANDOLPH, on behalf of several segments of the aviation industry.

The committee, during the course of the hearings, and, later, in informal sessions, carefully considered the provisions of each of these major legislative proposals and found that each contained many provisions of merit. In informal meetings between members of the Aviation Subcommittee and its staff this committee draft bill was prepared to be used as a working paper for committee markup sessions embodying the best provisions of the proposals before us, and designed to offer our best judgment as to solutions of the tremendous problems created by the growth of air transportation.

While this bill in its entirety does not satisfy all members of the committee, the chairman and the cosponsors feel that it generally is the most thorough and comprehensive development program to be advanced so far.

Inclusion of certain provisions and omissions of others has prompted spirited discussion among some of the committee members, and those views will be considered at a second committee executive session tomorrow. At that time the members of the Commerce Committee will have this bill before them for approval or amendment.

While the provisions of this bill do not provide for additional taxes or user charges to fund the development program embodied in the bill, the revenue features are based upon the Commerce Committee making the following recommendations to the appropriate committees of Congress which have the responsibility and authority to develop tax legislation:

1. Increase the passenger excise tax on all domestic air passengers from 5 percent to 8 percent of the ticket price.

2. Levy a $5 per passenger charge on all enplaning U.S. passengers destined for international points and for points not within the continental United States.

3. Increase the present 2¢ per gallon tax on aviation gasoline to 6¢ per gallon and add a new 6¢ per gallon tax on jet fuel used in non-commercial aviation. Repeal the pres-

ent 2¢ per gallon tax on gasoline used in commercial aviation.

4. Levy a 5% tax on all air cargo waybills.

5. Levy an annual airplane registration fee on airplanes used in commercial aviation of $25 plus 3¢ per pound of gross certificated take-off weight.

This level of taxation will provide revenues in excess of $600 million per year.

Mr. President, I ask unanimous consent that the committee draft bill be printed together with a digest of its provisions.

The PRESIDING OFFICER. The bill will be received and appropriately refered; and, without objection, the bill and the digest will be printed in the RECORD.

The bill (S. 3108) to provide additional Federal assistance in connection with the construction, alteration, or improvement of the airway system, air carrier and general purpose airports, airport terminals, and related facilities, 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. 3108

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 "Airport and Airways Development Act of 1969".

DECLARATION OF PURPOSE

SEC. 2. The Congress hereby finds that the Nation's airport and airway system is inadequate to meet current and projected growth in aviation and that substantial expansion and improvement of the system is required to meet the demands of interstate commerce, the postal service, and the national defense. The Congress finds that the civil users of air transportation are capable of making a greater financial contribution to the expansion and improvement of the system through increased user fees. The Congress finds, however, that the civil users should not be required to provide all of the funds necessary for future development of the system and that revenues obtained from the general taxpayer will continue to be required to pay for actual use of the system by the Government of the United States and for the value to the national defense and the general public benefit in having a safe, efficient airport and airway system in being and fully operational in the event of war or national emergency.

TITLE I—AIRPORT AND AIRWAYS FINANCING

ESTABLISHMENT AND ADMINISTRATION OF TRUST FUND

Establishment of Trust Fund

SEC. 101. (a) There is established in the Treasury of the United States a trust fund for airports and airways (hereafter in this Act referred to as the "trust fund"), consisting of such amounts as may be appropriated, credited, or transferred to the trust fund as provided in this section.

Transfer of Tax Receipts

(b) There is hereby appropriated to the trust fund (1) amounts equivalent to the taxes received in the Treasury after July 1, 1969, under subsection (c) of section 4041 (taxes on aviation fuel) and under sections 4261 and 4271 (taxes on transportation by air) of the Internal Revenue Code of 1954, as amended (26 U.S.C. 4041(c), 4261, and 4271), and (2) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after July 1, 1969, under section 4081 of such Code (26 U.S.C. 4081), with respect to gasoline used in aircraft. The amounts appropriated pursuant to this subsection shall be transferred at least monthly from the general fund of the Treasury to the trust fund on the basis of estimates made by the Secretary of the Treasury of the amounts described in clauses (1) and (2) of this subsection. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

Transfer of Unexpended Funds

(c) Upon the effective date of this Act, all unallocated funds, which have been appropriated for the purpose of carrying out the provisions of law referred to in subsection (f) of this section shall be transferred to the trust fund.

Appropriation of Additional Sums

(d) There are hereby authorized to be appropriated to the trust fund such additional sums as may be required to make the expenditures referred to in subsection (f) of this section.

Administration of Account; Report to Congress

(e) It shall be the duty of the Secretary of the Treasury to hold the trust fund, and (after consultation with the Secretary of Transportation) to report to the Congress not later than the 1st of March of each year on the financial condition and the results of the operations of the trust fund during the preceding fiscal year and on its expected condition and operations during subsequent fiscal years. Such report shall be printed as a House document of the session of the Congress to which the report is made. It shall be the duty of the Secretary of the Treasury to invest such portion of the trust fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The interest on, and proceeds from the sale of, any obligations held in the trust fund shall be credited to and form a part of the trust fund: *Provided, however,* That funds transferred to the trust fund pursuant to subsection (c) and funds appropriated to the trust fund pursuant to subsection (d) shall not be invested.

Appropriations

(f) Amounts in the trust fund shall be available as provided by appropriations Acts—

(1) to meet the obligations of the United States heretofore incurred under the Federal Airport Act, as amended (49 U.S.C. 1101 et seq.), and hereafter incurred under titles I, II, and IV, of this Act, including administrative expenses incidental thereto; and

(2) to meet the obligations of the United States heretofore and hereafter incurred under the Federal Aviation Act, as amended (49 U.S.C. 1301 et seq.), for the planning, research and development, construction, and operation and maintenance of the airway system.

As they relate to the Federal Airport Act and title II of this Act, administrative expenses include, but are not limited to, expenses of the character specified in subsection (a) of section 303 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1344(a)), and expenses for planning and research.

Availability of Funds

(g) No moneys are available for expenditure from the trust fund before January 1, 1970. Sums appropriated under this section shall remain available until expended.

HIGHWAY TRUST FUND

SEC. 102. Subsection (c) of section 209 of the Highway Revenue Act of 1956, as amended (23 U.S.C. 120, note), is amended by adding at the end thereof the following new paragraph:

"(5) The amounts described in paragraphs (1)(A) and (3)(A) with respect to any period shall (before the application of this subsection) be reduced by any amounts transferred to the airport and airways trust fund under section 101 of the Airport and Airways Development Act of 1969 with respect to such period, and subsection (f)(3) of this section shall not apply to those amounts."

COST ALLOCATION STUDY

SEC. 103. The Secretary of Transportation (hereinafter in this title referred to as the Secretary) shall conduct a study respecting the appropriate method for allocating the cost of the airport and airway system among the various users and shall identify the costs to the Federal Government that should appropriately be charged to the system and the value to be assigned to the general public benefit. In conducting the study the Secretary shall consult fully with and give careful consideration to the views of the users of the system. The Secretary shall report the results of the study to Congress within two years from the date of enactment of this Act.

REVENUE ALLOCATION AND APPORTIONMENT STUDY

SEC. 104. The Secretary shall conduct a study respecting the appropriateness of that method of allocating and apportioning revenue provided by section 204 and section 205 of this Act for meeting the needs of the airport and airways system for the five-year period beginning July 1, 1975. In conducting the study the Secretary shall consult fully with and give careful consideration to the views of the users of the system. The Secretary shall report the results of the study to Congress not later than February 1, 1975.

TITLE II—AIRPORT DEVELOPMENT

DEFINITIONS

SEC. 201. As used in this title—

(1) "Airport" means any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

(2) "Airport development" means (A) any work involved in constructing, improving, or repairing a public airport or portion thereof, including the construction, alteration, and repair of airport passenger or freight terminal buildings and other airport administrative buildings and the removal, lowering, relocation, and marking and lighting of airport hazards, and including navigation aids used by aircraft landing at, or taking off from, a public airport, and (B) any acquisition of land or of any interest therein, or of any easement through or other interest in airspace, including land for future airport development, which is necessary to permit any such work or to remove or mitigate or prevent or limit the establishment of, airport hazards.

(3) "Airport hazard" means any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport, which obstructs the airspace required for the flight of aircraft in landing or taking off at such airport or is otherwise hazardous to such landing or taking off of aircraft.

(4) "Airport master planning" means the development for planning purposes of information and guidance to determine the extent, type, and nature of development needed at a specific airport. It may include the preparation of an airport layout plan and feasibility studies, and the conduct of such other studies, surveys, and planning actions as may be necessary to determine the short-, intermediate-, and long-range aeronautical

demands required to be met by a particular airport as a part of a system of airports.

(5) "Airport system planning" means the development for planning purposes of information and guidance to determine the extent, type, nature, location, and timing of airport development needed in a specific area to establish a viable and balanced system of public airports. It includes identification of the specific aeronautical role of each airport within the system, development of estimates of systemwide development costs, and the conduct of such studies, surveys, and other planning actions as may be necessary to determine the short-, intermediate-, and long-range aeronautical demands required to be met by a particular system of airports.

(6) "Landing area" means the area used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft.

(7) "Government aircraft" means aircraft owned and operated by the United States.

(8) "Planning agency" means any planning agency designated pursuant to the provisions of subsection (a) of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended (42 U.S.C. 3334(a)).

(9) "Project" means a project for the accomplishment of airport development, airport master planning, or airport system planning.

(10) "Project costs" means any costs involved in accomplishing a project.

(11) "Public agency" means the United States Government or any agency thereof; a State, or Puerto Rico, the Virgin Islands, or Guam or any agency of any of them; a municipality or other political subdivision; or a tax-supported organization; or an Indian tribe or pueblo.

(12) "Public airport" means any airport which is used or to be used for public purposes, under the control of a public agency, the landing area of which is publicly owned.

(13) "Secretary" means the Secretary of Transportation.

(14) "Sponsor" means any public agency which, either individually or jointly with one or more other public agencies, submits to the Secretary, in accordance with this Act, an application for financial assistance.

(15) "State" means a State of the United States, or the District of Columbia.

(16) "Terminal area" means that area used or intended to be used for such facilities as terminal and cargo buildings, gates, hangars, shops, and other service buildings; automobile parking, airport motels, and restaurants, and garages and automobile service facilities used in connection with the airport; and entrance and service roads used by the public within the boundaries of the airport.

(17) "United States share" means that portion of the project costs of projects for airport development approved pursuant to section 206 of this Act which is to be paid from funds made available for the purposes of this Act.

NATIONAL AIRPORT SYSTEM PLAN

Formulation of Plan

SEC. 202. (a) The Secretary is directed to prepare and publish, within two years of the date of enactment of this Act, and thereafter to revise at least once every two years, a national airport system plan for the development of public airports in the United States. The plan shall set forth, for at least a ten-year period, the type and estimated cost of airport development considered by the Secretary to be necessary to provide a system of public airports adequate to anticipate and meet the needs of civil aeronautics, to meet requirements in support of the national defense as determined by the Secretary of Defense, and to meet the special needs of the postal service. The plan shall include all types of development eligible for Federal aid under section 204 of this Act, and terminal area development considered necessary to provide for the efficient accommodation of persons and goods at public airports, and the conduct of functions in operational support of the airport. Airport development identified by the plan shall not be limited to the requirements of any classes of categories of public airports. In preparing the plan, the Secretary shall consider the needs of all segments of civil aviation.

Consideration of Other Modes of Transportation

(b) In formulating and revising the plan, the Secretary shall take into consideration, among other things, the relationship of each airport to the rest of the transportation system in the particular area, to the forecasted technological developments in aeronautics, and to developments forecasted in other modes of intercity transportation.

Federal, State, and Other Agencies

(c) In developing the national airport system plan, the Secretary shall to the extent feasible consult with the Civil Aeronautics Board, the Post Office Department, and other Federal agencies, as appropriate; with planning agencies, and airport operators; and with air carriers, aircraft manufacturers, and others in the aviation industry. The Secretary shall provide technical guidance to agencies engaged in the conduct of airport system planning and airport master planning to insure that the national airport system plan reflects the product of interstate, State, and local airport planning.

Cooperation With Federal Communications Commission

(d) The Secretary shall, to the extent possible, consult, and give consideration to the views and recommendations of the Federal Communications Commission, and shall make all reasonable efforts to cooperate with that Commission for the purpose of eliminating, preventing, or minimizing airport hazards caused by the construction or operation of any radio or television station. In carrying out this section, the Secretary may make any necessary surveys, studies, examinations, and investigations.

Consultation With Department of Defense

(e) The Department of Defense shall make military airports and airport facilities available for civil use to the extent feasible. In advising the Secretary of national defense requirements pursuant to subsection (a) of this section, the Secretary of Defense shall indicate the extent to which military airports and airport facilities will be available for civil use.

Consultation With Secretary of the Interior

(f) In carrying out this section, the Secretary shall consult with and consider the views and recommendations of the Secretary of the Interior with respect to the need for development of airports in, or in close proximity to, national parks, national monuments, Indian reservations, and national recreation areas.

Cooperation With Federal Power Commission

(g) The Secretary shall, to the extent possible, consult, and give consideration to the views and recommendations of the Federal Power Commission, and shall make all reasonable efforts to cooperate with that Commission for the purpose of eliminating, preventing, or minimizing airport hazards caused by the construction or operation of power facilities. In carrying out this section, the Secretary may make any necessary surveys, studies, examinations, and investigations.

PLANNING GRANTS

Authorization To Make Grants

SEC. 203. (a) In order to promote the effective location and development of airports and the development of an adequate national airport system plan, the Secretary may make grants of funds to planning agencies for airport system planning, and to public agencies for airport master planning.

Amount and Apportionment of Grants

(b) The award of grants under subsection (a) of this section is subject to the following limitations—

(1) The total funds obligated for grants under this section may not exceed $100,000,000 and the amount obligated in any one fiscal year may not exceed $10,000,000.

(2) No grant under this section may exceed two-thirds of the cost incurred in the accomplishment of the project.

(3) No more than 10 per centum of the funds made available under this section in any fiscal year may be allocated for projects within a single State, Puerto Rico, and Virgin Islands, or Guam. Grants for projects encompassing an area located in two or more States shall be charged to each State in the proportion which the number of square miles the project encompasses in each State bears to the square miles encompassed by the entire project.

Regulations, Coordination With Secretary of Housing and Urban Development

(c) The Secretary may prescribe such regulations as he deems necessary governing the award and administration of grants authorized by this section. The Secretary and the Secretary of Housing and Urban Development shall develop jointly procedures designed to preclude duplication of their respective planning assistance activities and to ensure that such activities are effectively coordinated.

AIRPORT AND AIRWAY DEVELOPMENT PROGRAM

General Authority

SEC. 204. In order to bring about, in conformity with the national airport system plan, the establishment of a Nationwide system of public airports adequate to meet the present and future needs of civil aeronautics, the Secretary is authorized, within the limits established in appropriations Acts, to make grants for airport development by grant agreements with sponsors in aggregate amounts not less than the following:

(1) For the purpose of developing in the several States, Puerto Rico, and the Virgin Islands, airports served by air carriers certificated by the Civil Aeronautics Board, and airports the primary purpose of which is to serve general aviation and to relieve congestion at airports having a high density of traffic serving other segments of aviation $270,000,000 for each of the fiscal years 1970 through 1979.

(2) For the purpose of developing in the several States, Puerto Rico, and the Virgin Islands, airports serving segments of aviation other than air carriers certificated by the Civil Aeronautics Board, $30,000,000 for each of the fiscal years 1970 through 1979.

(3) For the purpose of acquiring, establishing and improving air navigation facilities under section 307(b) of the Federal Aviation Act of 1958, as amended, $250,000,000 for each of the fiscal years 1970 through 1979.

(4) The balance of the moneys available in the trust fund shall be allocated for the necessary administrative expenses incident to the administration of programs for which funds are to be allocated as set forth in paragraphs (1), (2), and (3) of this subsection, and for the maintenance and operation of air navigation facilities and the conduct of other functions under section 307(b) of the Federal Aviation Act of 1958, not otherwise provided for in paragraph (3) of this subsection, and for research and development activities under section 312(c) (as it relates to safety in air navigation) of the Federal Aviation Act of 1958, as amended: Provided, however, That the initial $50,000,000 of any sums appropriated to the trust

fund pursuant to subsection (d) of section 101 of this Act shall be allocated to such research and development activities.

DISTRIBUTION OF FUNDS, STATE APPORTIONMENT

Apportionment of Funds for Air Carrier and Reliever Airports

SEC. 205. (a)(1) Subject to the study required pursuant to section 104 of this Act, as soon as possible after July 1 of each fiscal year for which any amount is authorized to be obligated for the purposes of paragraph (1) of section 204 of this Act, the amount made available for that year shall be apportioned by the Secretary as follows:

(A) One-third for the several States, one-half in the proportion which the population of each State bears to the total population of all the States, and one-half in the proportion which the area of each State bears to the total area of all the States: *Provided, however,* That prior to such apportionment 3 per centum of such funds shall be available to Hawaii, Puerto Rico, and the Virgin Islands, to be distributed in shares of 40 per centum, 40 per centum, and 20 per centum, respectively.

(B) One-third to be distributed to airport sponsors for airports located in areas designated by the Civil Aeronautics Board as large hubs, medium hubs, or small hubs to be distributed among the hub areas in the same ratio as the number of passengers enplaned in each hub bears to the total of passengers enplaned in all such hubs.

(c) One-third to be distributed at the discretion of the Secretary.

Apportionment of Funds for Nonair Carrier Airports

(2) As soon as possible after July 1 of each fiscal year for which any amount is authorized to be obligated for the purposes of paragraph (2) of section 204 of this Act, the amount made available for that year shall be apportioned by the Secretary as follows:

(A) Seventy-three and one-half per centum for the several States, one-half in the proportion which the population of each State bears to the total population of all the States, and one-half in the proportion which the area of each State bears to the total area of all the States.

(B) One and one-half per centum for Hawaii, Puerto Rico, and the Virgin Islands, to be distributed in shares of 40 per centum, 40 per centum, and 20 per centum, respectively.

(C) Twenty-five per centum to be distributed at the discretion of the Secretary.

(3) The amounts apportioned to a State under paragraph (1)(A) and (2)(A) of this subsection shall, during the fiscal year for which they were first authorized to be obligated and the fiscal year immediately following, be available only for approved airport development projects located in that State or sponsored by that State or some public agency thereof but located in an adjoining State. Thereafter, any portion of the amounts remaining unobligated shall be redistributed as provided in subsection (c) of this section.

(4) Each hub area shall be credited each year with the apportioned amount of the preceding year's taxes as provided in paragraph (1)(B) of this subsection and to the extent such credit exceeds the amount of all payments to airport sponsors within such hub area in the current year under grant agreements entered into pursuant to this subsection (excluding payments under paragraph (1)(A) and (1)(C)), such excess shall remain to the credit of the hub area throughout the next following two years. If at any time during the current year or the next following two years, the Secretary shall approve a project for airport development within such hub area, such remaining credit, plus any remaining credit which may have been accummulated in the next succeeding two years, shall be available to the sponsor as a grant toward the payment of construction cost for such approved project. If the Secretary shall not have approved a project for airport development within such hub area prior to the end of the second fiscal year following the crediting of any sum to such sponsor, such sum shall be redistributed as provided in subsection (c) of this section.

For the purposes of this section, the term, "passenger enplanements" shall include United States domestic, territorial, and international revenue passenger enplanements in scheduled and nonscheduled service of air carriers and foreign air carriers in intrastate and interstate commerce as shall be annually compiled by the Secretary pursuant to such regulations as he shall prescribe.

Discretionary Fund

(b)(1) The amounts authorized by subsection (a) of this section to be distributed at the discretion of the Secretary shall constitute a discretionary fund.

(2) The discretionary fund shall be available for such approved projects for airport development in the several States, Puerto Rico, the Virgin Islands, and Guam as the Secretary considers most appropriate for carrying out the National Airport System Plan, regardless of the location of the projects. In determining the projects for which the fund is to be used, the Secretary shall consider the existing airport facilities in the several States, Puerto Rico, the Virgin Islands, and Guam. Amounts placed in the discretionary fund pursuant to subsection (a) or by redistribution pursuant to subsection (c) of this section, may be used only in accordance with the purposes for which originally appropriated, except as provided in paragraph (3) of this subsection.

(3) Amounts placed in the discretionary fund pursuant to paragraph (2)(C) of subsection (a) of this section to carry out paragraph (2) of section 204 of this Act shall also be available for approved projects for airport development sponsored by the United States or any agency thereof in national parks and national recreation areas, national monuments, national forests, and special reservations for Government purposes as the Secretary considers appropriate for carrying out the national airport system plan. No other funds authorized by this Act are available for these purposes. The sponsor's share of the project costs of any approved project shall be paid only out of funds contributed to the sponsor for the purpose of paying those costs (receipt of which funds and their use for this purpose is hereby authorized) or appropriations specifically authorized therefor.

Redistribution of Funds

(c) Any amount apportioned for airport development projects in other than Hawaii, Puerto Rico, or the Virgin Islands pursuant to paragraph (1)(A), (1)(B), or (2)(A) of subsection (a) of this section which has not been obligated by grant agreement prior to the end of the second fiscal year following the crediting of any sum to an airport project sponsor for which it was so apportioned shall be added to the discretionary fund established by subsection (b) of this section.

Notice of Apportionment, Definition of Terms

(d) Upon making an apportionment as provided in subsection (a) of this section, the Secretary shall inform the executive head of each State, and any public agency or airport sponsor which has requested such information as to the amounts apportioned to each State and hub area. As used in this section, the term "population" means the population according to the latest decennial census of the United States and the term "area" includes both land and water.

SUBMISSION AND APPROVAL OF PROJECTS FOR AIRPORT DEVELOPMENT

Submission

SEC. 206. (a) Subject to the provisions of subsections (b) and (c) of this section, any public agency, or two or more public agencies acting jointly, may submit to the Secretary a project application, in a form and containing such information, as the Secretary may prescribe, setting forth the airport development proposed to be undertaken. No project application shall propose airport development other than that included in the then current revision of the national airport system plan formulated by the Secretary under this Act, and all proposed developments shall be in accordance with standards established by the Secretary, including standards for site location, airport layout, grading, drainage, seeding, paving, lighting, and safety of approaches.

Public Agencies Whose Powers are Limited by State Law

(b) Nothing in this Act shall authorize the submission of a project application by any municipality or other public agency which is subject to the law of any State if the submission of the project application by the municipality or other public agency is prohibited by the law of that State.

Applications By Federal Agencies

(c) Nothing in this Act shall authorize the submission of a project application by the United States or any agency thereof, except in the case of a project in Puerto Rico, the Virgin Islands, Guam, or in, or in close proximity to, a national park, national recreation area, or national monument, or in a national forest, or a special reservation for Government purposes.

Approval

(d)(1) All airport development projects shall be subject to the approval of the Secretary, which approval may be given only if he is satisfied that—

(A) the project is reasonably consistent with plans (existing at the time of approval of the project) of planning agencies for the development of the area in which the airport is located and will contribute to the accomplishment of the purposes of this Act;

(B) sufficient funds are available for that portion of the project which is not to be paid by the United States under this Act;

(C) the project will be completed without undue delay;

(D) the public agency or public agencies which submitted the project application have legal authority to engage in the airport development as proposed; and

(E) all project sponsorship requirements prescribed by or under the authority of this Act have been or will be met. No airport development project may be approved by the Secretary with respect to any airport unless a public agency holds good title, satisfactory to the Secretary, to the landing area of the airport or the site therefor, or gives assurance satisfactory to the Secretary that good title will be acquired.

(2) No airport development project may be approved by the Secretary which does not include provision for installation of the landing aids specified in subsection (d) of section 207 of this Act and determined by him to be required for the safe and efficient use of the airport by aircraft taking into account the category of the airport and the type and volume of traffic utilizing the airport.

(3) No airport development project may be approved by the Secretary unless he is satisfied that fair consideration has been given to the preservation and enhancement of the environment and to the interest of communities in or near which the project may be located.

Notice

(e) Upon submission of an application for a project for airport development the Secretary shall publish notice of the pendency of the application in the Federal Register.

Hearings

(f) Applications for projects for airport development shall be matters of public record in the office of the Secretary. Any public

agency, person, association, firm, or corporation having a substantial interest in the disposition of any application by the Administrator may file with the Secretary a memorandum in support of or in opposition to such application; and any such agency, person, association, firm, or corporation shall be accorded, upon request, a public hearing with respect to the location of any airport the development of which is proposed. The Secretary is authorized to prescribe regulations governing such public hearings, and such regulations may prescribe a reasonable time within which requests for public hearings shall be made and such other reasonable requirements as may be necessary to avoid undue delay in disposing of project applications, and shall provide for reasonable notice of any such hearing to any agency, person, association, firm, or corporation having a substantial interest in the disposition of any application by the Secretary.

UNITED STATES SHARE OF PROJECT COSTS

General Provision

SEC. 207. (a) Except as provided in subsections (b), (c), and (d) of this section, the United States share payable on account of any approved project for airport development submitted under section 206 of this Act may not exceed 50 per centum of the allowable project costs.

Projects in Public Land States

(b) In the case of any State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) exceeding 5 per centum of the total area of all lands therein, the United States share under subsection (a) shall be increased by whichever is the smaller of the following percentages thereof: (1) 25 per centum, or (2) a percentage equal to one-half of the percentage that the area of all such lands in that State is of its total area.

Projects in the Virgin Islands

(c) The United States share payable on account of any approved project for airport development in the Virgin Islands shall be any portion of the allowable project costs of the project, not to exceed 75 per centum, as the Secretary considers appropriate for carrying out the provisions of this Act.

LANDING AIDS

(d) To the extent that the project costs of an approved project for airport development represent the cost of (1) land required for the installation of approach light systems, (2) touchdown zone and centerline runway lighting, or (3) high intensity runway lighting, the United States share shall be not to exceed 75 per centum of the allowable costs thereof.

PROJECT SPONSORSHIP

SEC. 208. As a condition precedent to his approval of a project for airport development under this Act, the Secretary shall receive assurances in writing, satisfactory to him, that—

(1) the airport to which the project for airport development relates will be available for public use on fair and reasonable terms and without unjust discrimination;

(2) the airport and all facilities thereon or connected therewith will be suitably operated and maintained, with due regard to climatic and flood conditions;

(3) the aerial approaches to the airport will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards;

(4) appropriate action, including the adoption of zoning laws, has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft;

(5) all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft will be available to the United States for use by military aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, a charge may be made for a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities used;

(6) the airport operator or owner will furnish without cost to the Federal Government for use in connection with any air traffic control activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction at Federal expense of space or facilities for such purposes;

(7) all project accounts and records will be kept in accordance with a standard system of accounting prescribed by the Secretary after consultation with appropriate public agencies;

(8) the airport operator or owner will maintain a fee and rental structure for the facilities and services being provided the airport users which will make the airport as self-sustaining as possible under the circumstances existing at that particular airport, taking into account such factors as the volume of traffic and economy of collection;

(9) the airport operator or owner will submit to the Secretary such annual or special airport financial and operations reports as the Secretary may reasonably request; and

(10) the airport and all airport records will be available for inspection by any duly authorized agent of the Secretary upon reasonable request.

To insure compliance with this section, the Secretary shall prescribe such project sponsorship requirements, consistent with the terms of this Act, as he considers necessary. Among other steps to insure such compliance the Secretary is authorized to enter into contracts with public agencies, on behalf of the United States. Whenever the Secretary obtains from a sponsor any area of land or water, or estate therein, or rights in buildings of the sponsor and constructs space or facilities thereon at Federal expense, he is authorized to relieve the sponsor from any contractual obligation entered into under this Act or the Federal Airport Act to provide free space in airport buildings to the Federal Government to the extent he finds that space no longer required for the purposes set forth in paragraph (6) of this section.

GRANT AGREEMENTS

SEC. 209. Upon approving a project application for airport development, the Secretary, on behalf of the United States, shall transmit to the sponsor or sponsors of the project application an offer to make a grant for the United States share of allowable project costs. An offer shall be made upon such terms and conditions as the Secretary considers necessary to meet the requirements of this Act and the regulations prescribed thereunder. Each offer shall state a definite amount as the maximum obligation of the United States payable from funds authorized by this Act, and shall stipulate the obligations to be assumed by the sponsor or sponsors. If and when an offer is accepted in writing by the sponsor, the offer and acceptance shall comprise an agreement constituting an obligation of the United States and of the sponsor. Thereafter, the amount stated in the accepted offer as the maximum obligation of the United States may not be increased by more than 10 per centum. Unless and until an agreement has been executed, the United States may not pay, nor be obligated to pay, any portion of the costs which have been or may be incurred.

ALLOWABLE PROJECT COSTS

SEC. 210. (a) Except as provided in section 211 of this Act, the United States may not pay, or be obligated to pay, from amounts appropriated to carry out the provisions of this Act, any portion of a project cost incurred in carrying out a project for airport development unless the Secretary has first determined that the cost is allowable. A project cost is allowable if—

(1) it was a necessary cost incurred in accomplishing airport development in conformity with approved plans and specifications for an approved airport development project and with the terms and conditions of the grant agreement entered into in connection with the project;

(2) it was incurred subsequent to the execution of the grant agreement with respect to the project, and in connection with airport development accomplished under the project after the execution of the agreement. However, the allowable costs of a project may include any necessary costs of formulating the project (including the costs of field surveys and the preparation of plans and specifications, the acquisition of land or interests therein or easements through or other interests in airspace, and any necessary administrative or other incidental costs incurred by the sponsor specifically in connection with the accomplishment of the project for airport development, which would not have been incurred otherwise) which were incurred subsequent to May 13, 1946;

(3) in the opinion of the Secretary it is reasonable in amount. If the Secretary determines that a project cost is unreasonable in amount, he may allow as an allowable project cost only so much of such project cost as he determines to be reasonable. In no event may he allow project costs in excess of the definite amount stated in the grant agreement; and

(4) it has not been included in any project authorized under section 203 of this Act.

The Secretary is authorized to prescribe such regulations, including regulations with respect to the auditing of project costs, as he considers necessary to effectuate the purposes of this section.

Costs Not Allowed

(b) The following are not allowable project costs: (1) the cost of construction of that part of an airport development project intended for use as a public parking facility for passenger automobiles; or (2) the cost of construction, alteration, or repair of a hangar or of any part of an airport building except such as those buildings or parts of buildings intended to house facilities or activities directly related to the safety of persons at the airport or directly related to the handling of passengers or their baggage at the airport. The cost of construction, alteration, or repair of buildings or those parts of buildings directly related to the handling of passengers or their baggage shall not be an allowable project cost unless the Secretary finds that no reasonable financial alternative to inclusion as an allowable project cost exists. Such a finding must be based upon consideration of the feasibility and extent of other sources of financial participation, the financial condition of the airport sponsor as disclosed by uniform accounting procedures promulgated by the Secretary and any other factors relevant to such determination.

PAYMENTS UNDER GRANT AGREEMENTS

SEC. 211. The Secretary, after consultation with the sponsor with which a grant agreement has been entered into, may determine the times, and amounts in which payments shall be made under the terms of a grant agreement for airport development. Payments in an aggregate amount not to exceed

90 per centum of the United States share of the total estimated allowable project costs may be made from time to time in advance of accomplishment of the airport development to which the payments relate, if the sponsor certifies to the Secretary that the aggregate expenditures to be made from the advance payments will not at any time exceed the cost of the airport development work which has been performed up to that time. If the Secretary determines that the aggregate amount of payments made under a grant agreement at any time exceeds the United States share of the total allowable project costs, the United States shall be entitled to recover the excess. If the Secretary finds that the airport development to which the advance payments relate has not been accomplished within a reasonable time or the development is not completed, the United States may recover any part of the advance payment for which the United States received no benefit. Payments under a grant agreement shall be made to the official or depository authorized by law to receive public funds and designated by the sponsor.

PERFORMANCE OF CONSTRUCTION WORK

Regulations

SEC. 212. (a) The construction work on any project for airport development approved by the Secretary pursuant to section 206 of this Act shall be subject to inspection and approval by the Secretary and in accordance with regulations prescribed by him. Such regulations shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary. No such regulation shall have the effect of altering any contract in connection with any project entered into without actual notice of the regulation.

Minimum Rates of Wages

(b) All contracts in excess of $2,000 for work on projects for airport development approved under this Act which involve labor shall contain provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

Other Provisions As To Labor

(c) All contracts for work on projects for airport development approved under this Act which involve labor shall contain such provisions as are necessary to insure (1) that no convict labor shall be employed; and (2) that in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given, where they are qualified, to individuals who have served as persons in the military service of the United States, as defined in section 101 (1) of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended (50 U.S.C. App. 511 (1)), and who have been honorably discharged from such service. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

USE OF GOVERNMENT-OWNED LANDS

Requests for Use

SEC. 213. (a) Whenever the Secretary determines that use of any lands owned or controlled by the United States is reasonably necessary for carrying out a project for airport development under this Act, or for the operation of any public airport, including lands reasonably necessary to meet future development of an airport in accordance with the national airport system plan, he shall file with the head of the department or agency having control of the lands a request that the necessary property interests therein be conveyed to the public agency sponsoring the projects in question or owning or controlling the airport. The property interest may consist of the title to, or any other interest in, land or any easement through or other interest in airspace.

Making of Conveyances

(b) Upon receipt of a request from the Secretary under this section, the head of the department or agency having control of the lands in question shall determine whether the requested conveyance is inconsistent with the needs of the department or agency, and shall notify the Secretary of his determination within a period of four months after receipt of the Secretary's request. If the department or agency head determines that the requested conveyance is not inconsistent with the needs of that department or agency, the department or agency head is hereby authorized and directed, with the approval of the President and the Attorney General of the United States, and without any expense to the United States, to perform any acts and to execute any instruments necessary to make the conveyance requested. A conveyance may be made only on the condition that, at the option of the Secretary, the property interest conveyed shall revert to the United States in the event that the lands in question are not developed for airport purposes or used in a manner consistent with the terms of the conveyance. If only a part of the property interest conveyed is not developed for airport purposes, or used in a manner consistent with the terms of the conveyance, only that particular part shall, at the option of the Secretary, revert to the United States.

REPORTS TO CONGRESS

SEC. 214. On or before the third day of January of each year the Secretary shall make a report to the Congress describing his operations under this title during the preceding fiscal year. The report shall include a detailed statement of the airport development accomplished, the status of each project undertaken, the allocation of appropriations, and an itemized statement of expenditures and receipts.

FALSE STATEMENTS

SEC. 215. Any officer, agent, or employee of the United States or any officer, agent, or employee of any public agency, or any person, association, firm, or corporation who, with intent to defraud the United States—

(1) knowlingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof, in connection with the submission of plans, maps, specifications, contracts, or estimates of project costs for any project submitted to the Secretary for approval under this Act;

(2) knowingly makes any false statement, false representation, or false report or claim for work or materials for any project approved by the Secretary under this Act;

(3) knowingly makes any false statement or false representation in any report required to be made under this Act;

shall, upon conviction thereof, be punished by imprisonment for not to exceed five years or by a fine of not to exceed $10,000, or by both.

ACCESS TO RECORDS

Recordkeeping Requirements

SEC. 216. (a) Each recipient of a grant under this Act shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and the disposition by the recipient of the proceeds of the grant, the total cost of the plan or program in connection with which the grant is given or used, and the amount and nature of that portion of the cost of the plan or program supplied by other sources, and such other records as will facilitate an effective audit.

Audit and Examination

(b) The Secretary 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 the recipient that are pertinent to grants received under this Act.

GENERAL POWERS

SEC. 217. The Secretary is empowered to perform such acts, to conduct such investigations and public hearings, to issue and amend such orders, and to make and amend such regulations and procedures, pursuant to and consistent with the provisions of this title, as he considers necessary to carry out the provisions of, and to exercise and perform his powers and duties under, this title.

TITLE III—MISCELLANEOUS

PROCUREMENT PROCEDURES

SEC. 301. Section 303 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1344), is amended by adding a new subsection (c) to read as follows:

"Negotiations of purchases and contracts

"(e) The Secretary of Transportation may negotiate without advertising purchases of and contracts for technical or special property related to, or in support of, air navigation that he determines to require a substantial initial investment or an extended period of preparation for manufacture, and for which he determines that formal advertising would be likely to result in additional cost to the Government by reason of duplication of investment or would result in duplication of necessary preparation which would unduly delay the procurement of the property."

REPEAL AND SAVING PROVISIONS

Repeal

SEC. 302. (a) The Act of May 13, 1946 (Federal Airport Act), as amended, is hereby repealed.

Savings provisions

(b) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, grants, rights, and privileges which have been issued, made, granted, or allowed to become effective by the President, the Secretary of Transportation, or any court of competent jurisdiction under any provision of the Federal Airport Act, as amended, which are in effect at the time this section takes effect, are continued in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary of Transportation or by any court of competent jurisdiction, or by operation of law.

Separability

(c) If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons or circumstances is not affected thereby.

The digest, presented by Mr. MAGNUSON, is as follows:

BILL DIGEST: COMMITTEE DRAFT BILL

This bill establishes an airport/airways "Trust Fund" the revenues in which would be used to finance an expanded airport/airways development program over the next ten years. Revenues in the fund are to accrue from existing and increased aviation user charges and from general appropriations.

The recommended level of funding upon which this draft is based would provide in excess of $600 million per year. The draft bill would provide a disbursement in the amount of at least $300 million per annum for airport development and $250 million per annum for airways development.

TRUST FUND

As in the Highway Trust Fund, provision is made that the Secretary of the Treasury

invest, in interest bearing government obligations or obligations guaranteed by the government, any revenues in the fund in excess of those needed for current withdrawals. This investment authority would only apply to those trust fund revenues accruing from the user taxes, and would not pertain to revenues in the fund derived from appropriations from general revenues.

COST ALLOCATION STUDY

The bill provides that within two years of the enactment date, the Secretary of Transportation shall conduct a cost allocation study to determine the appropriate method for allocating the cost of the airport and airway system among the various users and shall identify the costs to the Federal government that should appropriately be charged to the system and the value assigned to the public benefit.

NATIONAL AIRPORT SYSTEM PLAN

The bill directs the Secretary of Transportation to prepare, within two years, a national airport system plan to encompass the nation's airport development needs for the next decade. The plan shall include the type and estimated cost of airport development necessary to provide a system of public airports adequate to anticipate and meet the needs of civil aeronautics, the military and the postal service. The plan shall be revised every two years.

PLANNING GRANTS

The bill provides a ten year authorization of $10,000,000 per year for grant agreements to be made between the Secretary and planning agencies for airport system planning and airport master planning. Grants may be made for two-thirds of the cost of any planning project provided, however, that no more than 10 percent of the funds authorized may be allocated for projects in a single state.

GENERAL AUTHORIZATION

The bill provides that the Secretary is authorized to make grants for airport development, by grant agreements with project sponsors, in not less than the following amounts.

$270,000,000 per year for each of the next 10 fiscal years for airports served by CAB certificated carriers and for reliever airports which serve general aviation and thereby relieve congestion at air carrier airports having a high density of traffic.

$30,000,000 per year for each of the next ten fiscal years for airports serving segmnets of aviation other than those served by air carriers certificated by the CAB. (general aviation airports).

The bill also provides authority for the Secretary to spend no less than $250,000,000 per year for each of the next 10 fiscal years to acquire, estabilsh and improve airway facilities.

While 10 year authorization for airport development grants and for airways facilities investment is provided, the Secretary is required to conduct a study respecting the appropriations of this apportionment of revenue for the 5 year period following July 1, 1975, and report to Congress the results of that study.

The remainder of revenues in the trust fund are to be used to meet the expenses of administering this program and for maintenance and operations expenses incurred under the Federal Aviation Act of 1958 and for research and development, provided, however, that the initial $50,000,000 appropriated to the trust fund from general revenues shall be alloacted to research and development activities.

APPORTIONMENT AND DISTRIBUTION

Funds for airport development grants to air carrier and reliever airports are to be distributed in the following manner.

One-third of the revenues or $90,000,000 annually is to be apportioned to project sponsors in the states, one half in the proportion which the population of each state bears to the total population of all the states, and one-half in the proportion which the area of each state bears to the total area of all the states. (Area/population formula used in the present Federal Airport Act). In addition, 3 percent of this one-third shall be apportioned to Hawaii, Puerto Rico and the Virgin Islands to be distributed in shares of 40 per cent, 40 percent and 20 percent, respectively.

One-third, or $90,000,000 annually, to be distributed to airport sponsors for projects in small, medium, and large hub areas in the same ratio as the number of passengers enplaned in each hub area bears to the total of passengers enplaned in all such hub areas.

One-third or $90,000,000 annually to be distributed at the discretion of the Secretary.

The funds for airport development grants to general aviation airports are to be distributed as follows.

73½ percent to the states based on the area/population formula, 1½ percent for Hawaii, Puerto Rico and the Virgin Islands in shares of 40 percent, 40 percent, and 20 percent respectively and 25% to be distributed at the discretion of the Secretary.

PROCEDURES FOR GRANTS

The bill generally retains administrative procedures for administering grants as found in the existing Federal Airport Act. The United States share of project costs is still generally limited to 50 percent of the total project cost.

However, the bill does change that part of the existing Federal Airport Act relating to projects eligible for assistance.

TERMINAL AREA ASSISTANCE

Under terms of this bill, with certain limitations, terminal area projects will be equally eligible for assistance as are airfield areas. The bill provides that terminal area projects shall be eligible providing that such projects are directly related to the handling of passengers or their baggage at the airport.

Further, the cost of construction, alteration or repair of buildings or those parts of buildings directly related to the handling of passengers or their baggage shall not be an allowable project cost unless the Secretary finds that no reasonable financial alternative to inclusion as an allowable project exists. Such a finding must be based upon consideration of the feasibility and extent of other sources of financial participation; the financial condition of the sponsoring entity as disclosed by uniform accounting procedures promulgated by the Secretary and any other factors relevant to such determination.

AVIATION USER TAXES

While the provisions of this bill do not provide for additional taxes or user charges to fund the development program, the bill is based upon the Committee making the following recommendations to the appropriate Committees of Congress which have the responsibility and authority to develop tax legislation.

1. Increase the passenger excise tax from 5 percent to 8 percent.

2. Levy a $5 per passenger charge on all enplaning passengers destined for international points and for points not within the continental United States.

3. Increase the present 2¢ per gallon tax on aviation gasoline to 6¢ per gallon and add a new 6¢ per gallon tax to jet fuel used in non-commercial aviation. Repeal the present 2¢ per gallon tax on gasoline used in commercial aviation.

4. Levy a 5% tax on all cargo waybills.

5. Levy an annual airplane registration fee on airplanes used in commercial aviation of $25 plus 3¢ per pound of gross certificated take-off weight.

This level of taxation would provide in excess of 600 million dollars per year to the airport/airways trust fund.

S. 3109—INTRODUCTION OF A BILL AMENDING THE PATENT SECTION OF THE UNITED STATES CODE

Mr. McCLELLAN. Mr. President, as chairman of the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, I introduce, by request of the Department of Commerce, a bill to amend section 6 of title 35, United States Code, "Patents," to authorize domestic and international studies and programs relating to patents and trademarks.

The United States has been an active participant in recent years in international cooperative efforts in the patent and trademark fields. The United States has assisted in the activities of BIRPI, the United International Bureau for the Protection of Intellectual Property, and ICIREPAT, the Committee for International Cooperation in Information Retrieval Among Examining Patent Offices.

The proposed legislation would give the United States the authority necessary to make contributions such as those requested by BIRPI and contributions of a similar nature which may be required in the near future.

Subsection (a) of the proposed bill includes the same provisions presently incorporated in section 6 of title 35, United States Code. It also adds the phrase "shall have the authority to carry on studies and programs regarding domestic and international patent and trademark law." This phrase is merely intended to state specifically an already existing authority clearly implied in present section 6.

Subsection (b) provides that the Commissioner of Patents may, under the direction of the Secretary of Commerce and in coordination with the Department of State, carry on or authorize to be carried on, programs and studies with foreign patent offices and international intergovernmental organizations in connection with the performance of the duties outlined in subsection (a). Again, this merely states specifically an already existing authority of the Commissioner implied in present section 6.

Subsection (c) provides that the Commissioner may, under the direction of the Secretary of Commerce and with the concurrence of the Secretary of State, transfer appropriated funds of the Patent Office to the Department of State for the purpose of making special payments to international intergovernmental organizations for studies and programs concerning patents, trademarks and related matters. The amount of such payments is limited to $50,000 in any year.

The PRESIDING OFFICER. The bill will be received and appropriately referred. (S. 3109) to amend section 6 of title 35, United States Code, "Patents," to authorize domestic and international studies and programs relating to patents and trademarks, introduced by Mr. McCLELLAN, by request, was received, read twice by its title and referred to the Committee on the Judiciary.

S. 3110—INTRODUCTION OF A BILL AMENDING THE TRADEMARK ACT

Mr. McCLELLAN. Mr. President, as chairman of the Subcommittee on Pa-

tents, Trademarks, and Copyrights of the Committee on the Judiciary, I introduce, by request of the Department of Commerce, a bill to amend the act entitled "An act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of international conventions, and for other purposes", approved July 5, 1946, as amended.

The Trademark Act, as amended, requires that the prospective registrant of a trademark make actual use of the mark in commerce prior to applying for registration of the mark. It is contended that the inability of a business firm to apply for registration of a mark prior to actual use represents a considerable hardship and occasionally results in the loss of substantial sums of money devoted to sales and merchandising campaigns. The proposed legislation would permit potential users of marks to apply for registration on the basis of their intent to use a mark rather than its actual use. The date of application would be considered as equivalent to actual use under present law insofar as establishing rights relative to other actual or potential users of the mark. No actual registration, however, may occur until the mark has been used in commerce, nor can there be an assignment of the application prior to the use except in special circumstances.

Bills on this subject have been introduced in recent Congresses by the late Senator from Illinois, Mr. Dirksen. Senator Dirksen introduced the most recent such bill, S. 1568, on March 17. In introducing, by request, the administration bill, I express no preference as between this bill and S. 1568.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 3110) to amend the act entitled "An act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of international conventions, and for other purposes," approved July 5, 1946, as amended, introduced by Mr. MCCLELLAN, by request, was received, read twice by its title, and referred to the Committee on the Judiciary.

S. 3111—INTRODUCTION OF A BILL DESIGNATING ROUTE 74 IN THE STATE OF ILLINOIS AS THE EVERETT McKINLEY DIRKSEN HIGHWAY

Mr. PERCY. Mr. President, today I am introducing, with the support of my colleague from Illinois, Senator RALPH SMITH, a bill which will designate that portion of Interstate 74 in Illinois as the Everett McKinley Dirksen Highway.

Realizing that no one effort to memorialize the life and work of the late Senator Dirksen would be totally sufficient, I do feel that by naming Route 74 in Illinois the Everett McKinley Dirksen Highway we can give the citizens of Illinois and individuals traveling through our State a unique opportunity to turn their attention to a colleague of ours that labored so diligently for 36 years in the Congress for his State and the Nation at large.

Interstate 74 is one of the main east-west arteries in Illinois and passes through that part of the State where Senator Dirksen was reared and which he loved as home. The highway enters Illinois at Danville on the Indiana border and runs through Champaign-Urbana and Bloomington to Peoria. In the western part of the State, the highway runs from the Iowa border and the Quad-Cities to Galesburg. The remaining segment, from Galesburg to Peoria, is now under construction. At its completion, the route will provide over 214 miles of superhighway for the State.

I know that there are many citizens in Illinois who support this legislation. The mayor and city council of Peoria recently petitioned the State to commemorate the late Senate minority leader in this manner. It is my hope that this measure will receive the most favorable consideration from my colleagues here in the Senate.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 3111) to designate Route 74 of the National System of Interstate and Defense Highways in the State of Illinois as the Everett McKinley Dirksen Highway, introduced by Mr. PERCY, for himself and Mr. SMITH of Illinois, was received, read twice by its title, and referred to the Committee on Public Works.

S. 3113—INTRODUCTION OF A BILL TO PROVIDE A SEPARATE SESSION OF CONGRESS EACH YEAR FOR CONSIDERATION OF APPROPRIATION BILLS AND TO ESTABLISH THE CALENDAR YEAR AS THE FISCAL YEAR

Mr. MAGNUSON. Mr. President, today I am reintroducing a bill which I have introduced for many years, and I must say without very much success. The bill basically provides for a separate session of Congress each year for the consideration of appropriation bills and establishes the calendar year as the fiscal year of the U.S. Government.

Under my bill Congress would consider legislative matters from January 3 through the first Monday in November, unless the Congress has adjourned such meeting sine die prior to such first Monday. Congress, under this bill, would assemble on the second Monday of November of each year for the purpose of considering bills and resolutions making appropriations for the support of the Government. Such meetings shall terminate on December 31 of such year unless the Congress has adjourned such meeting sine die prior to such day.

Last week my distinguished colleague from Montana (Mr. MANSFIELD) mentioned this bill and said as follows on page 32109 of the RECORD:

> I should like to suggest to the Senate, Mr. President, that in view of the fact that we are becoming a year-round institution, as attested to by the fact that we agreed to a 3-week recess during August—and will very likely do so again next year—we recognize realities and shift from a fiscal year to a calendar year basis.
>
> I would hope, also, that if that would be given serious consideration, the idea propounded by the Senator from Washington (Mr. MAGNUSON) over the years—if not decades—could be adopted in both the House and the Senate. His proposal is that each session be divided in two, one for legislative authorization bills and the other for appropriation bills. With these proposals in operation, perhaps we could do our job a little more effectively and be able to spend the time we should on both types of measures—that is, the authorization and the appropriation bills.
>
> This is not a reply to the President. This is just a statement of fact. As I have said, I think that the President's letter is well merited. It is an understanding letter. But he is faced with reality, just as we in this body are. So far as the joint leadership is concerned, I think we can assure him that we will do our very best to get the appropriation bills and other proposed legislation he has requested to the floor for consideration, debate, and disposal as soon as possible.

The President of the United States has also recognized this problem and in a letter to Senator SCOTT, printed in the RECORD on page 32110, stated as follows:

> THE WHITE HOUSE,
> *Washington, October 28, 1969.*
>
> Hon. HUGH SCOTT,
> *Minority Leader,*
> *U.S. Senate,*
> *Washington, D.C.*
>
> DEAR SENATOR SCOTT: My great respect and regard for the leadership of the Congress and of the Senate and House Appropriations Committees make me extremely reluctant to send this letter.
>
> I must, however, call attention to an impending crisis in the handling of the Nation's financial affairs. We are already almost four months into the new fiscal year. Only the second appropriation bill has come to me for signature. Authorizing legislation still lags. For the country the situation is fast becoming intolerable.
>
> The Executive Branch has already begun the preparation of the 1971 budget. Under the law, this budget must be submitted in January. It must be completed, therefore, in December. But unless the Congressional pace is sharply accelerated, it is clear that many appropriation bills will not pass in time for Federal agencies to assemble the voluminous details necessary to meet the budget deadlines.
>
> To array and print the vast amount of technical detail required by the Congress in time to meet this schedule, Congressional action on appropriation bills must be substantially completed within the next few weeks. *If this is not done, it may be impossible for me to transmit the 1971 budget in January.*
>
> The Nation clearly has a right to question a Government which cannot conduct its financial affairs in an efficient manner. I urgently request your cooperation, therefore, in securing swift action by the Congress on the pending 1970 appropriation bills. Otherwise we will be frustrated in our efforts to move ahead efficiently on the 1971 budget.
>
> I write in this vein neither to criticize the Congress for delay nor to exonerate the Executive Branch for delay. At this critical point in the appropriations and budgetary process I am less interested in why we are where we are than I am in where we now seem to be headed. I am confident that you share these concerns.
>
> This same letter is being sent to the President of the Senate, Speaker of the House, the Majority and Minority Leaders of both Houses, and the Chairmen and senior Minority Members of the Senate and House Appropriations Committees.
>
> Sincerely,
>
> RICHARD NIXON.

As every Senator knows, a key problem this year resulted from the submission of two separate presidential budgets with the resulting delays caused by the necessity for appropriate review by the Nixon administration of the Johnson budget.

Another critical problem is the delay in passing authorization bills, which must be on the books before appropriations can be properly voted. Congress has fallen into the habit of passing new authorizations for some programs every year. As chairman of the Labor, HEW Subcommittee on Appropriations, I am still waiting for the OEO authorization which must be passed before its budget should properly be reviewed.

I was pleased to note that Phillip S. Hughes, Deputy Director of the Bureau of the Budget, testified before the Subcommittee on Congressional Reorganization of the House Committee on Rules that the administration favors a switch of the fiscal year to make it coincide with the calendar year. It appears that this is the only reasonable course of action.

Congress must consider, as soon as possible, the changes this bill would provide for, if we are to keep the confidence of the American people in our appropriations procedures.

At this point I ask unanimous consent to have printed, at the appropriate place, the full text of this bill.

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

The bill (S. 3113) to provide for a separate session of Congress each year for the consideration of appropriation bills, to establish the calendar year as the fiscal year of the Government, 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 Rules and Administration, and ordered to be printed in the RECORD, as follows:

S. 3113

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 "Fiscal Act of 1970".

TITLE I—FISCAL SESSIONS OF THE CONGRESS

SEC. 101. The meeting of the Congress which begins on the third day of January of each year (or on such day as they shall appoint pursuant to section 2 of article XX of the articles of amendment to the Constitution) shall terminate on the first Monday in November of such year unless the Congress has adjourned such meeting sine die prior to such first Monday. Each such meeting, and every other meeting, of the Congress, other than a meeting pursuant to section 102 of this title, shall be known as a "legislative session". The legislative sessions of each Congress shall be numbered serially.

SEC. 102. The Congress shall assemble on the second Monday of November of each year for the purpose of considering bills and resolutions making appropriations for the support of the Government. Such meeting shall terminate on December 31 of such year unless the Congress has adjourned such meeting sine die prior to such day. Each such meeting shall be known as a "fiscal session". The fiscal sessions of each Congress shall be numbered serially.

SEC. 103. (a) Except as provided in this section, no matters shall be considered by the House of Representatives or the Senate during a fiscal session other than bills or resolutions making appropriations for the support of the Government.

(b) The provisions of subsection (a) shall not preclude any committee of the House of Representatives or the Senate or any joint committee of the two Houses from meeting during a fiscal session for the consideration of any matter over which such committee or joint committee has jurisdiction, or from holding hearings or conducting studies and investigations with respect to any such matter, but, except as provided in this section, no committee of either House, other than the Committees on Appropriations, shall, during a fiscal session, report any bill or resolution or take any other legislative action, and no committee of the Senate shall report any treaty or nomination.

(c) Notwithstanding the provisions of subsections (a) and (b), the appropriate committees of the House of Representatives and the Senate may report, and the two Houses may consider, during a fiscal session, any bill or resolution if the President notifies the Congress that the consideration of such bill or resolution during such fiscal session is necessary in the national interest.

(d) Notwithstanding the provisions of subsections (a) and (b), the appropriate committee of the Senate may report, and the Senate may consider, during a fiscal session, any treaty or nomination if the President notifies the Senate that the consideration of such treaty or nomination is necessary in the national interest.

(e) For purposes of this section, in the case of a joint committee which has legislative jurisdiction, the members of the joint committee who are Members of the Senate shall be considered as a committee of the Senate, and the members of the joint committee who are Members of the House shall be considered as a committee of the House.

SEC. 104. (a) Except as provided in this section, the House of Representatives and the Senate shall not consider any bill making appropriations for the support of the Government during a legislative session.

(b) The provisions of subsection (a) shall not preclude the Committees on Appropriations of the House and Senate from meeting during a legislative session for the consideration of any matter over which such committees have jurisdiction, or from holding hearings or conducting studies and investigations with respect to any such matter, but except as provided in this section, neither of such committees shall, during a legislative session, report any appropriation bill or resolution.

(c) Notwithstanding the provisions of subsections (a) and (b), the Committees on Appropriations of the House and Senate may report, and the two Houses may consider, during a legislative session, bills or resolutions making supplemental or deficiency appropriations for the fiscal year which is current during such legislative session.

SEC. 105. The provisions of sections 103 and 104 shall not preclude the reconsideration by the House of Representatives and the Senate, during any session, of any bill or of any order, resolution, or vote returned by the President to either House pursuant to the second or third paragraph of section 7 of article I of the Constitution.

SEC. 106. For purposes of this title, the term "appropriations" has the meaning assigned to it by section 2 of the Budget and Accounting Act, 1921 (31 U.S.C. 2).

SEC. 107. (a) Sections 101 and 102 of this title shall become effective at noon on the day on which the Congress assembles, pursuant to section 2 of article XX of the articles of amendment to the Constitution, in the year 1970.

(b) Sections 103, 104, 105, and 106 of this title shall become effective upon the adjournment sine die of the meeting of the Congress which begins pursuant to section 2 of article XX of the articles of amendment to the Constitution in the year 1970.

TITLE II—CHANGE OF FISCAL YEAR

SEC. 201. Section 237 of the Revised Statutes (31 U.S.C. 1020) is amended to read as follows:

"SEC. 237. (a) Except as provided in subsection (b), the fiscal year of the Treasury of the United States in all matters of accounts, receipts, expenditures, estimates, and appropriations shall commence on July 1 of each year and end on June 30 of the following year.

"(b) The fiscal year of the Treasury of the United States which commences on July 1, 1971, shall end on December 31, 1972. The next succeeding fiscal year shall commence on January 1, 1973, and end on December 31, 1973, and thereafter the fiscal year of the Treasury of the United States shall commence on January 1 and end on December 31 of each year.

"(c) All accounts of receipts and expenditures required by law to be published annually shall be prepared and published for the fiscal year, as established by subsections (a) and (b)."

SEC. 202. The following provisions of law are repealed:

(1) The ninth paragraph under the headings "Legislative Establishment", "Senate", of the Deficiency Appropriation Act, fiscal year 1934 (48 Stat. 1022; 2 U.S.C. 66); and

(2) The proviso to the second paragraph under the headings "House of Representatives", "Salaries, Mileage, and Expenses of Members", of the Legislative-Judiciary Appropriation Act, 1955 (68 Stat. 400; 2 U.S.C. 81).

SEC. 203. (a) Appropriations for the fiscal year which begins on July 1, 1970, shall be made at the legislative session of the Ninety-first Congress which begins on January 3, 1970 (or on such day as may be appointed pursuant to section 2 of article XX of the articles of amendment to the Constitution). Appropriations for the fiscal year which begins on July 1, 1971, shall be made at the legislative session of the Ninety-second Congress which begins on January 3, 1971 (or on such day as may be appointed pursuant to section 2 of article XX of the articles of amendment to the Constitution). Appropriations for the fiscal year which begins on January 1, 1973, shall be made at the fiscal session of the Ninety-second Congress which begins on the second Monday of November 1972. Appropriations for each fiscal year thereafter shall be made at the fiscal session of the Congress which immediately precedes the commencement of such fiscal year.

(b) Nothing contained in subsection (a) shall preclude the making of deficiency or supplemental appropriations for any fiscal year—

(1) at any session of the Congress prior to the fiscal session of the Ninety-second Congress which begins on the second Monday of November 1972; or

(2) at any fiscal session of the Congress.

TITLE III—AMENDMENTS TO THE BUDGET AND ACCOUNTING ACT, 1921

SEC. 301. (a) Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is amended—

(1) by striking out in subsection (a) "during the first fifteen days of each regular session" and inserting in lieu thereof", at the time specified in subsection (c)"; and

(2) by adding at the end thereof the following new subsections:

"(b) In addition to the information required by subsection (a), the Budget shall contain a statement, in such form and detail as the President may determine, of the capital assets of the Government, and their value, as of the end of the last completed fiscal year.

"(c) The President shall transmit the Budget to the Congress as follows:

"(1) for any fiscal year prior to the fiscal year which begins on January 1, 1973, during the first fifteen days of the session which

begins on the day prescribed, or appointed pursuant to, section 2 of article XX of the articles of amendment to the Constitution preceding the commencement of the fiscal year, and

"(2) for the fiscal year which begins on January 1, 1973, and for each fiscal year thereafter, on or before July 15 of the year preceding the commencement of the fiscal year.

If the Congress is not in session on the day on which the President submits the budget for the fiscal year which begins on January 1, 1973, or for any fiscal year thereafter, such budget shall be transmitted to the Clerk of the House of Representatives and shall be printed as a document of the House of Representatives."

(b) This section shall become effective on July 1, 1972.

SEC. 302. (a) Section 201(a)(5) of such Act is amended by striking out "October 15" and inserting in lieu thereof "May 15".

(b) This section shall become effective on May 1, 1972.

Mr. MAGNUSON. Mr. President, we have had some hearings occasionally before the Committee on Rules and Administration and the Joint Committee on Congressional Reorganization.

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

Mr. MAGNUSON. I yield.

Mr. MANSFIELD. Mr. President, first, I would appreciate it if the Senator would ask unanimous consent that I be listed as a cosponsor.

Mr. MAGNUSON. I would be glad to.

Mr. President, I ask unanimous consent that the name of the Senator from Montana be added as a cosponsor of the bill.

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

Mr. MANSFIELD. Mr. President, to my personal knowledge the distinguished Senator from Washington has been trying to get action on a bill of this nature for more than two decades, first while he was a Member of the House of Representatives and later during his many years in the Senate.

Mr. MAGNUSON. Substantially, I think the session this year points out the necessity for action of this kind. As far as I know, we are the only legislative body in the free world that does not divide its sessions. Every other legislative body in the free world has a legislative session; then, they have a date beyond which no further legislation will be considered and they go into their fiscal session. It seems to me this is the only way we can avoid some of the problems that are occurring now.

The President was somewhat critical of Congress the other day when he suggested the passage of appropriation bills. However, the appropriation bills are being held up because the authorization bills are not around and the authorization bills are not around because it took a long time for the administration—and I am not being critical because I think they want to examine all these matters—to send up legislative proposals.

Independent offices have been held up for weeks because there was no authorization on the space program. In connection with HEW, as the Senator from West Virginia knows, we have 300 or 400 witnesses we never had before because they want a reorganization. I do not know if that will succeed. The OEO appropriation is not here. These matters cause the problems.

I have sat in meetings of the Committee on Appropriations on many occasions when we would be passing on whether or not to fund a program of some kind that Congress had authorized and at the same time the Senate will be sitting here on the same day changing that program. The Senator from Colorado knows that.

If we had a legislative session we would know what we had authorized and what would have to be appropriated, and come back and do that. That is the purpose of the legislation I am introducing. I hope we can give it consideration.

I remember the night we adjourned last session. The Senator from Montana and I were here. I think only two or three of us were still in the Chamber. We were talking about the time of the session. Finally, we concluded there must be a better way to do it than the way we are doing it. We must try something new.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. BYRD of West Virginia. Will the Senator add my name to the list of cosponsors?

Mr. MAGNUSON. I am happy to do so.

Mr. President, I ask unanimous consent that the name of the Senator from West Virginia may be added as a cosponsor of the bill.

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

Mr. BAKER. Mr. President, will the Senator yield to me briefly?

Mr. MAGNUSON. I yield.

Mr. BAKER. Mr. President, I ask unanimous consent that my name may be added as a cosponsor.

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

Mr. MAGNUSON. I thank the Senator.

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

Mr. MAGNUSON. I yield.

Mr. DOLE. Mr. President, I ask unanimous consent that my name may be added as a cosponsor.

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

Mr. MAGNUSON. I thank the Senator.

Mr. President, there has to be a better way. This year we had a recess during the summer. Many Members of Congress, felt this was a good thing because it provided an opportunity for those who have families to spend time with their families. This bill would enable Members to do that.

ADDITIONAL COSPONSORS OF A JOINT RESOLUTION

SENATE JOINT RESOLUTION 163

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from New Mexico (Mr. MONTOYA), I ask unanimous consent that, at the next printing, the name of the Senator from Maine (Mr. MUSKIE) be added as a cosponsor of Senate Joint Resolution 163, to supplement the joint resolution making continuing appropriations for the fiscal year 1970 in order to provide for carrying out programs and projects, and for payments to State educational agencies and local educational agencies, institutions of higher education, and other educational agencies and organizations, based upon appropriation levels as provided in H.R. 13111 which passed the House of Representatives July 31, 1969, and entitled "An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1970, and for other purposes."

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

SENATE CONCURRENT RESOLUTION 45—SUBMISSION OF A CONCURRENT RESOLUTION EXPRESSING THE SENSE OF THE CONGRESS WITH RESPECT TO PUBLIC EXPRESSION OF RELIGIOUS FAITH BY AMERICAN ASTRONAUTS

Mr. TOWER. Mr. President, on behalf of myself and Senators STEVENS, COOPER, HOLLAND, FANNIN, THURMOND, SPONG, SMITH of Illinois, DOLE, ALLEN, COTTON, GURNEY, BYRD of Virginia, and ALLOTT, I am proud today to submit a concurrent resolution expressing the sense of the Congress that the expressions of religious faith by our astronauts in outer space were in accord with their first amendment rights of Freedom of Religion and that future astronauts should not be prohibited from engaging in similar expressions of faith while in future flights.

I was truly surprised that there would ever have been any criticism of our astronauts when on their voyages they reiterated their belief and trust in their religion. These expressions have been in the highest American tradition of public displays of faith. For example, here in the Senate, we open our daily sessions with a prayer and our motto is "in God we trust." The first amendment to the Constitution deals with the freedom of all Americans to worship as they see fit. To deny this right to our astronauts simply because they are on a Government mission would be violative of their rights.

Mr. President, I know that millions of Americans will never forget the reading of Genesis from the environs of the moon last Christmas Eve by Colonel Borman and his crew. This was truly one of the most moving national experiences that we have ever had, and it helped to lift our spirits as a nation.

If the enemies of religion had their way, such experiences would be condemned and any future ones prohibited. It is the purpose of this resolution to see that such a condemnation and prohibition does not occur.

I ask my colleagues to join with me in sponsoring this measure, so that we may help to insure that our astronauts may exercise their constitutional rights and that the enemies of religion shall not triumph.

The PRESIDING OFFICER. The concurrent resolution will be received and appropriately referred.

The concurrent resolution (S. Con. Res. 45), which reads as follows, was referred to the Committee on the Judiciary:

S. CON. RES. 45

Whereas, there has been worldwide interest in the space program and extensive coverage of space projects by the mass media;

Whereas, the National Aeronautics and Space Administration is directed by section 203(a)(3) of the National Aeronautics and Space Administration Act of 1958 to "provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof";

Whereas, the free exercise of religion and the freedom of speech for all Americans is protected by the First Amendment of the Constitution of the United States;

Whereas, there are questions presently before the courts intended to test the prerogative of astronauts to express their religious faith publicly during the course of space flights: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that all the past expressions and exercises of religious faith practiced by the astronauts, during the space explorations, were compatible with the First Amendment of the Constitution of the United States which guarantees the freedom of speech and religion. It is further resolved that the astronauts while engaged in any duties connected with the space program should not be obstructed from exercising these freedoms.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 271

Mr. DOLE. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Connecticut (Mr. DODD) be added as a cosponsor of Senate Resolution 271, calling for peace in Vietnam.

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

PROVISION THAT TIME SPENT BY A FEDERAL EMPLOYEE IN A TRAVEL STATUS SHALL BE CONSIDERED AS HOURS OF EMPLOYMENT—AMENDMENT

AMENDMENT NO. 263

Mr. STEVENS. Mr. President, I recently introduced a bill to make time spent by Federal employees in travel status hours of employment. It has since been pointed out to me that the original bill was too broad. I am submitting an amendment today intended to be proposed by me to S. 2880, which will make clear that time spent in travel status is hours of employment only if the employee is directed to undertake such travel as a part of his employment responsibilities.

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

The PRESIDING OFFICER. The amendment will be received, printed, and appropriately referred; and, without objection, the amendment will be printed in the RECORD.

The amendment, No. 263, was referred to the Committee on Post Office and Civil Service, as follows:

Strike out all after the enacting clause and insert:

"That (a) Section 5542(b)(2) of Title 5, United States Code, is amended to read as follows:

"'(2) time spent in a travel status away from the official duty station of an employee is hours of employment only if an employee is directed to undertake such travel as part of his employment responsibilities.

"'(b) The last sentence of Section 5544 (a) of such title is amended to read as follows: "Time spent in a travel status away from the official duty station of an employee subject to this subsection is hours of work only if an employee is directed to undertake such travel as a part of his employment responsibilities.'"

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION BILL, 1970—AMENDMENT

AMENDMENT NO. 264

Mr. BYRD of Virginia proposed an amendment to the bill, H.R. 12964, making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1970, and for other purposes, which was ordered to be printed.

(The remarks of Mr. BYRD of Virginia when he proposed the amendment appear later in the RECORD under the appropriate heading.)

TAX REFORM ACT OF 1969—AMENDMENT

AMENDMENT NO. 265

Mr. CANNON. Mr. President, I seriously question the wisdom of repealing the investment tax credit. It has been a mechanism of immense value to the economy, since it encourages plant modernization and therefore constantly improves productivity.

Repeal of the investment tax credit is proposed as a curb on inflation. I question whether it will have any such effect.

I am concerned that its repeal may instead contribute to inflation.

Inflationary trends of the past few years have been caused primarily by a soaring demand for goods and services. Newer, more productive capacity is the best means of meeting this demand and, thereby, easing inflationary pressures.

The 7 percent tax credit on investment in capital goods is one of the best tools we have for stimulating the replacement of less efficient productive capacity with the more efficient.

The need to expand and upgrade the country's productive capacity is a continuing one that has existed throughout our economic history. The investment tax credit is a long-term approach to meeting this need.

If the Congress decides, nevertheless, upon repeal, I urge most strongly that the credit be continued for the Nation's beleaguered transportation industry. The need to retain the investment credit for transportation is so compelling that I am offering an amendment to the tax reform bill to provide for continuation of the credit for regulated transportation.

Continuous improvement in transportation services is essential to our economic well-being. There is no question that, if the tax credit is repealed for transportation, some gain in productivity will be lost, contributing to inefficiency in our transportation system and in the economy at large. This is the only large Nation in the world with a privately owned and run transportation system and we want to keep it that way. But transportation is in trouble, not only in my own State of Nevada but across the whole country.

Airways and airports are congested and require a minimum expenditure of $20 billion in the next 10 years. At the same time, the airlines are having the most severe financial problems in years amid growing demand for air services. They must spend billions of dollars in the next few years for air and ground equipment to accommodate millions of new passengers. Repeal of the 7 percent investment tax credit will virtually wipe out one of the few viable financing mechanisms available to that industry—the tax credit lease. What will happen if the airlines are unable to finance the acquisition of badly needed new, more productive equipment? Certainly fares will have to be increased to meet the cost of inflation. Passengers and shippers will not be accommodated, and the economy will suffer. The only question is how much it will suffer.

As for the railroads, all of us are aware of the constant shortage of boxcars that plagues this industry year after year. The American consumer and our economy are the losers, as well as the railroads. At a time when we are demanding more services from the rails we should not be digging their tax grave.

Our Nation's maritime industry is in perpetual crisis. Not enough U.S. ships are being built. Loss of the investment tax credit can only worsen this very serious situation. Senators should be concerned that 93 percent of U.S. ocean freight is carried in foreign bottoms.

The investment credit has been extremely helpful in enabling the Nation's motor carriers of freight to keep abreast of the ever increasing demands for their service by America's shippers.

New industries are increasingly becoming highway oriented and the tens of thousands of communities served only by trucks are increasing in number. Railroads no longer or rarely handle shipments under 6,000 pounds and this also has thrown an additional burden on the highway carriers.

All of this calls for increased capacity, more rolling stock and the modernization of truck fleets. The more than 15,000 regular motor carriers are hard pressed to meet these demands in the face of increased cost of all kinds.

It is apparent that our transportation industries, upon which we all depend so heavily, are not in the best of financial health.

Therefore, Mr. President, I submit an amendment intended to be proposed by me to the investment tax credit repeal provision which will provide the Government and the Nation with far greater benefits than will be lost through diminished tax revenues. It would exempt from repeal the transportation services of all companies regulated by the Interstate Commerce Commission, the Federal Maritime Commission, and the Civil Aeronautics Board.

I hope my colleagues agree that such an amendment is profoundly in the national interest.

The PRESIDING OFFICER. The amendment will be received, printed, and will lie on the table.

AIRPORT/AIRWAYS DEVELOPMENT ACT OF 1969—AMENDMENT

AMENDMENT NO. 266

Mr. PROUTY. Mr. President, I submit an amendment, intended to be proposed by me to S. 3108, a clean bill introduced by the distinguished chairman of the Senate Commerce Committee for the purpose of airport/airways development. Before I explain the purpose of my amendment, Mr. President, I want to point out I am extremely pleased that the chairman has introduced a bill which incorporates so many of the proposals continued in the administration's airport/airways bill, S. 2437. Just the other day I was looking over the legislative history of the Federal Airport Act of 1946 and one fact stood out in my mind above all others—that was the distinguished senior Senator from the State of Washington was a member of the Senate Commerce Committee at that time. I suspect that WARREN MAGNUSON probably has served on that distinguished committee as long as any other Member ever to serve in this body.

I think all of us can agree that no man has done more toward the development in the field of aviation than WARREN MAGNUSON. I believe that the bill he introduced with other members of the committee to a large extent embodies Senator MAGNUSON's dream of having a truly great national airport system with the safest airways possible. All of us on both sides of the aisle owe a great debt of gratitude to the distinguished senior Senator from the State of Washington for introducing and fighting for such a comprehensive bill designed to insure that aviation in the United States is the best that man can provide.

Now, Mr. President, the amendment that I have introduced today includes a provision that was in the administration bill but was not included in the bill that the distinguished Senator from Washington introduced. I would be less than candid if I did not point out that my amendment concerns a subject about which reasonable men differ. My amendment, which is identical to a provision contained in the administration bill, would offer an incentive to States to enact State channeling laws whereby aid to airports would be channeled through State aviation agencies. At the present time there are 27 States which have State channeling laws. I ask unanimous consent, Mr. President, that some material explaining the role of the States in greater detail be printed in the RECORD immediately following my remarks.

In many ways, Mr. President, the disagreements concerning section 212 concern the same principles which were debated in this body in 1946 when the Federal Airport Act was first considered. At that time this body voted for a provision which would have channeled all Federal funds through State aviation agencies. They did so with the realization that only through close Federal-State cooperation can our Federal system work. Back in 1946 the House also agreed to such mandatory channeling of Federal funds for local airports through State aviation agencies but they reconsidered their position and the matter had to be resolved in a conference between the House and the Senate. During that conference the best compromise that could be reached was a provision which left up to the State the option of whether or not they wanted Federal funds channeled through State agencies. The material that I have submitted for the RECORD illustrates how many States have taken such action.

Mr. President, I realize that some States do not have laws which require the channeling of Federal airport funds through State agencies. My amendment to Chairman MAGNUSON's bill does not in any way force a State to adopt such a channeling provision. However, my amendment would serve as an encouragement for some States to enact such a law so that their State planning agency could receive funds for planning purposes.

Mr. President, I am certain that if my amendment were adopted, many more States would require the channeling of Federal airport funds through State agencies. I, personally, think such a Federal-State partnership is desirable and has worked well where it has been used. One example of where States have worked in close cooperation with local airports involves the New York Port Authority. New York and New Jersey require State channeling of Federal airport funds. With this requirement they have been able to build and operate the largest airport complex in the world.

In this day and age when all of us are realizing that the transportation policy depends upon the close cooperation between all the modes of transportation, I believe we should do all we can to encourage States to become more active in the area of aviation.

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

[From the National Governors' Conference, Office of Federal-State Relations, Oct. 8, 1969]

STATE ACTION IN AIRPORT/AVIATION DEVELOPMENT

STATE ACTION

Forty-eight States have state aviation agencies with various responsibilities including the channeling of Federal Aid to Airports; planning of state airport systems; granting of state aid to local airports; owning and operating airports; and owning and operating navigational systems and equipment.

Twenty-five states own and operate 691 airports, 314 of which are served by air carriers certificated by the Civil Aeronautics Board, in addition to state owned heliports.

Twenty-two states own and operate modern navigational equipment and facilities used by both commercial and private aircraft and recognized by the Federal Aviation Administration.

Twenty-seven states have "State Channeling" laws for the Federal Aid to Airports Program funds as authorized by the Federal Airport Act.

Thirty-three states have laws and procedures requiring varying degrees of state approval for federally aided local airport development projects.

STATE FUNDING OF AIRPORTS

Forty-three states have budgeted nearly $180 million for fiscal year 1970 for airport development. This is five times the funding available from the Federal Aid to Airport Program of $30 million.

Census Bureau figures show that in 1966 states spent $59 million for airports; 1967, the figure went up to $88 million; 1968 up to $96 million; 1969 estimates of $110 million.

In 1968 states received revenue from airports which they own of $26,549,000. Three states have experimented with passenger fees, and user charges collected at commercial airports for use by local airports. These have been challenged by litigation initiated by commercial carriers.

THE ROLE OF THE STATES IN AVIATION

(Submitted by A. B. McMullen, executive vice president, National Association of State Aviation Officials, at the request of House Ways and Means Committee, for record of hearings held September 17, 1969, on the schedule of aviation user charges proposed in S. 2437 and H.R. 12374)

The States have long been active in the field of aviation development and regulation. It is believed that the first aeronautical law of regulation in the world was enacted by the State of Connecticut on June 8, 1911. This was entitled: "An Act Concerning the Regulation, Number, and Use of Air Ships, and the Licensing of Operators Thereof." The first U.S. Air Commerce Act was adopted in 1926.

Forty-eight States currently have a Department, Commission, or similar agency to administer aviation and airport programs. A majority of these agencies were created under laws patterned after a "Model State Aeronautics Commission or Department Act" which was prepared jointly by the National Association of State Aviation Officials, the then Civil Aeronautics Administration (now Federal Aviation Administration), and the Council of State Governments.

The "State Channeling of Federal Aid Airport Funds Act", another model State Act which was developed by the same three state and federal organizations, supplements the Aeronautics Commission or Department Act, and is designed to facilitate full implementation of the Federal Airport Act of 1946, as amended.

The purpose of these two Acts was to provide—

(a) For each state the outline of an act which would: (1) create a state aeronautics agency with powers sufficient to permit it to develop aeronautics in the state and to deal with the enforcement of certain phases of aeronautical safety regulation in harmony with federal air law and in cooperation with the federal aeronautical agencies; (2) permit the state to make available state financial, technical, and other assistance to municipalities for airport purposes and to develop state-owned airports.

(NOTES.—The States currently own and operate 700 airports, 315 of which are served by certificated air carriers. See attachment to statement presented by A. B. McMullen before House Ways and Means Committee, September 17, 1969.)

(b) Require State approval of project applications for aid under the Federal Airport Act submitted by political subdivisions, and to require the channeling of Federal aid funds through the state.

The purpose of the underscoring in the foregoing paragraphs is to point out that the position of the National Association of State Aviation Officials with respect to the role of the states in aviation is embodied in the language of the various model Acts which have been prepared, approved, updated as necessary, and endorsed by the Association.

States that have adopted these laws have the authority and responsibility to—

(a) Act as the agent of sponsors of airport projects located in the state;

(b) Accept in behalf of the sponsors and disburse to them all payments made pursuant to grant agreements under the Federal Airport Act;

(c) Acquire by purchase, gift, devise, lease, condemnation, or otherwise, any property, real or personal, or any interest therein, including easements, necessary to establish or develop airports;

(d) Engage in the development of a statewide system of airports, and

(e) Undertake airport development, or provide financial assistance to public agencies within the state for carrying it out.

(NOTE.—During FY 1970, 43 states will contribute $178,959,485 for airport development, approximately 6 times the amount made available under the Federal Aid Airport Program. State aid for airports in FY 1970 is 14 times the amount made available for airport development in 1959, 10 years ago, whereas Federal aid is less than one-half of the amount appropriated in 1959.)

Under Section 212 of S. 2437 and H.R. 12374, the Federal Government offers encouragement to all states to undertake the five functions listed above and NASAO policy is in agreement that these are responsibilities that are properly within the purview of the states. This would lead not only to the development of an adequate system of airports, intelligently planned, efficiently administered and economically financed, but it should also streamline the Federal aid airport program and make it less expensive to administer by requiring the Federal government to deal with only the 50 States, in a manner comparable to the highly successful Federal Highway Program, rather than dealing with hundreds of individual communities.

In addition to providing engineering and technical assistance, and rendering substantial financial aid to their political subdivisions for the construction and improvement of airports, as well as generally administering the Federal Aid Airport Program where state law requires the channeling of federal funds and/or approval of project applications, the States have engaged in many other activities under laws charging them with broad responsibility for the development and regulation of aeronautics. While these activities are too numerous to outline in detail, several considered vital to the protection of the citizens of the various states and the welfare of the aviation industry are outlined below:

(1) It has been and will continue to be impossible, financially and otherwise, for the federal government to maintain a personnel force capable of preventing and/or enforcing violations of safety regulations. Thus, this responsibility has been assumed by most of the states, through the aviation agencies, state and local police departments.

(2) The same is true in the investigation of non-fatal accidents involving non-commercial aircraft, and the states have assumed the responsibility for securing wreckage until federal investigators arrive at the scene, or conducting the investigation and turning their findings over to appropriate federal officials.

(3) State aviation agencies are constantly seeking to improve scheduled airline service to cities within their respective states, and represent the state, and often individual communities, before the Civil Aeronautics Board in airline route and service cases. They also work closely with individual carriers in developing air transportation markets in cities that could not otherwise be served economically by the scheduled carriers.

(4) The Federal Government has no authority or responsibility in the field of intrastate air service and the states, either through their aviation or utility agencies, certificate and regulate these intrastate carriers for the safety and economic protection of the citizens of their respective states.

(5) State aviation agencies are responsible for State and Regional Defense Airlift Planning (SARDA Plan developed by the Federal Government), to assure that an adequate organization and means are available in time of emergency to effectively utilize non-air carrier aircraft in support of military and civil defense, survival and recovery of the economy.

(6) Many of the states have air marking programs, and provide funds for the installation, operation, and maintenance of state-owned air navigation and communications aids where federally provided aids of this type do not exist.

(NOTE.—For detailed information regarding state navigation aids programs, see attachments to statement presented by A. B. McMullen before House Ways and Means Committee, September 17, 1969.)

(7) State aviation agencies sponsor safety clinics and refresher courses for pilots, mechanics, and instructors, as well as conduct seminars dealing with the major causes of aircraft accidents, such as weather, air turbulence, etc.

(8) These agencies also sponsor Teacher Workshops in cooperation with various colleges and universities and otherwise work with State Education Departments in the introduction of aviation into the curriculum.

As indicated previously, all but two states have established an agency or office responsible for the administration of aviation and airport development programs.

Adoption of legislation containing provisions such as those recommended by the Administration and incorporated in Section 212 of S. 2437 and H.R. 12374, will provide the catalytic force and necessary incentive for all states to assume authority and responsibility, and to adequately staff for the planning and administration of both state and Federal airport development programs, as they have for state and Federal highway programs.

It must be realized, however, that the States require funds to carry out their aviation programs, which are an integral part of Federal programs, and that some of their revenue sources are the same as those of the Federal Government. Therefore, Federal taxes on fuel consumed by non-commercial aircraft, a principal source of state income for aviation purposes, must not be so high as to preempt this source of income.

For reasons outlined herein, NASAO strongly recommends that language similar to that contained in Section 212, be included in any airport/airways legislation adopted by the 91st Congress, and that the Federal tax on non-commercial fuel remain at less than 6¢.

PREPARED BY NATIONAL ASSOCIATION OF STATE AVIATION OFFICIALS, STATE-OWNED AIRPORTS; STATE FUNDS AVAILABLE FOR AIRPORT DEVELOPMENT

SUMMARY

Twenty-five States own and operate 691 airports, 314 of which are served by air carriers certificated by the Civil Aeronautics Board. (NOTE.—This does not include several State-owned Heliports.)

Forty-three States have a total of $178,959,485 available for airport development during fiscal year 1970. (NOTE.—Funds appropriated or otherwise made available for airport development in some States is unusually low, in comparison to previous amounts available for this purpose. This is due in part to a reduction of the Federal Aid Airport Program to $30 million for FY 1970.) The amounts shown below do not include funds for State airport system planning.

STATE OWNED AIRPORTS

State	Served by CAB certified carriers	Not served by CAB certified carriers	State funds available for airport development, fiscal year 1970
Alabama		4	$350,000
Alaska [1]	283	215	35,000,000
Arizona			200,000
Arkansas			125,000
California		1	[2] 1,900,000
Connecticut	2	3	7,000,000
Georgia		2	250,000
Hawaii [3]	12	2	71,952,000
Florida		3	
Idaho		30	268,000
Illinois	[4] 1		8,458,000
Iowa			200,000
Kentucky		3	1,225,000
Louisiana		1	500,000
Maine	1	2	[5] 3,447,500
Maryland	([6])		1,300,000
Massachusetts [7]	2		500,000
Michigan	1	4	4,100,000
Minnesota			4,000,000
Mississippi	1		87,500
Missouri	[8] 1		200,000
Montana	1	11	248,000
Nebraska		5	600,000
New Hampshire		1	750,000
New Jersey			([9])
New Mexico		5	127,000
New York			[10] 17,500,000
North Carolina			250,000
North Dakota		2	100,000
Ohio			4,000,000
Oklahoma			150,000
Oregon		43	675,000
Pennsylvania	3	2	1,000,000
Rhode Island [11]	1	4	2,800,000
South Carolina	2	19	906,985
South Dakota			778,000
Tennessee			1,350,000
Texas		3	650,000
Utah			1,700,000
Vermont	3	8	360,000
Virginia			2,500,000
Washington		13	125,000
West Virginia			500,000
Wisconsin			700,000
Wyoming			126,500
Total	314	377	178,959,485

[1] Alaska owns and operates all public-owned airports in State, except 2.

[2] California will also pay $200,000 in 1970 for Decca system—part of a 3-year, $600,000 test of system for low level navigation.

[3] Hawaii owns and operates all public-owned airports and heliports in State.

[4] Illinois constructing new airport, to be owned by that State but primarily to serve St. Louis, Mo. metropolitan area.

[5] Legislative action on airport development funds not yet completed.

[6] State presently contemplating purchase of Baltimore-Friendship airport.

[7] Two airports operated by Massachusetts Port Authority. Legislation stipulates that Authority is branch of State government.

[8] Airport to be opened in fall of 1969—air carrier service expected within a year.

[9] New Jersey will request $1.5 million for airport development when legislature convenes in 1970.

[10] Amount obligated from $50,000,000 available.

[11] Rhode Island owns and operates all public-owned airports in State. Legislative action on airport development funds not yet completed—part of a 10-year long-range program totaling $28 million. An additional $1.7 million will be available for operation, maintenance, and minor improvements.

BRIEF FACTS CONCERNING NEW YORK AND NEW JERSEY AND THE PORT OF NEW YORK AUTHORITY

1. The New York Port Authority was created by an interstate compact between New York and New Jersey and approved by the states' legislatures and the Congress in 1921.

2. Both New York and New Jersey adopted the Model State Channeling of Airport Funds in 1947. Since that time both states have channeled all federal funds for airports through their state aviation agencies to the Port Authority. The state law requires that plans for airport development proposed by the Port Authority must be coordinated through the states involved.

3. In 1966 New Jersey created a state Department of Transportation. New York State created a department of transportation in 1967. In the same year New York State enacted the $25 billion Transportation Capital

Facilities Bond Issue. $250 million of this fund will go for aviation developments.

4. The channeling acts in each state enable them to integrate the Port of New York airport development with access facilities including bus, highway, waterways, and rail transit.

5. Neither the Port Authority nor the States have experienced any difficulty in developing the comprehensive transportation system needed for the metropolitan region.

The PRESIDING OFFICER. The amendment will be received, printed, and appropriately referred.

The amendment was referred to the Committee on Commerce.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Anthony E. Rozman, of Michigan, to be U.S. marshal for the eastern district of Michigan for the term of 4 years, vice Orville H. Trotter, term expired

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Tuesday, November 11, 1969, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

UNIVERSITY ECONOMISTS AND LAWYERS FAVOR HOUSE BILL ON TAX REFORM

Mr. KENNEDY. Mr. President, today's New York Times contains a significant letter from Prof. Richard A. Musgrave, of Harvard University, on the subject of tax reform. In his letter, which was signed by 14 other distinguished economists and lawyers, Professor Musgrave emphasizes some of the most important changes made by the Committee on Finance in the Tax Reform Act passed by the House. He urges the Senate to restore the provisions of the House bill in areas such as the minimum tax and allocation of deductions, the holding period and alternative tax rate for capital gains, and the Federal interest subsidy for State and local bonds.

I am informed that the other signers of the letter are Profs. William D. Andrews, of Harvard; Harvey Brazer, of Michigan; George Break, of the University of California at Berkeley; E. Cary Brown, of MIT; John Due, of Illinois; Arnold Harberger, of Chicago; Walter W. Heller, of Minnesota; Daniel Holland, of MIT; Harry Kahn, of Rutgers; Oliver Oldman, of Harvard; Joseph Pechman, of Brookings; Carl Shoup, of Columbia; Melvin White, of Brooklyn College; and Bernard Wolfman, of Pennsylvania.

Mr. President, the signers of the letter are among the most eminent economists and tax lawyers in the Nation. I believe that their views will be of interest to all Senators who are concerned with the cause of tax justice.

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:

FOR HOUSE TAX BILL

TO THE EDITOR:

Current press reports on the mutilation of the House tax reform bill at the hands of the Senate Finance Committee are distressing. The House bill, which offers the most important step towards constructive tax reform in many years, deserves a better fate.

The thrust of the bill aims at narrowing the scope of tax preferences available to high-income taxpayers, and thus to correct what has become recognized increasingly as an intolerable situation. Two main items are an effective minimum tax for individuals based on income prior to allowance for tax preferences, and the prorating of deductions between taxable income and income excluded by such preferences.

The former provision has been watered down greatly by the Finance Committee with regard to high-income individuals, and the latter has been discarded altogether.

Other provisions of the House bill, such as repeal of the alternative 25 per cent capital gains rate, extension of the holding period for short-term capital gains, and a modest step towards a more rational treatment of interest paid by state and local governments have also been discarded. Moreover, the proposed reduction in depletion allowances has been cut by one-half.

While other aspects such as tightened taxation of real estate are to be retained, the Finance Committee's cut-backs have gone far beyond the modifications in the House bill which were proposed by the Administration and threaten to scuttle the entire reform.

Adoption of these amendments to the House bill will severely damage taxpayer morale and the fiscal strength of the country, and this at a time when national resolution to deal with social inequities is most urgently needed.

As teachers and students of taxation, the undersigned have for long been advocates of structural tax reform, pointing to a broadened and more equitably defined income tax base. While the House bill does not solve all problems, and the proposed rate reduction is premature, it surely takes a major step towards structural reform.

We therefore urge that the weakening actions of the Finance Committee be reversed on the Senate floor and that the structural components of the House bill be written into the Senate version.

R. A. MUSGRAVE.

U.S. FOREIGN POLICY AND RATIFICATION OF THE HUMAN RIGHTS CONVENTIONS

Mr. PROXMIRE. Mr. President, the late President John F. Kennedy, in one of his most brilliant speeches, declared that peace is "in the last analysis, basically a matter of human rights." Conflict has always developed when one individual felt that another was violating his basic rights. For many years the basic foreign policy of this country has been to reduce conflict and promote cooperation on an international scale to promote peace. Essential to the success of such a policy is the recognition of certain international human rights.

Unfortunately, the United States, though committed in principle to the promotion of human rights, has taken very little concrete action to insure their acceptance. We are only too happy to adopt sweeping declarations of our belief in the dignity of mankind, but are very reluctant to work toward actual implementation. I am sure that no Senator opposes the abolition of forced labor, political rights for women, or the outlaw of genocide. No one would deny that these are very basic rights. Yet, when we are asked to recognize these rights officially on an international scale, we start making excuses such as, "we cannot do anything because they fall within the domestic jurisdiction of the State." Of course they fall within the domestic jurisdiction. Each State must guarantee basic rights to their citizens. What is more, however, each State must guarantee the same right to citizens of other nations. Only this will guarantee mutual respect for the rights of others and prevent the growth of conflict. To protect the rights of some individuals and deny the same protections to others is to spread the seeds of war.

Equal protection under the law has been guaranteed to all Americans since the founding of the Nation. Why should we deny the same protection to all peoples?

The time has come to act on the beliefs which Americans take for granted. To continually advance these beliefs before the world and do nothing to guarantee their universal acceptance is to practice the worst from of hypocrisy. Further preaching without action can only antagonize those people who look to us for leadership. By ratifying the three human rights conventions covering political rights of women, genocide, and forced labor we would underscore our commitment to these basic freedoms. We would underscore this commitment in a way which is unmistakable. Our intent would be clear. Once again we would be recognized as the world's greatest defender of basic freedom.

Mr. President, this reaffirmation is desperately needed. We are losing ground in the eyes of the world. We must reverse this trend if we are to preserve our status as a great power. Ratification of the human rights conventions will be an important step on the road to recovery of basic respect in the eyes of the world.

CRITICAL SHORTAGE OF NATURAL GAS

Mr. MOSS. Mr. President, on November 12 and 13, as I have previously announced to the Senate, the Subcommittee for Minerals, Materials, and Fuels of the Committee on Interior and Insular Affairs will hold hearings on the potentially critical shortage of natural gas facing this country. A great deal of interest has been generated from my announcement that these hearings would be held, and I am sure that we will have a thorough examination of the problem at that time.

I was interested to read in the Sunday, November 2, Washington Post, an article on this matter written by Lisa Cronin. I ask unanimous consent that the article be printed in the RECORD.

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

NATURAL GAS DEFICIENCY IS FORECAST

(By Lisa Cronin)

NEW YORK.—Industries seeking to expand their gas consumption or convert to natural gas to reduce air pollution are being turned down in some areas due to shortages of the cleaner burning fuel.

Utilities say they can't guarantee gas supplies for conversion in some areas, said W. Morton Jacobs, president of the American Gas Association. The Bureau of Natural Gas in its latest national study, moreover, has forecast a deficiency by 1974.

Consolidated Natural Gas in New York said it "will honor all existing contracts to industry customers but at the moment we will not take on any large industrial customers."

Rochester Gas & Electric, which gets its gas from Consolidated, said it recently turned down a request from Eastman Kodak Co. for a major gas conversion project.

"We've had a number of our customers indicate an interest in converting from other fuels and we expect in the coming months we are going to turn down these new loads," a Rochester Gas spokesman said.

DEMAND . . . BALLOONED

He said the main call for conversions to natural gas came from industries wanting to combat air pollution.

"Market demand simply has ballooned all out of proportion," said James B. Henderson, president of Transcontinental Gas Pipeline Corp. His company serves utilities on the East Coast from Alabama to New York City.

By 1970, he said, "we could sell twice as much gas if we were able to bring it to market."

Several big companies in concentrated industrial areas have switched to gas, which now supplies a third of the country's energy needs, to lessen air pollution.

CPC International's refined syrups and sugars division in Yonkers, N.Y., has converted. A spokesman explained it avoided the problems of fly ash, sulfur dioxide and other pollutants produced by its previous fuel, coal.

LONG-TERM NEEDS

CPC's supplier, Consolidated Edison Co. of New York, said it had 64 major industrial or commercial conversions to gas this year. Con Ed said it faces no supply problem this winter, or in the near future. But it said it looks to liquid natural gas to help meet its long-term needs.

Peoples Gas of Pittsburgh, which serves 16 counties in Western Pennsylvania, said four major industrial customers who asked that their names be withheld are using gas because of its clean air characteristics.

Detroit's Consumer's Power Co. said it switched it own electric generating plant near Kalamazoo from coal to gas for pollution reasons.

In Indianapolis, Citizens Coke & Gas said a big shift to gas is taking place among local industries. Companies switching include Ford's local truck plant, a Jones & Laughlin steel warehouse and a Chrysler Corp. plant. A shift also is taking place at Ft. Benjamin Harrison, an Army base, and about a dozen big schools are changing to gas.

EAST AFFECTED MORE

There has been no strain on supply in Indianapolis because the shift was anticipated, a spokesman said.

Gas supplies mainly have been affected in the East, but a Midwest pipeline company is backing off on expansion because it lacks sufficient supplies.

Northern Natural Gas Co. in Omaha said it was trying to withdraw a pipeline application it had made with the Federal Power Commission because it didn't have enough gas reserves for the projected line.

Texas Eastern Transmission Corp. said the West Coast gas supply also may face growth problems. The company serves these markets through Transwestern Pipeline Co., a subsidiary.

"We simply are not getting the new reserves we would like to have," a spokesman said. "We have all the gas needed to fill current commitments, but the situation is hard to deal with when it comes to new supply requirements." The spokesman said the supply problem does not affect expansions in development for months.

HOMEOWNERS UNAFFECTED

The utilities stressed that any supply problems would not affect the home owner. "No one's stove is going to be cut off with a Thanksgiving turkey in it," said a spokesman for the Elizabethtown (N.J.) Gas Co.

John N. Nassikas, chairman of the Federal Power Commission, said there is no crisis or widespread gas shortage, but cautioned that steps are needed to avoid long-term shortage.

VETERANS' DAY

Mr. BYRD of West Virginia. Mr. President, beginning on November 10, nine veterans organizations including, among others, the American Legion, Veterans of Foreign Wars, Military Order of the World Wars, Disabled American Veterans, Retired Officers Association, Reserve Officers Association, Fleet Reserve Association, will join—along with the members of the National Guard of our 50 States—in the observation of a National Week of Confidence in America.

On Veterans' Day, November 11, for example, there will be a Freedom Rally in Washington to include services at the Washington Monument and at Arlington National Cemetery.

The late President John F. Kennedy, himself the commander of a PT boat in World War II, once pointed out that West Virginians were second to none in this country in their devotion to the freedom and security of their Nation. This has been well attested to by the large numbers of West Virginians who have served in our Armed Forces and, indeed, by the motto of the State: "Mountaineers Are Always Free."

A native son of West Virginia, Prof. James D. Atkinson, of Georgetown University, has, I believe, sounded the keynote for this week of rededication to the principles which have made our country great. He did this in a prayer which he read to his class in the Conduct of U.S. Diplomacy on the occasion of the October 15 moratorium protest day. It should serve to alert our people that professors and students alike who support our country are in the majority, not the minority.

Professor Atkinson is a native of Weston, Lewis County, W. Va. He comes from a pioneer West Virginia family whose people were among the first to settle in Kanawha County. His great uncle, George Wesley Atkinson, was a former Governor of our State.

In these troubled times, when all of our people want peace—but a just and lasting peace—I believe that Professor Atkinson's statement is especially meaningful. I ask unanimous consent that it be printed in the RECORD.

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

STATEMENT BY PROF. J. D. ATKINSON, DEPARTMENT OF GOVERNMENT, GEORGETOWN UNIVERSITY

The Moratorium Day Committee requested University Professors in colleges and universities across the entire United States to do something meaningful on October 15, 1969, relating to the war in Vietnam and the U.S. involvement in that war. Accordingly, in my class on the Conduct of U.S. Diplomacy at 10:15 a.m. on Wednesday, October 15, 1969, I, Professor J. D. Atkinson, Department of Government, Georgetown University, responded with a discussion of the foreign policy issues relating to the Vietnam war, following which I read a short prayer which I had composed for the occasion.

I composed this prayer with the thought that the clergy—many of whom were adopting what seemed to be a political stance on the Vietnam Moratorium—would not object to a layman reading a prayer. I also attempted to compose a prayer to which members of the Jewish faith, Protestants of all churches, and Roman Catholics would all alike subscribe to, if they wished. This is the prayer:

O God of Israel, of Abraham, of Isaac and Jacob, whom we Americans acknowledge in our own Declaration of Independence, grant that we do not dishonor *our nation* by denying freedom to the people of South Vietnam.

Grant, O Lord that the Americans who have given their lives in Vietnam have not died in vain.

Strike down the hand of the wicked, enlighten the minds of the weak, of the ignorant, and of the misguided that the United States may honor the pledge of Thy late servant, President John Fitzgerald Kennedy, not to abandon the poor people of South Vietnam.

Do not deliver them, O Lord, into the hands of the brutalitarian Communists of North Vietnam whose crimes against humanity far exceed even those of Stalin and of Hitler, but order that the peasants, the workers, and the other good people of South Vietnam be kept under Thy protection. As we Americans have trusted in Thee and as the South Vietnamese have trusted in us, do not, O Lord God, abandon either us or them. Amen.

EMERGENCY DETENTION PROVISION OF INTERNAL SECURITY ACT OF 1950

Mr. INOUYE. Mr. President, earlier this year, I introduced, with 25 other Senators, S. 1872, a bill to repeal title II of the emergency detention provision of the Internal Security Act of 1950.

As evidence of the growing support for this legislation, I ask unanimous consent to have printed in the RECORD an editorial published in the Honolulu Star-Bulletin and resolutions adopted by the Honolulu Japanese Chamber of Commerce and the 442d Veterans Club. As the editorials and resolutions point out, title II of the Internal Security Act of 1950 is contrary to the accepted traditions and precedents of our legal system. I again urge the Senate to repeal title II.

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

[From the Honolulu Star-Bulletin, Oct. 27, 1969]

WATCH YOUR LIP!

For the past 19 years a razor sharp ax has hung perilously over the heads of all Americans, held immobile only by a thin threat of circumstances.

That ax is Title II, the emergency deten-

tion provision of the Internal Security Act of 1950, the so-called McCarran Act.

The threat of questionable strength that keeps the blade from falling is the weak refrain of those who defend the McCarran Act that "This couldn't happen in America."

The McCarran Act gives the President the power to proclaim an "internal security emergency" in event of 1) invasion of the United States or its possessions; 2) declaration of war by Congress; and 3) insurrection within the United States in aid of a foreign enemy.

Should the "internal security emergency" be declared, the President may detain persons "if there is reasonable ground to believe that such a person will engage in acts of espionage or sabotage."

Hawaii's Sens. Daniel K. Inouye and Hiram L. Fong and Reps. Spark M. Matsunaga and Patsy T. Mink are sponsoring bills in Congress for repeal of Title II.

They point out that Title II has never been tested in the courts.

Before the Senate, Inouye noted that Title II became law over the veto of President Truman, who said the great majority of the law's provisions "would strike blows at our liberties."

Additionally, Sen. Inouye said, "widespread rumors have circulated throughout our Nation that the Federal Government is readying concentration camps to be filled with those who hold unpopular views and beliefs. These rumors are widely circulated and believed in our urban ghettos . . ."

Congressman Matsunaga noted, in his call for repeal, "As a lawyer, I find that Title II . . . is repugnant to the accepted traditions and precedents of our legal system . . ."

The McCarran Act is reminiscent of 1942 when 110,000 Americans of Japanese ancestry were arrested, their property confiscated and they were detained in "relocation camps" for most of World War II.

Any person or group detained under this act would be assumed guilty and have the onus of proving innocence.

When it was conceived, Title II was sharpened especially for the Communists. But, as it is written, the President conceivably could apply its provisions to any group—Black Panthers, Mormons, Yippies or another.

What Title II says, in essence, is that everyone should "watch your lip," or else.

Title II is ridiculously horrifying in our "due process" society.

Its implications are readily apparent. Of course it has never been used—but it is there; it has remained a threat over the last 19 years to any group whose views run counter to those of the man in the White House.

Sens. Inouye and Fong have the backing of 24 other U.S. senators for their repeal proposal; Reps. Matsunaga and Mink are joined by 125 co-sponsors.

The sooner Title II is repealed the better. There is always a chance that the ax will be allowed to fall.

RESOLUTION OF HONOLULU JAPANESE CHAMBER OF COMMERCE

Whereas, The Honolulu Japanese Chamber of Commerce, being a duly ordained and organized group of Americans in the State of Hawaii, recognizes that sub-title II of the Internal Security Act of 1950 (Emergency Detention Act) presents a serious threat to the civil rights of all Americans, and

Whereas, The Emergency Detention Act authorizes detention of any person on the mere probability that he will engage in, or conspire with others to engage in acts of espionage or of sabotage during proclaimed periods of "Internal Security Emergency", and

Whereas, The Emergency Detention Act fails to provide for trial by jury, or even before a judge, substituting instead hearings before a departmental preliminary hearing officer and a detention review board where the detainee must prove his innocence but the government is not required to furnish evidence or witnesses to justify the detention, and

Whereas, The Emergency Detention Act thus violates the basic rights of the individual guaranteed by the Constitution of these United States and provides for detention procedures which are inconsistent with our normal judicial procedures, now therefore

Be it resolved That, The Honolulu Japanese Chamber of Commerce strongly urge the repeal of sub-title II of the Internal Security Act of 1950, and

* * * * *

RESOLUTION OF 442D VETERANS CLUB, HONOLULU, HAWAII

Whereas (1) The Americans of Japanese ancestry, from previous experience in emergency detention, recognize the danger of Sub-Title II of the Internal Security Act of 1950 (Emergency Detention Act), to the civil rights of all Americans, and

Whereas (2) The Emergency Detention Act provides that, during periods of "Internal security emergency", any person who *"probably* will engage in, or *probably* will conspire with others to engage in, acts of espionage or of sabotage" can be incarcerated in detention camps, and

Whereas (3) A person detained under the Emergency Detention Act will not be brought to trial under law, but instead will be judged by a Preliminary Hearing Officer and a Detention Review Board, where the detainee must prove his innocence but the government is not required to furnish evidence or witnesses to justify the detention, therefore, be it

Resolved (A) That the 442nd Veterans Club of Honolulu, Hawaii reaffirms it's opposition to Sub-Title II of the Internal Security Act of 1950 (Emergency Detention Act), and it be further

Resolved (B) That the 442nd Veterans Club of Honolulu in conformity with it's opposition to aforesaid Sub-Title II of the Internal Security Act of 1950 adopt this resolution urging the members of the 91st Congress of the United States of America to repeal said Sub-Title II of the Internal Security Act of 1950, and be it further

Resolved (C) That duly certified copies of this resolution shall be forwarded to the Congressional Delegation of Hawaii:

Senator Hiram L. Fong.
Senator Daniel K. Inouye.
Representative Spark M. Matsunaga.
Representative Patsy T. Mink.
Dated: Honolulu, Hawaii, Oct. 22, 1969.

TWO AMENDMENTS TO TAX BILL TO HELP UTAH INDUSTRY

Mr. MOSS. Mr. President, I commend the Committee on Finance for action recently taken which will benefit Utah and surrounding oil-shale States.

On September 12, I submitted two amendments. One of them would give the same percentage depletion allowance to minerals extracted from the brine of the Great Salt Lake that those minerals receive when extracted from land resources. The lake has been considered like the ocean, an inexhaustible resource. Therefore, no depletion allowance is allowed. But the fact is that the lake minerals are exhaustible and should receive the same consideration as extraction of minerals from dry land. I am delighted the Committee on Finance has now accepted this amendment, and if it is agreed to by the Senate and eventually the House, the future industrial development of the lake will be tremendous.

The other amendment adopted by the Committee on Finance will allow the same depletion allowance for oil from shale after the retorting state, the same as crude oil extracted from wells receives. I submitted an amendment to this effect on September 12. The only way the oil shale depletion allowance can be made fully equal to the oil depletion allowance is for it to pertain to shale oil at a time when the product is retorted and in liquid form, rather than when the shale is in the crushed rock state. I am glad the Committee on Finance has adopted this amendment. The adoption of this amendment by the Senate would greatly encourage the development of a truly tremendous potential source of energy within our country that the Nation will need for its security and economic growth during the next few years.

The senior Senator from Utah (Mr. BENNETT) strongly backed the adoption of this provision, as did Senators from the other oil-shale producing States, Wyoming and Colorado.

FLOOD INSURANCE

Mr. SYMINGTON. Mr. President, the recent 75-percent freeze on all new Federal construction contracts can only result in delays in the completion of many Corps of Engineers flood control projects. These delays will be costly indeed, because they will mean that vitally needed flood protection will be postponed in many areas. Thus, this situation underlines the need to move ahead with the Federal flood insurance program which is designed to protect communities from the ravages of seasonal flooding and hurricanes.

On September 24, I warned that the flood insurance program was becoming hopelessly bogged down because time-consuming studies were needed to establish local actuarial rates. This is evident in the fact that only three U.S. cities have qualified for flood insurance to date.

I am pleased to note, therefore, that the House version of the Housing and Urban Development Act of 1969 includes a provision introduced by Representative ST GERMAIN to permit the Secretary of Housing and Urban Development to grant flood insurance to communities in which these studies have not yet been completed. This measure would solve the problem of the heavy backlog of communities waiting to be studied and would allow the flood insurance program to be carried out as was the intent of Congress in 1968, when the National Flood Insurance Act was passed.

I would hope that Congress will adopt this measure; and inasmuch as it will shortly be before a Senate-House conference committee, I would urge the Senate conferees to support this provision.

Moreover, I would recommend that all interested communities make application to the Federal Insurance Administration, Department of Housing and Urban Development, so that they might be eligible to receive the benefits of this program if the Congress acts favorably.

Recently Station KCMO in Kansas City, Mo., broadcast an editorial which summarized the need to cut the delays which have brought this program to a standstill. I share their concern and ask unanimous consent that this thoughtful editorial be printed in the RECORD.

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

FLOOD INSURANCE

(By Jim Monroe, director, KCMO Public Affairs)

Flood insurance struggles against red tape. Communities located on flood-prone rivers in Mid-America need to take advantage of the federal insurance program, but the process of qualification is defeating them. *Missouri Senator Stuart Symington* reports it may be fifteen years before many communities can become qualified.

Federal money is available to private insurance firms to help pay the high premiums for flood insurance so local communities can afford the price. The new law designates the Army Corps of Engineers to conduct surveys in each case to prove likelihood of damaging floods, but any community desiring to qualify for flood insurance must request the survey. Even if all interested eommunities in Missouri and Kansas made survey requests, the Corps of Engineers is not provided extra manpower to do the work speedily. After the survey establishes flood potential, each community must comply with land usage regulations before it finally is eligible for insurance.

More than two years has elapsed since flood insurance was authorized, but no more than a handful of communities in the whole country have qualified. To add more confusion to the picture is a tentative deadline of next June 30 for completion of the survey and community compliance with regulations. What we may really need is insurance against red tape.

This has been a KCMO editorial. Copies are available on written request. If you have a different opinion, we invite your comments. Send them to SPEAK UP, KCMO Broadcasting, Kansas City, Missouri.

MIGRATION TO MISERY

Mr. MONDALE. Mr. President, the Palm Beach, Fla., Post-Times has recently completed an eight-part series entitled "Migration to Misery." The author of the series, Kent Pollock, has written what I consider to be one of the most vivid descriptions of the realities of the migrant and seasonal farmworker problem that I have read.

In the first of the series, Pollock discusses the people that he met in his field investigations, and describes the self-perpetuating cycle of migrancy in which they are caught.

Migrant farmworkers, whose strong backs, calloused hands, and seasoned muscles are their livelihood, live in an American atrocity in terms of their housing, food, and the entire atmosphere in which they exist. Pollock finds that "migrants are the unwanted people, except at harvest time. Even then they are not accepted as members of communities."

Pollock notes that migrants have few friends and many enemies, and that they are often exploited by many, including their own people. He gives an example of a man that sold migrants life insurance on a weekly basis, and when the migrant died and his family sought relief, they found the insurance was for an automobile. The man did not own an automobile.

Pollock notes that—

Some farmers have automatic systems to water their beans, but their workers live in housing without showers and inside toilet facilities. Some have insulated cow barns while their workers must live in tin shacks and cram old newspapers into cracks to keep the wind out.

The second of the series of articles discusses in greater detail the perpetual cycle that traps the migrant and concludes:

Sickness, disability, bad fortune—tragedy sometimes provide the only exit from the migrant stream.

Pollock attempts to understand what makes a migrant continue to travel from State to State in search of back-breaking work by analyzing his educational background. Migrant children at an early age work alongside their parents, and are rarely spared from working in the fields long enough for school attendance. Child labor laws are not enforced, and few compulsory attendance laws are applied to migrant children. It is not unusual that we find that the average migrant and his family had attained an education equivalent of only 8.6 years, and that over 17 percent of all migrants are functionally illiterate. This perilously low level of education perpetuates an inability to perform other than unskilled tasks. More importantly, it perpetuates a lack of confidence to try other work, and locks the migrant into the cycle of poverty.

In the third of the series of articles, entitled "Squeezing Out a Living," the author discusses the pay that migrants receive, the extent to which laws such as the Crew Leader Registration Act are not enforced, and in describing the nature of the work, notes:

The migrant might work like a machine and live like an animal, but he is a human being.

In the fourth and fifth columns, the housing situation is discussed:

Everyone in a position to better migrant housing is aware of the problem. But some simply won't publicly admit that there is a housing shortage. There is no quick solution. Meanwhile, the migrants suffer. They are serving life sentences in the prison of their environment.

The plight of the elderly migrant is discussed in the sixth article.

In the seventh of the series of articles, the author discusses an extensive interview that he had with Elijah "Bubba" Boone, who at one time was a migrant, but because of education and drive has been able to settle out of the stream. In this interview—much as he did when he testified before the Subcommittee on Migratory Labor, Boone discusses the reasons that migrants are unable to leave the stream and the need for change which he feels can be accomplished only through power:

Money makes power, education makes power, legislation makes power—we have none of these. All you can do is hope for change and this I do every day.

In the final article, Kent Pollock talks about efforts to improve migrant conditions in Palm Beach County, Fla. He notes that although that effort has been expansive, it has not been enough.

Mr. President, as Chairman of the Subcommittee on Migratory Labor, I have become personally aware of the facts and realities covered in these articles. I regret that I have to report to the Senate that too much of this discussion and these conclusions are all too true.

Because of their significance, I ask unanimous consent that the series of eight articles be printed in the RECORD.

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

[From the Palm Beach (Fla.) Post-Times, Oct. 5, 1969]

THEY LIVE UNWANTED, IN THE SHADOWS OF SOCIETY

(By Kent Pollock)

Georgia Johnson stooped down, ran his fingers through a plant and came up with 14 string beans. His 70-year-old body ached, but he continued to work.

Caught in a self-perpetuating cycle, Georgia has to work. He is a migrant.

Lillie Mae Brown, 61, leaned back on her rusty bed and cried. A plaque inscribed with the Lord's prayer hung over her head.

Lillie Mae was a migrant all her life until her body gave out. Now she sits alone in her one-room shack, praying, waiting to die.

Harvey Woodard sat atop an unmounted, muddy tire. A broken man, he was drunk in the middle of the day. The smell of cheap wine surrounded him.

Harvey turned to wine years ago when he began migrating—nothing else reduced his misery. In the past two months, Harvey has made about $100.

The plight of the migrant is full of untold stories, stories very much like that of Georgia's and Lillie's and Harvey's.

They travel from state to state straining to harvest an affluent nation's food.

They snap beans, pick squash, pull tobacco or corn—stoop labor mostly.

Their strong backs, calloused hands and seasoned muscles are their livelihood.

A migrant's work, his housing, his food—the very atmosphere in which he exists—is an American atrocity.

Nobody really knows how many migrants there are, but most estimates fall around 276,000. An educated guess would put Palm Beach County's migrant population at 38,000.

Migratory workers performed more than nine per cent of the nation's seasonal farmwork in 1968, working in 900 counties of 46 states.

The migrants go where there is work. They travel either in old buses or old cars, up and down the migrant stream from New York to Florida and points west.

Migrants are the unwanted people except at harvest time. Even then they are not accepted as members of communities.

They live in the shadow of society. The only road left open to a migrant in most cases is the road to the next farm.

Mrs. John B. Herbert and her husband left the migrant stream three years ago. Now they live in a tin shack with no toilet facilities in Belle Glade.

"I have nothing to do but sit here and wait on the $78 they gave us per month and the season," Mrs. Herbert said. Her husband, suffering from a heart condition, leaned on a rickety chair nearby.

Unlike the Herberts, some migrants get away from farm labor entirely, but they are a minority.

Since 1949, the migratory work force has decreased from 422,000 to 276,000. Available statistics show a peak period of migrant employment in 1965 of 466,000.

Migrants work in incredibly abominable conditions for incredibly low wages.

The migrant in 1967 worked an average of only 85 days for an average annual income of $922.

Yet, there is a feeling of pride in their work. They are fighting a losing battle against elaborate mechanization.

But there is hope—a sort of unexplainable dream that tomorrow might hold an answer.

But it won't.

A migrant has few friends and many enemies. He is exploited by many—even by his own people.

In Belle Glade last year a man sold migrants life insurance on a weekly basis. When a migrant died and his relatives sought relief they found the insurance was for an automobile.

The family did not own a car.

Many of the farmers who need migrant services show their gratitude by providing blighted housing. Other farmers try to better migrant conditions.

But their efforts have not and apparently will not be sufficient to effectuate major changes.

The primary problem with migrants is the very nature of their work—it's seasonal. They must move to keep up with the crop.

And before conditions can be bettered, many feel, migration must be stopped and migrants must settle into communities.

They are never in one place long enough to reap the few benefits available to them.

Despite several health projects aimed directly at migrants, the average per capita health care expenditure in 1967 was $12, in contrast to an average of more than $200 for the total population.

Levels of education are perilously low. So low, in fact, that Palm Beach County schools have begun a special program aimed solely at exposing migrant children to modern society.

Although funds for improving primary and secondary schools across the nation have soared to new heights, the migrants in 1967 had attained an average grade level of only 8.6.

Over 17 per cent of all migrants were functionally illiterate in 1967.

A U.S. Senate subcommittee reported, "Children of migratory farm workers have fewer educational opportunities and a lower educational attainment than any other group of American children."

Florida's problem is particularly pressing because many experts predict that when the migrants stop migrating they will settle in the state.

Florida needs the farm workers on a seasonal basis, but the state does not have adequate provisions to accommodate them year around.

According to statistics compiled by the U.S. Department of Agriculture, some 290,000 acres of vegetables are harvested yearly in Florida with a yield of almost two million tons.

Although mechanical harvesting becomes more prevalent yearly, many crops must still be picked manually because they don't lend themselves to economical mechanization.

These are the crops left for the hard-working, abused migrant.

The harvest season in South Florida extends from late October to the end of May. During that time migrants from all over the United States are employed here.

There are roughly nine groups of people within the migrant population, breaking them down by race, language and origin.

These groups of traditionally oppressed people find themselves the target of a special discrimination when they enter the migrant stream.

Some farmers have automatic systems to water their beans, but their workers live in housing without showers or inside toilet facilities.

Some have insulated cow barns while their workers must live in tin shacks and cram old newspapers into cracks to keep the wind out.

Federal and state legislation which covers migratory laborers is often conflicting, confusing and unenforced. There are strict housing codes available, but many migrants still live in filthy, decaying huts.

Farmers say they are doing all they can to better the situation. If we tear down the rotting housing, they ask, where will we put the people?

Floyd Ericson, president of the Everglades Farm Bureau, says the small farmer is caught in an economic squeeze and cannot afford to provide better housing.

He says farmers who try to better their migrant housing lose money through vandalism and improper care of facilities.

"No matter what kind of housing you have for your help the laborers won't take care of it. They'll break your commodes and you're always sending a plumber down . . . no matter what you do they just don't take care of it, they just won't," Ericson said.

But those who fight for betterment of migratory conditions question whose responsibility it is to take care of housing.

"If I rent an apartment and it needs painting or fixing, the landlord is responsible for fixing it or painting it," Alan Kuker of South Florida Migrant Legal Services said.

He feels the best solution to housing problems is wholesale destruction of substandard dwellings.

"If there's no place for the migrant he won't come here and the crops won't get picked in which case this whole area won't have an economy. So you can bet your life there'll be measures to put up decent housing so the crops can get picked."

The migrants continue to work and travel and sweat while others talk about the controversy. Some drop out of the stream, others die.

When they arrive in Palm Beach County next month there will be no substantial changes from years past.

Many will live in housing they have paid for throughout the year as insurance against having to move to either the Belle Glade or Pahokee Housing Authority labor camps.

Both authorities have housing projects in progress to provide more housing, but neither will be completed in time for this year's influx of workers.

And by next year, the new housing is likely to be filled by permanent residents and the migrants again will be left out.

Pahokee's Housing Authority has three farm labor campus which have been condemned since 1962. It is in these camps that migrants without reserved housing will likely reside.

Then every morning they will go to the loading ramp near downtown Belle Glade where their labor will be contracted on a daily basis.

Farm representatives and crew leaders will drive up in aged buses and pickup trucks with wooden sides to choose their workers.

Somehow it carries the atmosphere of a human auction.

Ten to 12 hours later the migrants will be returned to the loading ramp and paid. Some will have made less than $10 for their lengthy day's work, a few will have made as much as $50.

At night the migrant might get drunk and get in a fight. He might go home and sleep away the thoughts of his painful life.

If he wants to bathe away the dust and sweat accumulated in the field he must sometimes walk 100 yards or more to the nearest water. If he wants hot water, he must heat it on a stove.

He and his wife will sleep in a room separated from their children only by an old sheet or blanket hung from the ceiling. Sometimes there is no separation at all.

In the morning he starts over again.

This is the life of a migrant. He is not a migrant by choice but by necessity—it is the only life he knows.

ONE PROPOSED SOLUTION: INSURE THEIR RIGHT TO VOTE

Among a lengthy list of proposals for programs to alleviate the plight of the migrant is a suggestion that federal legislation be passed to insure migrants the right to vote.

Such legislation would give the migrant a voice in his government now lacking because of stringent residency requirements.

The Senate Subcommittee on Migratory Labor proposed amendments to national voting rights legislation to forbid states from denying citizens the right to vote on account of residency requirements.

Because of a migrant's high degree of mobility he cannot often qualify to vote, adding to his powerless state.

The subcommittee also recommended immediate extension of the five-year Migrant Health Program which terminates in 1970 to insure continuation and possible extension of health services to the migrants.

The subcommittee called for appropriations "more commensurate with the problem" to expand present health services and increase the number of health projects in areas of large migrant population.

Some $15 million has been authorized to fund programs under the Migrant Health Act in 1970.

A study to determine how effective OEO programs are in lifting migrants out of poverty was proposed. OEO has been appropriated a budget of $27.3 million for the fiscal year 1969 to assist impoverished migrants and seasonal workers.

Sources in Washington indicate that the Migrant Health Act will likely be extended an additional five years soon. The fate of the other proposals looks much gloomier, they report.

A third recommendation of the subcommittee was to review all Office of Economic Opportunity programs aimed at migrants to evaluate their effectiveness.

[From the Palm Beach (Fla.) Post-Times, Oct. 6, 1969]

A PERPETUAL CYCLE TRAPS THE MIGRANT

(By Kent Pollock)

HENDERSONVILLE, N.C.—Mary Longs doesn't really want to migrate and pick beans the rest of her life, but she probably will.

She is trapped in the migrant cycle and doesn't know why.

Mary sat between two rows of bright green crawl beans, a bushel basket nearby, and talked in a sleepy voice.

"It's pretty hard to find a job with the kind of work you can do. . . . I don't have no ambition for this work. It gets worse and worse."

She was wearing blue jeans and a man's shirt. A small cap covered her hair and a soiled sweat band hung down the back of her neck.

"My husband is dead. I have nine children but not with me. I ain't going to go too many more years."

Mary is 43 years old. She says the reason she "ain't going to go too many more years" is because she is "sort of on the sick list."

If she gets sick enough, she will stop migrating and go on welfare. If not, her miserable migration will continue.

Sickness, disability, bad fortune—tragedy sometimes provides the only exit from the migrant stream.

Lillie Mae West has been migrating since 1951. She wears a straw hat with a little feather in the side. Her bright yellow dress, imitation pearl earrings and blue blouse separate her from others in the field.

But her story is essentially the same.

"I'll work until I get disabled and sick, I guess," she said in a crackly voice.

Lillie Mae and Mary are members of a migrant crew from Belle Glade. They came here in early July and will soon return to Florida.

Ella Grant, another Belle Glade resident, takes a realistic view of her continuing plight. Ella is 59 and a migrant by birth.

"It's been pretty good until this year. This year it's been bad. It's the rains. I reckon it's account of the rain. The beans just ain't here."

Does this mean Ella is ready to stop migrating and settle into a community?

"Nah, it looks like I'm going to be picking all my life. . . . I can't crawl, though, I never could. I sure is getting tired of them beans."

Did Ella ever consider other work?

"I reckon I never thought about that, no, sir. I don't know much else."

Georgia Johnson is looking forward to returning to Florida this year. He has been traveling between Belle Glade and North Carolina since 1956.

"I like it better in Belle Glade in a way, that's right. I got to go back this year, I'm going to get my teeth."

Last year Georgia had his teeth pulled for $37. He didn't have enough money to buy a plate. He plans to make the purchase at the end of the Belle Glade bean season this year.

At 70, Georgia looks healthy and strong. He's proud of his youthful appearance.

"I'm strong all right. I take care of myself. This work will keep you in shape, but if the other fields keep being like this here one I'll be in bad shape!"

The field he is working is being picked for the second time. Georgia will only pick seven bushels in 10 hours for $1 per bushel.

He's wearing a blue service station shirt inscribed with the name Malcom.

"When I go to the store I pick up anything. I don't take me long, that's right. I just slip it right on."

Georgia, too, says he will quit soon.

"I guess I should stop right now. It's not worth it, you can't make any money. When I get sick I'll quit. And I'll tell you what I'm going to do. I'm going to draw them checks."

A fellow worker nearby says Georgia has been saying he'll quit as long as he can remember.

Migrant after migrant tells you he will quit soon. They don't know what makes them continue, but when the crop is picked they traditionally head for the next farm.

"I'm not going to pick no longer than I can help. I'll quit when I'm old enough to get my pension," says James Reed.

Reed is 63. He wears a straw hat and a burlap sack tied to his waist. Gray suspenders hold up his faded blue jeans.

"I'm a little too old for construction right now. It used to be good to me, but I'm too old right now. I do pretty well at this sometimes."

Reed leans over and grabs another handful of beans. He tosses them into a half-filled bushel basket then picks some more.

Like his life of migration, bean picking has become automatic to the old man.

To understand what makes a migrant continue to travel from state to state in search for backbreaking work one must study his sociological background.

Migrant children become adults at an early age. They work in the fields alongside their parents as soon as they can walk.

Many times children cannot be spared from working in the field long enough for school attendance. Laws forbidding farmers from hiring children during school hours are not strictly enforced.

The net result is a perpetual continuation of illiteracy among migrants.

In 1967 the average migrant and his family had attained an education equivalent of only 8.6 years. Over 17 per cent of all migrants were functionally illiterate.

"Children of migratory farm workers have fewer educational opportunities and a lower educational attainment than any other group of American children," Sen. Harrison Williams of New Jersey, chairman of a Senate Subcommittee on Migratory Labor, wrote in this year's annual report.

This perilously low level of education perpetuates an inability to perform other than unskilled tasks. More importantly, it perpetuates a lack of confidence to try other work. By the time a migrant is 15 he is often married. Pregnant child brides are not uncommon.

When the youthful couples have children they are forced into the mainstream of migrancy. They must continue traveling to the next farm to exist.

It is not long before they are trapped.

Dr. Robert Coles, a Harvard University psychiatrist engaged in a study of "the migrant subculture," discusses his observations of young adult migrants becoming trapped in the stream.

"At 20, at 22, they are full-fledged adults; we would call them 'older' migrants. They have lost much of their interest in the possibilities of another kind of life; they often move about by themselves, no longer attached to their families . . . they are caring for their own children.

"They have settled into the curious combination of industry and initative (needed to keep moving over such distances, to keep working at such back-breaking work) and lethargy and despair (reflected in their faces, their way of slow movement, flattened speech, infrequent merrymaking)."

Dr. Coles said migrants develop "symptoms" which result from their "cumulative stresses of their kind of existence."

"They may drink heavily before or after work, using the cheap wine and beer they can afford to dull their senses in the face of, or in the wake of, their long hours of harvesting.

"They often become careless and hurtful towards the homes furnished them by farmers, destroying screen doors, stopping up central plumbing facilities of a camp. Some may call such behaviour accidental, but many farmers are correct in sensing the barely submerged hostility and resentment at work in these people.

"The migrants don't specifically intend to damage property, but are aware of feeling overworked and underpaid, and carry those feelings around with them fairly constantly."

The rest of the migrant story is always the same. Once in the stream, he will suffer the hardships of poor housing, poor working, poor eating.

He will know a special form of discrimination which keeps him in different social circles than other impoverished Americans.

The migrant is the poorest of all poor Americans.

He tries to work for a living while others head for the city to go on relief.

Dr. Coles says what keeps the migrant from the temptation of city life and welfare cannot be explained by any one generalization.

"The explanation rests in a combination of such factors as fear of the city, a genuine attachment to the land, a sometime enjoyment of movement, a depression that sets in for many of them when they do stop traveling and working, and a fear of that depression."

So they continue and don't really know why.

ANOTHER SOLUTION: A NATIONAL ADVISORY COUNCIL

The U.S. Senate Subcommittee on migratory labor suggested last year that a national advisory committee on migratory labor be founded to better plot the future of the migrant.

Duties of the national council would be to advise the President and Congress on effectiveness of federal programs aimed at betterment of migrant conditions.

Another important duty of the council would be to advise the government on legislation to assist the migrants.

The council would perform a "valuable watchdog" role for federal programs aimed at migratory labor.

The subcommittee said a comprehensive evaluation of the causes and possible remedies of unemployment and underemployment of agricultural workers needed to be made.

The evaluation should be made "with a view toward ending the migratory way of life," the subcommittee's report said.

"Migratory farmworkers constitute one of our nation's great manpower problems, for as a group they are underemployed and underutilized. Underemployment and poverty are more widespread and no less severe in rural areas than in urban areas," the report said.

The subcommittee's overall proposal to solve the many migrant problems is to increase industry in rural areas and dry up the migrant stream.

The increased industrial activity would provide jobs for migrants during off-season periods, but would not necessarily rob farmers of needed help at harvest time.

The subcommittee proposed federal wage subsidy for migrants who discontinue their migration and are caught between periods of harvest and the establishment of nonfarm industrial jobs.

Washington sources say passage of these proposals is doubtful in the near future.

[From the Palm Beach (Fla.) Post-Times, Oct. 7, 1967]

SQUEEZING OUT A LIVING

(By Kent Pollock)

HENDERSONVILLE, N.C.—There are rows and rows of bright green snap beans. Between the rows dark spots move slowly in misery.

Those spots in the distance are migrants trying to squeeze a meager living from a second-crop bean field.

This is a bad bean field. Each plant has only six or seven beans hidden under its soft green leaves.

There are lots of bad fields in North Carolina this year. Hot sun and heavy rains plagued the farmers, ruining many first crops.

This bean field is immense. The unending pattern of rows blends into a green mush on the horizon.

A migrant's life is centered around his difficult work. When conditions are right he can make a poverty-level income.

When the crops are bad, the migrant suffers. It's not a new story.

These crops are bad. These migrants have suffered. They came here from Palm Beach County.

James Reed of Belle Glade is on his knees between two rows of beans. He wears a straw hat with a yellow band around its center. Gray suspenders hold his faded blue jeans up as he treks his way up the row.

"I just lean over like this and push the leaves aside, see, and grab them beans," Reed explains as he strips another plant.

He tosses the few beans into a half-filled wooden bushel with his left hand as his right hand reaches for another plant.

He works without thinking. As he talks his muscles automatically continue moving.

When the bushel is full Reed's crew leader will give him a small yellow ticket—not much to show for more than an hour's work.

At the end of the day, the tickets can be cashed in for $1 each. Snap beans also are called crawl beans because of the backbreaking chore they present at harvest time.

Like machines, the migrant's fingers sift through a bean plant and strip its sweet product. The experienced migrant can snap every bean from a tangled plant in seconds.

They either crawl or stoop or bend over nearly double to harvest the ground-hugging crop. Some work all three ways, budgeting their aches to different parts of their abused bodies.

For this they receive $1 per bushel. A bad field yields only about six bushels per 10-hour day.

At a good field, the migrants say they can pick 20 bushels in 10 hours—but this requires plenty of skill. And abundant fields are rare.

Migrant workers across the nation averaged $1.33 per hour earnings in 1967, according to a Senate subcommittee on migratory labor.

In Florida, the average was $1.12.

But these statistics only cover the hours worked. There are many days when the migrant sits at the loading ramp waiting for a job.

Along with their other problems, migrants sometimes have to compete with foreign labor for jobs.

While some 15,000 foreign workers entered the United States last year thousands of migrants suffered from a lack of continuing employment.

Most foreign workers were from the British West Indies and Canada, admitted to this country to harvest sugarcane in Florida and apples in the North.

Cane growers are allowed to import laborers because they say they cannot find domestic labor to cut cane.

"The American citizen continues to avoid acceptance of employment in the cane-cutting operations even though the basic wage has been substantially increased." U.S. Sugar Corporation's Fred Sykes told an agricultural stabilization committee in July.

Before growers in this country can hire foreign laborers they must pass stringent housing inspections and agree to meet high standards of wages, food and transportation.

Ironically, standards for hiring migrants across state lines are much lower and are not as strictly enforced as offshore labor hiring standards.

The average migrant farm worker was employed only 82 days during the year in 1965, according to the latest statistics available.

And much of the labor is conducted by children under the age of 16, leaving the older, less productive members of migrant society without work.

According to the Senate subcommittee, there are some 800,000 paid farmworkers under 16, about one-fourth of the entire work force.

Statistics show there were 2,700 fatal accidents in agriculture in 1967—the highest of all industries. There were also 230,000 additional disabling injuries.

Most of the fatal farm accidents came from dangerously operated machinery and poisoning from improper care when spraying chemicals on crops.

It has been alleged that higher farm labor wages would raise consumer costs. However, the Senate subcommittee, reported, a twenty-one cent head of lettuce represents only a field labor cost of 1.3 cents.

A pound of celery retailing at 15.5 cents represents a field labor cost of .3 to .5 cents. Lemons retailing at 24 cents per pound cost the farmer less than one cent for field labor.

"It is therefore clear from these statistics that wage increases for farmworkers would have little, if any, impact on the consumer in terms of the price . . . in the local supermarket," the subcommittee reported.

But statistics mean nothing to the migrant working and living under abominable conditions.

All he knows is that when the season ends there is rarely enough money to move. Often he works for a crew leader who provides transportation.

But those who work for crew leaders risk the possibility that their boss might be dishonest.

Legislation requiring crew leaders to register if they intend to cross state lines has quashed much exploitation, but some still exists.

Many crew leaders skirt registration laws by traveling in caravans with each vehicle carrying less than 10 migrants. Crew leaders with 10 or more workers must register.

There are crew leaders who "take the pennies," a term for collecting money for social security payments, and never report the deductions to the federal government.

There are crew leaders who charge their workers for transportation, meals and even water—deducting the charges from workers' pay without any records.

All crew leaders aren't bad, though. Erskine McCullough Jr. of Pahokee is one of the good ones.

Even though McCullough openly admits working around crew-leader registration laws his people will tell you he treats them fairly.

McCullough sat atop his tractor in a Hendersonville apple orchard and told of his plight. He has been migrating most of his life and can't get out of the cycle.

"You're always behind the eight ball, see. You're always living from day to day 'cause you never make enough money to pay your bills or anything else. I don't see how I can stop."

McCullough runs Streamline Taxi company in Pahokee during the season. It has been a losing venture, he says. "The credit bureau people are probably looking for me right now."

Apple picking, too, is backbreaking work. The workers climb up and down ladders with half-bushel containers strapped to their shoulders.

Up and down; up and down; carry the ladder to the other side of the tree; back up, down—as in bean picking the work seems endless.

Water for the hard-working, sweaty migrants is available at the end of the bean row, several hundred yards from where they are picking.

Leaving for a drink of water means wasted time. Wasted time means wasted money—and to a migrant wasted money can mean the difference between an evening meal and hunger.

But migrants don't complain about their work conditions. They are accustomed to misery and despair.

When the day ends they leave the field in the same aging bus they arrived in, to be deposited, like used bottles, back at the loading ramp near downtown Hendersonville.

Migrants gather at the loading ramp every morning to contract their labor in auction-like fashion.

If it rains, there will be no work.

But the migrants wait patiently for the sky to clear.

Migrants are used to waiting—their entire life has been controlled by others.

When someone says work, they work until someone says quit. There is no coffee break in a bean field or apple orchard.

The buses used to transport migrants to and from the fields are old and sometimes dangerously in need of repair.

One bus sits empty at the loading ramp. Inside there is dirt and garbage on the floor. The seats are relatively clean.

A swarm of flies gathers on a half a loaf of bread left on one seat. A blue sweater and a burlap sack tied in a ball sit on a seat across the aisle.

The interior smells the stale odor of hard work and poverty.

The migrant is immuned to the smell; it surrounds him constantly.

His impoverished family is caught in a treacherous cycle of mental and physical anguish.

He might work like a machine and live like an animal, but he is a human being.

These migrants are looking forward to returning to Florida. They talk about plentiful bean fields and better work conditions.

But they aren't fooling themselves. In six months they will look forward to North Carolina and talk of plentiful bean fields and better work conditions.

Theirs is a story of migration to misery.

PROPOSAL: EXTEND LABOR RELATIONS ACT

A major proposal of last year's U.S. Senate subcommittee on migratory labor dealt with extending the National Labor Relations Act to cover all agricultural workers.

The extension would give migrants the right to organize and set up procedures to bargain with farmers for better work conditions and wages.

"We must guarantee employes the right to organize and bargain collectively, and we must make the orderly procedures of the act available to the (agricultural) industry," the subcommittee's yearly report said.

"Mounting evidence confirms that the lack of established procedures for communication, elections, negotiation, arbitration and settlement by employers and employes leads to costly strikes and disruption of interstate commerce," the report said.

The subcommittee also suggested increasing Labor Department personnel to insure adequate compliance with crew leader registration laws.

Unemployment compensation coverage for migrants would be a "great step forward" in providing small amounts of income for migrants during the off-season periods.

Of all 50 states, the subcommittee reported, only Hawaii has made its unemployment program applicable to agricultural workers.

"Most often the migrant worker is unemployed through no fault of his own," the report said.

Other suggested legislation by the subcommittee would extend workmen's compensation programs to cover all migrant workers.

"While such laws (workmen's compensation) have traditionally been within the province of state government, the interstate recruitment and employment of migratory farmworkers . . . strongly suggests the desirability of federal action in this area."

In addition, the subcommittee suggested modifying the Social Security Act to shift the burden of reporting wages from the crew leader to the farmer.

Often, the subcommittee found, crew leaders did not make sufficient reports to the federal government to guarantee benefits to migrants under the Social Security Act.

There has been little movement by Congress to adopt any of the subcommittee's proposals to better migrant work conditions.

[From the Palm Beach (Fla.) Post-Times, Oct. 8, 1969]

FOR $50 A MONTH: A ONE-ROOM SHED, NO TOILETS

(By Kent Pollock)

Where there isn't tall grass there is deep mud.

The foul odor of poverty fills the air as you walk between rows of decayed wooden shacks.

You tell yourself human beings cannot live here, but you are wrong.

A group of barefoot children romp in the mud and the broken glass and the garbage, smiling, not knowing better.

It is not a pretty sight.

You are at Armstrong Quarters in Pahokee, the home of some 35 families of former migrating farm workers.

When some 38,000 migrants arrive in Palm Beach County next month they will be fortunate if they can find housing this good.

Some will sleep in old buses and cars for a while before finding a place to call home.

Others have paid as much as $7.50 per week while working "up the road" to reserve one-room sheds without inside toilet facilities.

Housing is a critical problem to the migratory farm laborer. There is no such thing as really comfortable migrant housing—only bad and worse.

According to information compiled by the Florida Migrant Health Project, 18,416 farm workers were housed in private facilities last year in the Glades.

The other 52 percent of this county's migrant population lived in public housing camps. Private housing is hard to find even during off-season periods.

Annie Lee Harris was burned out of her home in Pahokee in early February. For three days Mrs. Harris and her six children searched for shelter.

Finally they found a rotten shack in Davis' Quarters. They haven't located anything better.

Davis' Quarters is just outside the Pahokee City limits. It was condemned by the county health department and ordered vacated by Sept. 1, but many families still live there.

In fact, few have left.

A U-shaped dirt road filled with huge potholes runs through the horrible housing. Toilet facilities consist of tin sheds covered with grass.

Diane Freeman, 9, shows you where her toilet is located. Her two younger sisters run along with her in bare feet as she makes her way through grass, broken glass and soggy garbage.

Diane is Georgia Bell Freeman's daughter. Georgia Bell and her family moved to Davis' Quarters years ago.

The outhouse is covered with weeds and grass. The girls giggle when you shake your head at the excreta-covered privy.

A hole in the ground, a rickety tin shelter overhead, a piece of plywood with a rough-edged space in the center—this is the migrant bathroom.

Ella Mae Jenkins lives across the street with her nine children. They, too, have an outdoor privy.

When you open the outhouse door a rat so big it doesn't even run in fear stares you in the eye.

Ella Mae sees rats inside her house almost daily. A child was bitten in the head by a rat not long ago in Davis' Quarters, she says.

There are those who say Davis' Quarters, Armstrong Quarters and other such facilities are rarities. But it is not so.

For every migrant house with individual inside toilet facilities in the Glades area you can find a shack without them.

At Thompson's Quarters in South Bay, families live in ten-foot-square rooms. They have inside water, but it is cold unless they can afford to have the electricity turned on.

One woman says she doesn't have her electricity turned on because her meter covers two houses and she can't pay for someone else's power.

The toilets at Thompson's quarters are attached to a sewer system and will flush—sometimes. But they haven't been cleaned for months.

Derotha Franklin lives on the main street in South Bay. She hurt her toe last November and her leg became infected. In December she lost her right leg about the knee.

She too lives in a one-room house. Her toilet is located 200 feet down a hallway and is shared by several other families.

For this she pays $10.50 per week. If she doesn't pay, she will be evicted—almost immediately.

Most slum rental is on a weekly basis. If the tenants don't pay they are put out. The housing shortage is so critical there's always someone to fill the shack.

Rent at Thompson's Quarters runs $5.75 per week. Some pay $28 per month.

At Davis' Quarters it's as much as $10 per week. At Armstrong Quarters it adds up to about $50 per month.

Armstrong Quarters is only a few blocks from downtown Pahokee. It is owned by Dr. and Mrs. L. W. Armstrong.

Mr. and Mrs Jim Garrison live on the corner of Reardon Ave and Carver Place in one of the better houses at Armstrong Quarters

Their income during the summer consists of $67 in welfare assistance and $82 in aid to the disabled. Garrison has a kidney ailment and must go to the hospital twice monthly at a cost of $42 per visit.

The Garrisons pay $50 per month for rent and about $12 per month for water and electricity. Their water is located on the corner of a community outhouse.

The toilets are connected to a sewer system, but residents say the only way to flush them most of the time is by dumping a bucket of water inside.

Dr. Armstrong is an elderly retired dentist. He and his wife were among the pioneers of migrant hiring in the Pahokee area.

"Doc and I brought the first niggers into the area to farm in 1916," Mrs. Armstrong says proudly.

The Armstrongs say they cannot afford to better their housing facilities. Besides, Dr. Armstrong said, "I haven't heard of too much migrant dissatisfaction because we have ample housing here."

He said he felt his views were representative of most property owners in the area.

Dr. Armstrong said he builds concrete block structures with inside facilities to replace shacks destroyed by fire or vandalism.

"We can't afford to put inside toilets in the others. It would cost thousands of dollars."

The area needs more housing, Dr. Armstrong said, but not public housing.

"I'm afraid they're (public housing authorities) going to overdo it . . . there's such a thing as too much housing for too few jobs, you know."

Dr. Armstrong said housing for migrants did not really need upgrading.

"I don't think the migrants suffer for anything. I don't think they do. They should and could better themselves but they don't want to work. It's not because they can't find work."

There are many who would agree with the retired dentist. But W. C. Taylor, president of the Progressive Citizens Association, does not.

He says the answer to migrant housing problems is in ownership. His organization bought land and sold it to migrants at reasonable prices.

The project developed into Progressive Park subdivision. Already 49 families have settled there.

His organization was formed by nine migrants who decided to better their lives.

Taylor, like many men who fight hard to better migrant living conditions, feels that housing codes should be strictly enforced.

County officials agree, but ask where they can relocate the thousands of people who would be evicted through strenuous condemnation.

"We haven't pushed too hard. You can't move these people out unless you've got someplace to put them. There's a critical shortage of housing," William Tucker of the county health department said.

Tucker is in charge of housing and labor camp inspections in the Belle Glade area.

Since there is no place for the impoverished slum dweller to move if his house is condemned, Tucker's efforts have focused "more or less on education."

"It mainly consists of talking to the landlords and pointing out these deficiencies. We also try to work with tenants . . . improving housing and getting rid of some habits which lead to accumulation of filth."

George Wedgeworth, president of the Sugar Cane Growers Co-op of Florida, said there had been a lot of excellent housing built in the past 10 years in the Glades area.

He is in favor of more housing, whether it's built by private enterprise or public housing authorities.

"Our farm organizations are to a great degree dependent on a good and stable source of workmen. Labor to us is as important as capital, as farmland, as management or even as owners themselves," Wedgeworth said.

Everyone in a position to better migrant housing is aware of the problem. But some simply won't publicly admit that there is a housing shortage.

There is no quick solution.

Meanwhile, the migrants suffer. They are serving life sentences in the prison of their environment.

SENATORS PROPOSE EFFECTIVE ENFORCEMENT OF HOUSING CODES

The U.S. Senate subcommittee on migratory labor proposed that federal agencies should encourage strong, effective enforcement of existing housing codes.

The subcommittee reported that while 42 per cent of all farm housing is substandard only 14 per cent of nonfarm housing was substandard.

"Only in isolated instances has housing for migrants been constructed to meet minimum standards of health, safety and sanitation," the subcommittee reported.

It suggested that a substantial portion of housing appropriations be earmarked to carry out rural housing programs.

The subcommittee also proposed an incentive for farmers desiring to build adequate migrant housing in the form of rapid tax amortization of construction costs.

A rapid tax amortization period of five years as opposed to the current 20–40 year period in the case of some farm housing was suggested.

The subcommittee also recommended that the special amortization incentive be applied to remodeling of existing farm housing facilities not up to standard.

To qualify for the special tax treatment, the owner of housing for farm laborers would provide housing which is decent, safe and sanitary; establish a reasonable rental price; make the housing available primarily for farm workers during the five-year period; and operate the housing in accordance with standards of safety and sanitation.

Whether Congress will pass legislation to cover the subcommittee proposals remains to be seen.

[From the Palm Beach (Fla.) Post-Times, Oct. 9, 1969]

MIGRANT GETS WHAT'S LEFT

(By Kent Pollock)

There are five publicly owned, federally financed migrant housing camps in Palm Beach County.

Each has shanties unfit for human habitation.

The decent shelters are occupied by yearly residents. As new facilities are built, more year-round residents move in.

A migrant gets what is left—and it isn't nice.

The worst facilities were built under a U.S. Department of Agriculture grant in 1939. Since then there has been little maintenance.

Some sheds are twelve-by-twenty foot tin shelters which often house families of nine or more.

A quick tour of the five camps begins at Everglades Camp, one of three operated by the Pahokee Housing Authority.

The camp is located outside the city on State Rd. 15. A row of royal palm trees ironically lines the main entrance to the insect and rat-infested facility.

Washtubs hang on the sides of huts. Children and mangy dogs play in the filth.

The signs of poverty are everywhere.

Community bath houses are at various locations. It's impossible to imagine the migrants' plight, bathing, inside a rickety facility which stinks.

There is running water available from a number of faucets. Some are as far as 100 yards from houses.

The migrant toilet here is no different than it is in other places—a wooden shack, shared by several families.

Up the road, toward Pahokee, is the Pahokee Farm Labor Center. It houses only white laborers and has been mostly demolished.

It is designed in the same manner as the all-black Everglades Camp.

There is little difference between the atmosphere in the two facilities, but at least most of these shacks have been destroyed.

Residents have ingeniously pulled plastic covers over windows broken long ago. Old newspapers stick through cracks in the wall depicting a hard-fought battle against cold wind.

Although maintenance at both camps appears almost non-existent for the shacks, the camp managers homes near each entrance are freshly painted and clean.

The third Pahokee Housing Authority camp is a black facility located on U.S. 441 about eight miles north of the city.

They call it Sandcut Camp or Canal Point Camp. Like the other labor centers, Sandcut Camp was condemned in 1962.

The only water at Sandcut Camp comes from Lake Okeechobee and is often brown with mud. The shallow lake becomes murky with the slightest of storms.

Houses stand on wooden stumps and lean at varying angles in the muck.

Belle Glade's two farm labor housing centers are no better.

There is considerable construction under way at the city's two camps, but many families still reside in tin shacks.

The shacks are without plumbing. Electricity comes in the form of dangerously frayed cords running from place to place.

Okeechobee Center, the city's black camp, is located on State Rd. 80 a few miles outside downtown Belle Glade.

Residents of the faded green sheds here are poor, often hungry and always miserable.

A young man of about 15 months plays in the mud. Someone has tied a brown paper bag to his waist with string for underwear.

One toilet facility at this camp is the worst in any of the five publicly owned facilities.

Upon entrance the odor is stiffling. The toilets are literally piled full of human waste. I didn't go close enough to determine whether they flush.

When I turned to exit my foot slipped. I looked to the floor and shivered at what I saw.

When the toilets filled, the migrants begin using the concrete floor instead.

Most human beings could not exist in such conditions. It is expected of a migrant.

Outside the outhouse there's a water facet—the only water facet for several families.

A piece of old wood provides a makeshift bridge over the green slimy mud surrounding the facet. A group of children wait their turn to drink from the rusted, corroded fixture.

Osceolla Center is the other Belle Glade camp. It, too, has tin sheds and outhouses. Poor whites live here.

The facilities have been maintained better than at Okeechobee Center. Toilets flush and bath houses are in working condition.

Fewer people live in the tin sheds here than at Okeechobee Center.

Both the Belle Glade and Pahokee labor camps are racially segregated, yet they are supported by federal funds.

The men in charge maintain that camps are segregated by the residents' wishes.

"We are not segregated as far as we are concerned. We have no colored people living in this one and no whites in the other but the people segregate themselves." Fred Simmons, Belle Glade Housing Authority director said.

He added, "I don't want to say we're segregated because nobody's allowed to be segregated any more. You know that."

James Vann, Pahokee Housing Authority director for the past 23 years, said his authority's segregated camps "apparently resulted from the desires of the tenants rather than any policy of this housing authority."

He added: "We have had an open policy on this for three years."

The Civil Rights Act of 1954 guarantees equal housing opportunity to Negroes.

Simmons said his authority didn't intend to get involved in forcing camp integration. "We'll let nature take its course on integration," he said.

Both housing authorities have expansive new housing projects under way to better their filthy, slumlike condition.

But the new projects will not aid the migrants.

Housing is a problem in both communities and as quickly as low-income facilities are constructed they will be filled by year-round residents.

Pahokee's three farm labor camps are to be demolished. The Farm Labor Center will be closed next year and the others should topple by 1972, making way for planned low-income housing projects.

Vann said many migrant families which use his labor camps won't qualify for his authority's new low-income housing because of poorly kept income records.

"That's the sad part of the problem. They (migrants) have a problem but we have no answer to it. I don't like the implications of what I'm saying, but it's just a statement of fact," he said.

Many migrants could not qualify because they make more than poverty level incomes. But their wages are often wasted on exploiting hustlers for food, rent or poor purchases such as faulty automobiles.

They remain in the poverty cycle.

There are many who feel the only answer to the problem is individual home ownership. Alan Kuker, an attorney with South Florida Migrant Legal Services, is one.

"Public housing is not the answer. The answer is individual home ownership. It's not only the way I feel about it, it's the way the migrants feel about it as well," he said.

Roy Vandergriff, a sweet corn, celery and bean farmer, also prefers private housing to public housing—if the private housing is adequately maintained.

"My opinion is that either private or public housing should be brought up to standards or removed. It's that easy, I would prefer private housing providing it's adequate, or even housing owned by the workers," Vandergriff said.

After extensive research, a report by the American Friends Service Committee's Migrant Project suggested establishment of a county housing authority and sewer system.

The housing authority would provide more housing at reasonable rates. The sewer system would allow private enterprise to economically build low-cost housing.

County commissioners have already taken the first steps towards formation of a county housing authority, but it will take at least a year before the organization is a reality.

Directors of the Belle Glade and Pahokee Housing Authorities contend they have done all they can to maintain their labor camps.

Last year, the Belle Glade Housing Authority spent more than $110,000 in maintenance of its two camps—but the filth continues.

Pahokee Housing Authority Director Vann says he spends as much as possible for maintenance of his camps but makes only necessary repairs because the camps are closing.

That only minor repairs are made is evident.

There are an estimated 410 families which rely on the Belle Glade Housing Authority for shelter. Some 1,700 people live in Pahokee's farm labor centers.

When about 38,000 migrants arrive in Palm Beach County next month these figures will skyrocket to enormous proportions.

The problem is gigantic. And it probably will get much worse before it gets better.

ONE NEED: GET RID OF REDTAPE

There is a need to formulate a serviceable plan of action to combat overlapping jurisdictions of the various agencies administering low-income, rural housing programs.

That was the finding of the U.S. Senate subcommittee on migratory labor last year.

The subcommittee said the overlapping caused frequent delays and a frustrating maze of red tape for rural low-income housing applicants.

The subcommittee also found that greater attention should be given to employing modern technology to provide inexpensive housing for migrants.

It suggested utilizing prefabricated or portable buildings that could be transported from place to place depending on migrant needs.

Agencies administering federal housing projects for rural areas, particularly for migrants, should also investigate the possibility of collapsible structures, the subcommittee said.

In addition, the subcommittee asked that federal agencies encourage strong, effective enforcement of existing housing codes.

One possible approach to better migrant housing camps, the subcommittee said, would be prelicensing powers to prohibit occupancy of defective structures.

The focus of all federal rural housing projects, the subcommittee said, should be on the local level "in direct response to local needs."

Legislators have not expressed any intentions of adopting such legislation.

[From the Palm Beach (Fla.) Post-Times, Oct. 10, 1969]

AN ELDERLY MIGRANT WHO WAITS TO DIE

(By Kent Pollock)

Lillie Mae Brown is waiting to die.

Her tired body let her down five years ago following an abusive life of migration from state to state as a farm worker.

She hoed cotton, picked beans, pulled corn. She harvested food for an affluent nation.

The work all but killed her.

Now she is forgotten.

She just sits in a decayed one-room shack in South Bay. There is nothing else to look forward to.

She is not a lonely person. She has her faith in God.

The hot water heater doesn't work because Lillie Mae can't afford to turn on her electricity. But the rats behind it don't seem to mind. You can hear them scratching and gnawing day and night.

There are so many Lillie Mae Browns in the migrant world. They travel everywhere, but belong nowhere. No community outside their world really accepts a migrant.

The traditional rejection continues when migrants grow old. They exist in a subculture all their own, separated from other impoverished Americans.

"I have no one but myself," Lillie Mae says. "If it wasn't for the Lord what would happen to me today . . . he's my mother, my father, my sister, my brother."

The thought brings tears to Lillie Mae's eyes. She wipes her cheek with one hand. The other holds a vest-size edition of the Bible.

Lillie Mae was born in 1906. Nine years later, she began working in the fields with her family.

She was born "up the road" near a bean field in Charlotte, N.C.

"I been working ever since I was big enough to know it. Field working all my life. I worked when I was too young to work. I used to go in the woods and cut cord wood when there wasn't no crops."

Lillie Mae's past is not a happy one, but she enjoys reminiscing anyway.

She sits on a milk crate. The only light inside her 10-foot square shack rushes

through a decayed doorway. At night, she lights a kerosene lantern.

She jokes about her fat body. It is the product of illness and a poor diet.

"I been heavy all my life. I weigh 268 right now. I've been fat all my life. I guess I was born fat as a baby, yes sir."

She doesn't remember when she left home, exactly, but she remembers why she left her family of 22.

"When I left home my daddy was mean to me. He treated me like I was a dog. I left home to keep him from beating on me, knocking on me."

Whatever happened to young Lillie Mae Brown—the young woman who worked by day and played by night; the woman who landed in jail four times on morals charges?

"I'm just tired and old, that's all. You see, I's been just a poor little girl all my life, yes sir. I never had nothing. I had a hard way to go, that's right."

It was in 1965 that Lillie Mae's body finally quit on her. It could work in the fields no longer. Her heart, her lungs, her back all quit.

"I took sick and never worked no more."

Sad, perhaps, but it was while Lillie Mae was in the hospital that she became "a child of God." It was there that she gained the faith that keeps her alive today.

Her words tell the story well:

"I know I'm a child of God 'cause I've been born and been healed by the spirit. Praise the Lord, I know it 'cause Jesus come into my room and told me when I was flat on my back in Belle Glade hospital.

"And God came and stood over my bed and I asked Him to heal me and he told me that he would. And I knowed it was Him 'cause He had His hair parted in the middle and coming down on each side.

"And I Looked at Him like I'm looking at you. I said Lord I know it's you. And He had three trains running in and out. Each one of them trains had eight coaches on each side, listen to me good, and the train in the middle, it had 11.

"He said pick out which one of these trains you want to ride. I said I want that train in the middle, that's a fine coach. And He said this is the train to ride, 'cause that's the one I drive and I am Jesus. Hallelujah, hallelujah. I know I'm all right."

Lillie Mae Brown is crying now.

"He's my God, Dr. Jesus. He's my God. He stood on my bed with his hair flowing to the floor and He healed me."

You listen to Lillie Mae, the child of God, and you wonder why she has to be poor.

Her washtub is opposite you under an unsteady shelf. Beside the shelf is a kerosene stove sitting on an orange crate.

Why must this woman of faith live in this Hell on earth? Will death be kinder to the old woman?

"I'm not afraid to die 'cause I'm a child of God. I'll let God handle it like he wants it. I know I got to die. I was born to die. I'll die when God gets ready for me."

She raises both hands to the air, her Bible clutched tightly in the left hand.

"I ain't got too much longer to wait. God's going to let me know when He gets ready for me. I'm already ready. Whenever He calls me I'm going to be all right."

Heaven to some, is a very personal thing. It often reflects a person's innermost feelings.

Many people look to Heaven for personal betterment, but not Lillie Mae.

"Heaven is going to be a beautiful home for everyone. It's a beautiful place, a level country. Everything is living happy. All the human beings is living together and the Holy Ghost, he'll be on the inside and the devil can't get in. And the gates will be open when I get there."

This is Lillie Mae Brown. She was a migrant all her life.

Her worldly possessions sit at the foot of her raggedy bed in a wooden chest. On the wall above is a calendar inscribed with the Lord's Prayer.

The food she eats is contained in four tin cans. There is lard, flour, corn meal and rice. A hunk of cheese sits in the sink.

The meat she occasionally buys is stored in a friend's freezer. Lillie Mae doesn't even have a place to put a block of ice for food storage.

Lillie Mae Brown picks up her small Bible and begins reading it to herself.

She is waiting to die.

[From the Palm Beach Post-Times, Oct. 11, 1969]

BUBBA BOONE: A MIGRANT OUT OF THE STREAM

(By Kent Pollock)

He speaks of the migrants with passion. He knows their despair.

For nearly 30 years Bubba Boone worked in bean fields from Florida to New York helping support a family deserted by its father.

He lived in a bean box when he was a baby.

"I sat in that bean box and when I cried mother would come over and caress me. . . . I started working as soon as I was old enough to crawl out of that box."

Bubba is an investigator for South Florida Migrant Legal Services.

Through education the former migrant found his way out of "the stream." Now he has dedicated his life to helping others leave the self-perpetuating cycle.

He speaks out against the injustices he experienced as a migrant. He says a migrant's life is worse than that of a slave.

"At least when farmers owned slaves they treated them as their property."

Bubba was the first black student from Pahokee to graduate from Everglades Vocational High in Okeechobee Farm Labor Housing Center.

He looks at the migrant problem emotionally. He says it's hard to explain his feelings to a man who hasn't lived the life of a migrant.

"The migrant is where he is because there's no place else for him to be. He's left outside society . . . he's not included in society, not in the laws . . . there's no equal protection under the law for a migrant."

Bubba is sitting at his desk in an air conditioned office. It is quite a contrast from his former life working in bean fields.

But he still toils in the fields for extra money sometimes. He recently spent his two week vacation planting and hauling potatoes.

He wears gray pants and a shirt without tie. It is buttoned down, neat and starched. His hair is cut short, especially in front.

His face is an open book. His eyes speak frankly.

Society, says Bubba, made the migrant what he is today and has an obligation to change him into a full member.

"Experience has taught the migrants that nobody cares about them. Experience shows them they are the scum of this earth, they're the absolute rock bottom of American civilization and they know it.

"It's the obligation of society to change these people. They are a part of society. These same people who are not allowed to reap the benefits of society are paying taxes along with everyone. They do all the things society demands of them and yet they receive nothing in return."

The only solution to the migrant problem is the complete elimination of the migrants, Bubba says.

But to make change you must have power, he says, and the migrant is "the most powerless person in America."

"Money makes power, education makes power, legislation makes power—we have none of these."

Bubba Boone doesn't understand why a migrant must suffer merely because he is a migrant.

"This country was created on the theory of being the land of the free and the home of the brave but you still have people living under a form of slavery and you have some people who are not very brave because of it.

"There are people who are afraid to tell their boss man he's a liar or even disagree with him. There are lots of kinds of slavery—there's financial slavery, there's political slavery. There's every type of slavery imaginable, even physical slavery."

Legislation is the first necessary step for bettering the migrants' lives, Bubba says.

"Laws that govern all the people, not laws that govern only a part of them, that's what's needed. Then when you make the laws, enforce them. How much enforcement have we had of the Civil Rights Act?"

Now Bubba is warming up. He leans forward, clasps his strong hands, sits on the edge of his chair.

What he is saying has been on his chest for a long time.

"Money is still the main power. We say that each man has an equal vote and all this, but a man with money rules the country his way.

"The farmer with 10,000 acres gives the orders. He gives the orders because he contributes to campaigns. Then the officials who are supposed to be representing both me and the farmer represents the farmer when our interests conflict."

He leans back in his chair, relieved. He smiles because he feels good now.

"It's the same old conspiracy, there's no getting around it. It extends all the way from the lowest government to the top. It's nothing new, everyone knows that."

Bubba says its difficult to find older migrants ambitious enough to really start organizing for change.

"What you will find is a man who is absolutely even without hope. A man who works hard and all he has to look forward to is another day like the one he just had."

For this reason, Bubba focuses his efforts on younger migrants who have more ambition.

"The younger migrants come into a little bit closer contact with society and see a small ray of hope. You hear them talking about owning a home, getting out of the stream.

"But necessity keeps them there. They are untrained workers with no special skills. The jobs you see advertised in the city require some experience, they're only experts in harvesting crops."

Bubba says he tries to convince migrants to keep their children in school. Education can build the foundation for change, he says.

"For me education and ambition were the key. I believe they are the basic essentials for others."

Discrimination is hard for Bubba to understand even though he has felt it as a black man and a migrant all his life.

There are restaurants in the Glades area of Palm Beach County which will let Bubba sit inside without service.

"They won't kick me out, but I'd get pretty hungry waiting for them to serve me.

"Why does one man hate another because he's black or he's a migrant? If someone had a good reason for hating me I'd admire him. . . . If the time ever comes when a man is judged on his own merits, we'll be somewhere."

But Bubba doesn't foresee rapid change. He is patient, but every day he hears a new story of a migrant family in misery.

"All you can do is hope for a change and this I do every day."

Here are excerpts of testimony before the Senate subcommittee on migratory labor in June:

Bubba Boone: "All migrant workers, without regard to race or color, are continually subjected to illegal discrimination by their employers, landlords, governmental agencies, places of business and even other members of their own races.

"Even the word migrant has become a dirty word. It is deplorable that we work under the most depressing conditions for ridiculous wages, but we are, in addition, subjected to this special discrimination—adding even greater burdens on the lowly harvesters of this nation's crops.

"The prejudices that I have experienced are by no means centralized. I, as a migrant, have at one time or another experienced almost indiscriminately the injustices in every state between and including New York and Florida.

"In almost every state, highway patrolmen lay in ambush waiting for the migrant caravans to prey on them and drain from them whatever small savings they might have in the form of fines.

"It all seems to be a part of a national conspiracy to keep us on the lowest level of human existence on this continent. Time and again I have searched for a reason for being so intimidated. As yet, I have found none.

"We, the migrant, live in fear, because we have been indoctrinated with it. We live in shame because we are treated as the scum of the nation. And we live in hopelessness for experience has shown us there is no road open to us except back to the field."

Newlon Lloyd, former crew leader from Opalocka: "Years of living in such an environment has conditioned many workers to accept their station in life in a slave-like fashion. They believe that life will not change for them or their children and that the best course to follow is the one that makes the least number of waves.

"Do the migrant workers provide the food for our nation's tables? Yes—despite his vital role in putting food on the nation's tables, he is hard put to provide for himself. Why?

"Migrant workers are caught in a circle of exploitation. The system which they labor under is outdated. Therefore, it works against them."

Sen. Walter F. Mondale of Minnesota: "What would you say about housing provided for the farm worker?"

Boone: "It is deplorable . . . the government built some housing in this area (Pahokee) for emergency use back in 1942 and these same houses have possibly more than one-third of the town's population. And they have been condemned for about eight years.

"People are living there, and there is no other place in town to stay. What they end up doing, they have to live in condemned shacks."

Sen. Mondale: "When I was in Immokalee, I was surprised at the filth and the sanitation levels, things which the tenant can't fix. You have to have plumbers and this and that come in and fix it.

"What about the sanitation levels in this housing?"

Boone: "You wouldn't believe it. You have to see it. You actually wouldn't believe it. There is no sense in my telling you."

Sen. Mondale: "I saw it. I don't want to go back."

Boone: "You didn't see the worst."

Sen. Mondale: "I had to get out of where I was. I couldn't stand it."

[From the Palm Beach (Fla.) Post-Times, Oct. 12, 1969]

THE COUNTY'S EFFORT EXPANSIVE BUT NOT ENOUGH

(By Kent Pollock)

Palm Beach County has not turned its back on the migrant.

County programs in the areas of health, education and legal aid are expansive, covering many of the basic problems of migratory farm laborers.

The programs, however, have not reached the vast majority of the 38,000 migrants who enter the county yearly.

This fact lends support to a Senate subcommittee on migratory labor opinion that the solution to the migrant problem lies in the discontinuation of migration as a way of life.

More than 1,000 migrants received medical services at family health clinics, private physicians offices and hospital emergency rooms through the county's Migrant Health Project last year.

Health clinics in Belle Glade and in the "rangeline" area of eastern Palm Beach County served most of the migrants. Services included medical, pediatric, prenatal, gynecology, venereal disease and family planning.

Patients with acute illnesses were referred to private physicians or hospitals at the county's expense.

The county also operated dental care clinics for migrants which served 720 patients last year.

Education programs administered for migrants by the county school system fall under two main categories—adult and child education.

There are an average of 90 adults served through the system's adult education program yearly at a cost of $50,000.

The adult education program provides subsidies for migrants attending classes. Adults receive $30 per month plus $3 per child up to five children while attending classes.

To be eligible for the program the adult must have earned at least 50 per cent of his income during the preceding year in agricultural work and must be employed on a seasonal basis. His income must also be below the national poverty level.

Classes teach basic skills such as reading and writing. Special emphasis is placed on vocational skills such as tractor driving.

There are a wide range of children's programs aimed at advancing the county migrant education level estimated at six years of school. This falls below the national average of 8.6 years.

The 13 migrant child educational programs fall under five basic areas at a cost of $882,000 yearly.

Physical well being including clothing and food services.

Bridging experiences to acquaint migrant children with the ways of modern society.

Language development.

Personal and social development.

Occupational development through vocational training.

One of the newest migrant programs administered by the school system will be a radio station operated from Hagen Road Elementary School in Belle Glade.

The station will carry shows aimed at bridging the gap between the school and the home at a cost of $60,000 yearly.

South Florida Migrant Legal Services, changed recently to Rural Legal Services with much of the same personnel shifting to the new organization, had an active program in Palm Beach County aimed at lending legal aid to migrants and identifying their problems.

In addition to representing many migrants in court, SFMES published a book which attempted to outline the basics of the migrant plight.

Alan Kuker, an attorney with SFMLS, said his organization found that one problem is that migrants do not have "the basic rights of the American citizen."

Kuker said new legislation was essential in the areas of unemployment compensation, workmen's compensation and the rights of the farm worker to organize through extension of the National Labor Relations Act.

The Senate Subcommittee on Migratory Labor also suggested legislation extending the NLRA to include agricultural workers.

Extension of the act would allow migrants to organize and set up procedures to bargain for better work conditions.

However, the subcommittee reported, the migrant plight cannot be solved by "piecemeal attempts to facilitate mobility . . . to make dislocation bearable."

They offered only one long-range solution to the problem.

"We must encourage and aid his (the migrant's) withdrawal from the migrant stream, and permit him to become a permanent member of an agricultural community where he is needed" the committee's yearly report says.

To accomplish such a long-range goal, the report says, the migrant must be offered a viable economic alternative" to his life of migration.

"An interim program of income assistance for the migrant worker might be necessary pending the establishment of nonfarm jobs which have their high demands coincident with low workers needs in surrounding farm areas."

The committee hopes additional rural industrialization might alleviate some problems of overcrowding in the cities.

"Of course, an end to the migrant stream is not an overnight affair," the report says.

The first step suggested in the report includes an evaluation of the precise labor requirement of each agricultural area.

After the areas of need are defined, the report suggests an effort to redistribute and permanently place farm workers in farm communities in numbers compatible with needs.

"Finally, and of paramount importance, emphasis must be placed on more intense development and attraction to rural areas of the many activities previously found in cities and large metropolitan areas."

If efforts aren't made to carry out the subcommittee's suggestions things will get worse, the report says.

"The short supply and decreasing number of jobs, and the abundance and growing number of workers . . . is likely to worsen in both the short and long run unless dramatic efforts are made to alleviate the situation."

Farm employment, through increased mechanization, is expected to decline between 1967 and 1980 from 4.9 million to about 3.6 million.

"The migrant worker and his family face a near hopeless future. Each year the migrant's opportunities will become further limited as the educational and skill requirements of tomorrow's farm jobs are increased."

Programs designed to eliminate rural poverty are a "myth" to the migrants because their mobility makes it difficult for them to participate, the subcommittee report says.

Sen. George Murphy of California wrote the subcommittee's minority report and opposed extension of the National Labor Relations Act to cover agricultural workers.

Such an extension, Murphy said, "would undoubtedly represent the last straw for thousands of farmers who are barely able to keep their heads above water under present conditions."

He said migrant organization would lead to higher wages and force farmers to mechanize to a greater degree.

"To the extent that increased mechanization will reduce the number of unskilled jobs on the nation's farms, it will aggravate even further the crisis of our cities by encouraging additional hundreds of thousands of unskilled, uneducated, practically unemployable people to migrate from rural to urban areas in search of, at best, jobs which do not exist, or, at worst, relief," Murphy said.

Of 13 basic recommendations for legislation proposed by the subcommittee, only the extension of the five-year Migrant Health Program is headed for rapid enactment.

A subcommittee spokesman in Washington told The Post speedy passage of any of the proposed legislation was "doubtful."

Meanwhile, time is running out for the migrant.

Anyway you slice it, it's Hell being caught up in the migration to misery.

A KEY: AMEND SOCIAL SECURITY ACT

Two amendments to the Social Security Act would eliminate "discriminatory treatment" of the migrant under the Act, a U.S. Senate subcommittee on migratory labor said last year.

"Old age, survivors, and disability insurance is one of the few major areas . . . from which agriculture migrants may receive even the slightest theoretical benefits. But even in this area, like all others, inadequate coverage prevails," the subcommittee's yearly report said.

The proposed amendments include eliminating restrictive wage and work period qualifications and the law which makes the crew leader an employer for Social Security purposes.

The migrant, due to his low pay and short employment periods, often doesn't meet the Social Security Act qualifying requirements of receiving wages of more than $150 from one employer during the year.

The only other way a farm worker can qualify for Social Security benefits under present law is through working for one farmer the equivalent of at least 20 days.

"Every dollar that these citizens are allowed to pay for their own social security entitlement will lessen the financial burden on the taxpaying public during the workers' nonproductive years," the subcommittee report said.

Congress has not yet acted to amend the act as proposed.

THE RECOMMENDATIONS OF THE SENATE SUBCOMMITTEE ON MIGRATORY LABOR

Here are the programs proposed by the U.S. Senate Subcommittee on Migratory Labor to alleviate the plight of the migrant:

Extension of National Labor Relations Act to include migratory labor.

Extension of five-year Migrant Health Project.

New nutrition programs aimed at serving migrants.

New rural housing programs with appropriations from older programs earmarked for rural housing development.

Review of current Office of Economic Opportunity programs for effectiveness and possible extension.

Better protection for youthful farm workers.

Expansion of current migrant education programs.

Increase in Labor Department personnel to insure crew leader registration.

Extension of compulsory workmen's compensation laws to provide coverage for all agricultural workers.

Modify Social Security Act to shift burden of reporting wages from crew leader to farmer.

Legislation forbidding states to deny right to vote on account of residency in national elections or physical presence in any election.

Establish national advisory council on migratory labor to provide longrange understanding of conditions, needs and problems of migrants.

Evaluate causes of unemployment and underemployment of migrants with views towards ending migratory way of life.

REMOVAL OF HIGHWAY SIGNS

Mr. MOSS. Mr. President, within a few days the Senate will have before it my bill to authorize pilot programs on the removal of highway signs which should come down under the Highway Beautification Act. The bill received the unanimous endorsement of the Committee on Public Works.

On October 31, Time magazine published a most informative article on this question. Believing that this clear, succinct explanation of a complex question will be helpful to the Senate, I ask unanimous consent that the article be printed in the RECORD.

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

THE HIGHWAY: HOW TO REMOVE BILLBOARDS

With his garish ties and gaudy boots, Douglas T. Snarr, 35, comes on like a big bad billboard. He is, indeed, the founder and president of Snarr Advertising, Inc., which owns 1,600 outdoor signs in 13 Western states. Yet Doug Snarr has also become a one-man lobby to ban billboards from any rural road built with federal financial help.

Why? First, because the Highway Beautification Act of 1965 commands such a ban—and Snarr stoutly insists that "when a law is enacted, it ought to be implemented." Second, if the law is ever funded, all billboard men who are put out of business by the act will be compensated—to the tune of $3 million in Snarr's case. A fervent capitalist, Snarr would like to start again, maybe in restaurants.

JOLTING MOTORISTS

The fact is that Lady Bird Johnson's famous highway-beautification program has become a parody of its original intentions. For one thing, the Federal Highway Administration has done virtually nothing to implement it. Because the law forbids rural-highway signs, many banks have also quit financing small billboard companies. Without cash for maintenance, a lot of billboards have been allowed to rot on the roadsides—becoming uglier than ever. Big billboard companies—still collecting rent on their legal signs in urban and commercial areas—are buying billboard locations cheap and building new signs, betting that the Government will not enforce the law in the foreseeable future. Some companies have also noted that the law forbids signs within 660 feet of an interstate highway, and are thus putting up monstrous billboards 661 feet from the roadside. In brief, the Beautification Act has worsened the billboard blight.

Snarr is confident that things will improve. After all, his whole life has been spent meeting challenges, including a childhood stutter, three Golden Gloves boxing championships in his native Idaho, and a tour as a Mormon missionary in Ireland ("Now *that* was tough," he roars). Snarr got into billboards because his father, a potato farmer, was too poor to send him to college. By designing weirdly shaped signs that visually jolted motorists, he earned his way through two years of Brigham Young University, then snagged a $400,000 sign contract from Harrah's casinos.

By 1965, Snarr Advertising had moved to Salt Lake City, boasted assets of $3.5 million, annual revenues of $800,000. Then the Beautification Act was passed. "My heart sank," Snarr recalls, "and the next week my bank called in a loan of $700,000."

"I wrestled and wrestled with what I should do," continues Snarr. "I finally realized that highway beautification was a fundamental responsibility of every citizen." He moved to persuade other billboard companies in Utah not to fight the act, then helped to get a state compliance law passed. Now he is trying to move the whole country.

The big obstacle is bureaucracy. Most states planned their beautification programs on a far too complex basis. Committees would choose the stretches of road to be cleaned up first. Then teams of engineers would draw survey maps, appraisers would evaluate every sign, Government would review the appraisals, and finally the billboard company would get a contract to remove a sign. The whole process, Snarr saw, could last decades and cost $2 billion or more.

SPELLBOUND SENATORS

He proposed a better way. Each state should merely pay each billboard company to take down its signs as leases expire. In one blow, red tape would be minimized. Knowing exactly where they stood, the companies could say to their banks: "We are going to be compensated. Can we have money to start to diversify?" The "Snarr Plan" would cost some $500 million and offensive billboards would vanish in a few years.

Despite its logic, the Snarr Plan will not be tested until a bill introduced by Utah's Senator Frank Moss is passed to authorize $15 million for a pilot sign-removal project in several states. Snarr is lobbying hard for it. Even hardened Congressmen find him irresistible. Speaking before the Senate subcommittee on roads last June, he explained his plan and exalted "the inspiration of America." The Senators were spellbound; John Sherman Cooper of Kentucky was reportedly on the verge of tears. Last week the subcommittee approved the Moss bill, which now goes to the floor for the consideration it surely merits.

THE 39TH WORLD TRAVEL CONGRESS IN TOKYO

Mr. JAVITS. Mr. President, last month the American Society of Travel Agents held its 39th World Travel Congress in Tokyo. The Congress attracted more than 2,800 delegates from over 90 countries throughout the world, and was perhaps the most meaningful and productive one in the long history of these events.

Participating at the Congress was the director of the U.S. Travel Service, Langhorne Washburn. Mr. Washburn took this opportunity to restate President Nixon's pledge not to restrict the right of U.S. citizens to travel freely to places of their own choosing but rather to attack our balance-of-payments travel imbalance by constructive and positive steps designed to stimulate increased tourism to the United States.

The American Society of Travel Agents, which took the lead in opposing efforts in the prior administration to restrict the right of U.S. citizens to travel abroad, is continuing to play an important role in stimulating U.S. tourism, and Director Washburn's speech also illustrated the constructive industry-government partnership which exists in this field. I commend ASTA for this effort as well as their effective work in improving the standards and proficiency of the travel industry.

Having joined with the Senator from Washington (Mr. MAGNUSON) the introduction of the bill which established the U.S. Travel Service and urged our Government to be more forceful and imaginative in the programs to stimulate tourism to the United States—having also known Langhorne Washburn for years—I take personal satisfaction in the enthusiasm and effectiveness which he has brought to the important role of the director of the U.S. Travel Service. I certainly hope that Congress will respond to the efforts of Director Washburn and the U.S. Travel Service by appropriating an amount sufficient for the USTS to begin to meet the commitments which the Nixon administration has made and which Director Washburn has outlined. At the very least, this amount should correspond to the $4.7 million statutory ceiling presently on the books. Also, bills at present before the

Senate—including one of my own—would raise this ceiling significantly.

Because of the importance of Director Washburn's message and the need to focus the attention of the Senate on the programs he has outlined, I ask unanimous consent that his remarks to the 39th World Travel Congress be printed in the RECORD.

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

REMARKS OF C. LANGHORNE WASHBURN, DIRECTOR, U.S. TRAVEL SERVICE, BEFORE THE 39TH ASTA WORLD CONGRESS, TOKYO, JAPAN, SEPTEMBER 18, 1969

President West, distinguished guests.

It is an honor for me to be with you today.

I feel especially privileged to speak to you here in Japan, which last year ranked third in terms of the number of its citizens who visited the United States.

Next year, I hope that even more citizens of Japan will visit the United States and its territories.

My purpose here today is to talk to you about "Government & Travel's Future."

Too many people have a conceptualized view of "Government" with a capital "G". They see it as a gigantic monolithic structure which controls mainstreet USA from Washington.

Government is not a monolith. It is millions of people in hundreds of agencies operating thousands of programs.

It is not only composed of three separate branches—but of 67 independent agencies which don't fit in any branch and whose work is both semi-administrative and quasi-judicial.

Every government agency with a travel program affects a different segment of the travel industry differently. The Civil Aeronautics Board regulates the airline industry; the Interstate Commerce Commission the railroads, and the Federal Maritime Commission the steamship companies.

But the policies of the CAB still affect the interests of the railroads and the steamship companies, and those of the ICC and the FMC no doubt influence the welfare of the nation's airlines.

Federal agencies in the travel and tourism field also affect each other. The rates and fares approved by the CAB have an impact on the VISIT USA market, and consequently, on the efforts of the United States Travel Service.

To a lesser extent, VISIT USA considerations can influence route decisions and foreign air carrier permits authorized by the CAB.

There are many Federal agencies today which operate travel or travel-related programs. Their policies and practices not only affect each other; they also affect you.

Actions at the Federal level also have an impact on the efforts of state and territorial tourist offices and local convention and visitors bureaus.

UNITY IS STRENGTH

What I am saying is that those of us in the travel industry live in a very complex and fragmented world.

This is a fact. It is not necessarily a happy fact.

History teaches us that strength lies in unity, not diversity and fragmentation. It is not the feudal fiefdoms and baronial enclaves which achieve great things; it is the Roman "empires".

There is a lesson in this: we in the travel field can accomplish far more if we identify our common concerns and work together. Thousands of men with one objective can accomplish far more than one man with thousands of objectives.

I concede that unity—like peace—does not come easily. It has to be worked at. But there are compensations: with joint enterprise comes joint reward.

Today, the need for concerted action was never greater. U.S. citizens interest in foreign travel is growing. Bulk and charter fares are opening up the overseas tour market to more and more less affluent Americans. The balance of payments deficit, this year, is widening.

At the same time, your stake in the international travel market continues to climb, and foreign tours and transoceanic air travel contribute a larger and larger portion of your profits.

You and the Nixon Administration share a joint interest.

You seek to book your clients unimpeded by artificial barriers.

The Administration seeks no restrictions on the American tourist's freedom to travel, but we need the assistance of the private community.

ASTA has always backed the visit USA drive. Your President, Chuck West, serves on the Commerce Department's Travel Advisory Board.

Today, I ask your support again.

THE SHAPE OF THE FUTURE

The United States Travel Service will soon unveil several new visit USA programs and projects. The success of these activities will depend on the concerted action of government and industry.

One of the most important of these new programs is a visit USA drive in Canada. Our objective is to generate both automobile summer vacation travel and air traffic to U.S. winter destinations.

Your active participation in this campaign could add the crucial momentum required to put it over. But this is also an opportunity for you to capitalize on our investment; to gain new business and sources of income at limited risk. We invite you to promote existing package tours—to develop new ones—and to participate in tie-in campaigns.

As a part of the Canadian effort, USTS will send visit USA exhibits across Canada in tractor-trailers. We will also go into Canada with a visit USA fair, using exhibits from each of the 50 States.

Eventually, we expect to re-stage the fair in London and perhaps the principal cities of Europe.

We also plan other projects and activities which will affect you and which I want you to know about. These include:

An effort to sell less affluent overseas nationals on the use of rental camper units for tours of the United States.

Low-cost, foreign visitor accommodations—including retired railroad Pullman cars—in or near National Parks or other major tourist attractions.

Multilingual reception corps to meet and assist incoming overseas nationals at U.S. ports of entry.

A re-visit American program aimed at 10,000 former foreign graduate students who once studied in the U.S. and now occupy influential positions in their home countries.

Those of you who are non-resident actives will be pleased to know we are working out a commission policy for accommodations aboard Pullman cars in National Parks. Eventually, you will be able to book a client into a National Park-based Pullman and collect the standard commission. USTS offices in your region will be providing you with more information on this in the future.

NEW CONVENTION OFFICE

We are also planning activity on the business travel front.

Last month, I set up an office of International Convention and Business Travel Development in Paris. The office will be headed by Richard Henry, former Regional Director of USTS' Paris office. Dick will solicit congress business for the United States. He will be an important contact for those of you who specialize in VISIT USA convention tours, and I hope you will get in touch with him at the U.S. Embassy in Paris.

Dick will be able to provide you with information about venues and congress groups. You will be able to help him promote convention attendance.

USTS will also unveil new VISIT USA marketing tools for use abroad. They are:

A new and really informative VISIT USA promotion film for use at America Weeks and travel trade seminars.

More VISIT USA seminars to acquaint leading members of the overseas travel trade with U.S. tour attractions and facilities.

"Floating" VISIT USA briefings aboard American flag passenger ships docked in ports abroad.

I cannot predict how government will affect the future of travel. Government has many diverse, interacting components and I speak for only one.

But I can tell you this: the United States Travel Service will do its very best to attract foreign visitors to the United States.

Our cause is monumental. I assure you our commitment will be equal to it.

ANTITRUST POLICY

Mr. INOUYE. Mr. President, it seems that almost every business publication I have picked up lately has contained articles critical of the Federal Government's current antitrust policy and specifically with the manner of its activities dealing with conglomerate mergers. Such influential publications as Barron's, Duns Review, Business Week, and Fortune have, in articles or editorials, reflected criticism of the Justice Department and have suggested that the department should reconsider its present merger philosophy.

I do not claim a great expertise in the antitrust enforcement field, but I must confess to great uneasiness over a governmental policy that seems to have stirred up some of the best, and most objective, business voices in our Nation. One of the most lucid of these articles was published in the September issue of Fortune. The piece, written by Prof. Robert Bork, of the Yale University Law faculty, deserves the attention of all Members of Congress. I ask unanimous consent that the article, entitled "Antitrust in Dubious Battle," and an editorial on the same subject, published in the same issue of Fortune, be printed in the RECORD.

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

ANTITRUST IN DUBIOUS BATTLE

(By Robert H. Bork)

In antitrust policy the Nixon Administration has sprinted away to a fast start in the wrong direction. The Antitrust Division of the Department of Justice appears in danger of not only missing a rare and invaluable opportunity to reform this sadly decayed field, but—if its unreflective assault on conglomerate mergers is a taste of the future—making a bad situation much worse. If it wishes to purvue a course that is responsible and constructive, this Administration had better pause and take serious thought about the proper goals of antitrust and the means by which they can be achieved.

There has grown up in recent years the pernicious notion that antitrust is some sort of open warrant for prosecutors to roam the business would like knights-errant, deciding for themselves, often in defiance of conven-

tional anatomical indicia, which are the damsels and which the dragons. Right now the chief of the Antitrust Division, Richard W. McLaren, seems to think he sees a lot of conglomerate mergers exhaling flames. Before he slays them, it is fair to ask his reasons, since he sometimes sounds as if the antitrust laws were his mandate to pursue every social policy except the prevention of lascivious carriage.

Among other things, he has mentioned that conglomerate acquisitions may be tax-motivated, may involve the issuance of dubious securities, are causing something called a "radical restructuring" of the economy, and result in "human dislocations." Valid or not, these objections have nothing to do with antitrust policy. Take "human dislocations," for example. What precisely, does McLaren have in mind? "When the headquarters of one or two large companies are removed from the nation's smaller cities to New York or Chicago or Los Angeles, I think we all recognize that there is a serious impact upon the community. The loss is felt by its banks, its merchants, its professional and service people—accountants, lawyers, advertising agencies. The community loses some of its best-educated, most energetic and public-spirited citizens. I am concerned that even some of our larger centers may become 'branch house cities,' whose major business affairs are directed by absentee managers. As I have indicated earlier, these are results which contravene the national policy as repeatedly expressed by Congress."

Every lawyer loves a skillful gambit, and attributing to Congress a clear-cut policy it never voted on has always been considered good, clean legal fun, the sort of ink cloud you shoot out when neither the statute nor the facts of the case support your position. But this is going a little to far. McLaren is now more than an advocate: he is a policy-making official.

It is time somebody spoke the magic words "law and order." Members of this Administration must certainly display a positive reaction to that phrase, and law, we surely need not remind them, imposes restraints upon prosecutors and courts quite as much as upon ordinary citizens. The creative flair of the Antitrust Division must be kept within the bounds of the statutes it has been given to enforce. Congress has never, much less "repeatedly," enacted a keep-'em-down-on-the-farm statute that makes the illegality of a merger depend upon its contribution to some interstate brain drain.

It may be admitted that the opinions expressed in the congressional debates on the merger statute, Section 7 of the Clayton Act as amended in 1950, display the same richness of variety as the contents of a fruitcake, so that you can pry a fragment of almost any social policy out of them. But the statute Congress actually voted on calls solely for the preservation of "competition" and the avoidance of "monopoly." It forbids acquisition of one company by another, that is, only where the effect "may be substantially to lessen competition or tend to create a monopoly." With the aid of a little basic economics, you can make a law out of that—taking the terms, as is natural and sensible, to refer to the desirability of efficient use of economic resources in the interest of consumers. But should the Antitrust Division attempt to judge conglomerate mergers by weighing gains in efficiency and competitive vigor (which McLaren admits are relevant) against losses to the certified public accounts of Keokuk, mixing in sociological speculation whether that city or Chicago more urgently needs a particular lot of public-spirited citizens, the results can only be uninformed, ad hoc political guesswork, not anything remotely recognizable as law.

Such a result would violate not merely the wording of the statute but, more fundamental, the ideal of law. Antitrust is a hybrid policy science, being composed of both law and economics. I use the word "science" deliberately. We are too little accustomed to thinking of law as a science, and indeed in current practice there is little enough to suggest the concept, but it should be obvious that law must develop the characteristics of a policy science if the ideal of the rule of law is even to be approximated. At the center of any science of law must stand a normative model of judicial behavior, which is to say a system of understood constraints upon the values judges may consider in deciding cases and the methods by which they may reason from proper values to the decision of specific controversies. To a large extent that model must be based upon the specialized function of courts as against the explicitly political role of the legislature.

Antitrust, unlike many other fields of law, already possesses the rudiments of such a science, but failure to follow its principles consistently has led to much that is wrong, and even preverse, in current judge-made law. To start with the bright side, the Supreme Court has resolutely refused to judge the legality of pricing agreements by the general "reasonableness" of the prices charged. To do so would have mired the Court, without criteria fit for judicial use, in a grossly political balancing of the interest of consumers in low prices against the interest of producers in high prices. Any such compromise between the conflicting claims of interest groups belongs to the legislature. But the Court in recent years has failed to recognize that it commits the very error it avoided in pricing cases when it undertakes to balance the interest of consumers in increased efficiency against the interest of what the Court calls "viable, small, locally owned businesses." That is what the Supreme Court has done in some merger cases. This case-by-case legislative compromise is not only an improper function for courts applying statutes, but also one at which they are not at all adept. In antitrust, when inconsistent values have been let in, it has been the consumer interest that has gone under. And yet this is the primary value that antitrust's protection of competition is intended to serve.

THE FIRST REQUISITE OF REFORM

It hardly needs saying that the same value constraints are relevant to prosecutors. If, for example, a judge is not properly free under amended Section 7 of the Clayton Act to determine the legality of a corporate acquisition according to the dollar worth of the corporation's assets, it is certainly not proper for a prosecutor either to try to persuade the judge to do just that, or to bring actions, motivated by such considerations, that will at the least have harrassing effects. That amalgam of muddled thinking, social mythology, and sentimental rhetoric known to its intimates as "the social purposes of antitrust," however sonorously it may ring upon ritual occasions for mock-Jeffersonian oratory, must be excluded from judicial and prosecutorial decisions about actual cases. The first requisite of antitrust reform, therefore, is the identification of and principled adherence to proper goals. The only legitimate goal of our present statutes is the maximization of consumer welfare. And that is true, I stress, not because antitrust is economics, but because it must be, first and foremost, deserving of the name of law.

Businessmen can seek profits in two quite different ways that impinge upon consumer welfare. One is the method of monopoly—gaining market control in order to increase net return by restraining output and raising prices. Monopoly misallocates resources with the result that the economy as a whole produces less than it otherwise could, a clear disservice to consumers. The other and altogether different method is the creation of efficiency—by cutting costs, opening new markets, offering new or modified products and services, or in other ways vying successfully for consumer dollars. The whole task of a consumer-oriented antitrust policy is to estimate which of these opposing effects predominates in any specific market behavior or structure.

Since neither misallocation of resources nor efficiency can be directly measured, there is absolutely no merit to the common proposal to decide cases by studying all relevant performance factors. To illustrate, we cannot begin to quantify a claimed future improvement (or decline) in the performance of Jones & Laughlin resulting from its acquisition by Ling-Temco-Vougt, because that would require, among other impossibilities, precise statements about differences in quality of future decisions concerning problems that cannot now even be identified.

THE PHILO VANCE APPROACH

Correct analysis employs what has been called, with misplaced sarcasm, "the Philo Vance approach to antitrust." Since courts cannot measure efficiency or misallocation directly, they must rely on probabilities, framing general rules on the basis of economics. Where economic theory tells us that certain business behavior is likely to result in monopoly profits and misallocation of resources, such behavior should be illegal. All other behavior should be lawful so far as antitrust is concerned, since, in relation to consumer welfare, it is either neutral or motivated by considerations of efficiency. A tax-propelled conglomerate merger, for example, is neutral since courts have no means of judging what impact, if any, it will have upon consumer welfare. They should, therefore, leave the situation to the tax laws or to any other statutes Congress may enact. *Efficiency-motivated mergers deserve the law's protection. The market will penalize those that do not in fact create efficiency.*

Economics provides one other lesson that should be written in red letters across every antitrust prosecutor's bathroom mirror: injury to *competitors* is irrelevant to the question of injury to competition and consumer welfare. Much antitrust argument today seizes upon the fact of competitor injury and treats it as not merely relevant but decisive. The antitrust enforcer, with a massive *non sequitur*, leaps from observed fact to inferred significance as nimbly as did the aprocryphal fundamentalist: "Believe in baptism? Why, man, I've seen it done!"

You may see injury to a competitor; you will never see, as raw fact, injury to competition. The presence of the latter can be inferred only on the basis of economic theory. A company's loss of sales—which is all that is ever meant by injury to a competitor—is fully consistent with a gain in efficiency by a rival company. Because antitrust law has confused the fact with the inference, many of its most cherished doctrines strike directly at efficiency as a threat to competition. In such cases, and they are increasing in number, the law itself inflicts upon consumers the kinds of losses that it is intended to prevent.

Unhappily for those of us who make a living out of antitrust's mysteries, the truth is that the law almost always, regardless of context, uses one of two basic theories of how competition may be injured:

(1) Competitors may agree to remove the rivalry existing between themselves; or

(2) Competitors may inflict injury on rivals and thereby ultimately injure the competitive process.

Cartels and large horizontal mergers fall within the first theory, which, through it has been drastically over-extended, contains an important core of validity. The second theory—that of supposedly "exclusionary" practices—is the sole support for the present stern rules concerning vertical mergers, tying arrangements, exclusive dealing contracts,

and price discrimination, as well as for the developing harsh treatment of conglomerate mergers and reciprocal buying. This large and growing structure of law rests upon an exceedingly flimsy foundation, for in the version used by the law the idea of exclusionary practices as a threat to competition is fallacious.

ADD TWO AND ZERO AND GET FOUR

The fallacy lies in counting the same thing twice—in this case, the same market power. The nature of the error, which is basic to antitrust's current confusions, can be simply illustrated. Frank Carruthers, let us suppose, owns the only motion-picture theatre in the remote hamlet of Lakeville, Connecticut. Having a monopoly, he drives the price of films down to $800 while exhibitors in New Haven must pay $1,000 for a film of equal quality. Carruthers expands by purchasing one of the New Haven theatres, thinks the situation over, and telephones a distributor to announce that he wants better-quality films for his newly acquired theatre in order to gain an advantage over the opposition. "Delighted," the distributor replies, "I can let you have them for $1,200 each."

"You don't understand," says Carruthers. "I want the better films in New Haven for $1,000 or I won't show any of your films in Lakeville."

According to the prevalent antitrust thinking, the distributor has no choice but to say yes to this demand, but I think we may confidently rely upon him to say no. Of course, it is worth something to the distributor not to be excluded from Lakeville. But—and this is the overlooked point—Carruthers has already exacted that something, in the form of the $200 discount on $1,000 films. Carruthers cannot eat his cake in Lakeville and have it in New Haven too. In demanding a $200 discount in Lakeville *and* a $200 discount in New Haven, he is demanding that the distributor pay for the same thing twice, pay $400 for a market advantage worth $200. It won't work.

Presumably, Carruthers could, if he chose, give up the discount in Lakeville in exchange for a $200 discount on better films in New Haven, but that would bring him no unfair advantage. Rival exhibitors in New Haven would have to pay $1,200 for better films, and so would Carruthers—$1,000 plus the $200 given up in Lakeville.

Under one guise or another, the fallacy of counting the same market power twice pervades antitrust law. It turns up, for example, in the precedent-making suit that the Antitrust Division filed against I.B.M. in the closing days of the Johnson Administration. The charge, laid under Section 2 of the Sherman Act, is monopolization. I.B.M.'s share of industry revenues has varied, according to the complaint, from about 69 to 80 percent in recent years. These figures suggest superior efficiency, but the complaint attempts to avoid this natural inference by alleging that I.B.M. denied its rivals the opportunity to compete.

I.B.M. did this, it is alleged, through such devices as quoting a single price for computers and software. But since I.B.M. can charge all its computer is worth in the price of the computer, it cannot get more than the combined worth of computer and software by selling them together, any more than Carruthers could get more than the combined worth of his positions in Lakeville and New Haven by negotiating for them together. Does the selling of computer and software together improperly inhibit the ability of rival computer makers to compete? Of course not. If they can compete with I.B.M. in computers, they can either produce the necessary software themselves or find other companies that can. Then the customer can choose the package he likes best. To assume that competitive software is not available to I.B.M.'s rivals is to assume that I.B.M.'s market strength lies not in computers but in software, and, therefore, that the government has the case backward. Chances are I.B.M.'s single-price package was a convenience or contributed to the total service the company sold, in either case a form of efficiency—which does, to be sure, make life harder for rivals. But it is impossible to see that practice as a means of improperly preventing competition, and with that idea out of the way, the government's suit stands revealed as an attack on outstanding commercial success as such.

Although numerous economists point to the double counting of market power as an obvious error, antitrust prosecutors continue to assert, in one context after another, the equivalent of the proposition that a seller can add $200 and zero and get $400. Clearly, this peculiar form of new math is wrong—the questioned behavior has other motivations and other effects. Since double counting forms the mainspring of antitrust reasoning about exclusionary effects, a large body of antitrust doctrine, including the existing and emerging rules against vertical and coglomerate mergers, must be considered to stand unjustified.

CONGLOMERATE MERGERS—PHANTOM THREAT

The Nixon Administration's announced determination to wage war on conglomerate mergers—with special but by no means exclusive attention to the acquisitions of the top 200 manufacturing companies—must rank as one of the bleakest, most disappointing developments in antitrust history. An Administration that could have initiated pro-consumer reforms has chosen instead to accentuate and extend some of antitrust's most irrational economic theories. The campaign against conglomerate mergers is launched in the teeth of the conclusion reached by the task force that President Nixon himself appointed to study and report on antitrust policy. The task force, headed by George J. Stigler, professor of economics at the University of Chicago, said of conglomerate mergers: "Vigorous action on the basis of our present knowledge is not defensible." It most certainly isn't. And yet since the submission of that report we have had not only announcements that vigorous action is to come, but also the filing of suits against L-T-V's acquisition of Jones & Laughlin, I.T.T.'s acquisition of Canteen Corp., and Northwest Industries' attempt to purchase effective control of Goodrich.

If McLaren succeeds in sustaining the theories of these cases in court—and in recent years the Antitrust Division has been able to get almost any theory upheld in the Supreme Court—he may have succeeded in destroying the last vestiges of rationality in the antitrust laws. If conglomerate mergers can be held a threat to competition, an antitrust attack upon conglomerate mergers raise a variety of debaters' points that can, I believe, be characterized as essentially frivolous. The most commonly urged points against conglomerate mergers are that they increase a general concentration of ownership in the American economy, raise the possibility of reciprocal buying, and create—dread phrase—"barriers to entry." The first of these points is, at its strongest, irrelevant; the second describes a practice that is either harmless or beneficial; and the third raises a specter that is just that, an incorporeal apparition.

A PROPHECY THAT NEVER CEASES TO FRIGHTEN

The imminent concentration of all ownership in a few giant corporations, with the accompanying demise of sturdy, locally owned small business, is the standard, Mark I, all-weather antitrust hobgoblin. It serves not only against conglomerate mergers, of course, but against any merger involving a very large company, even where the acquired company is far from large. This congealing of the economy has been prophesied freely at least since 1890 on the basis of perceived trends, and it never happens. It also never ceases to frighten people. The evil of the predicted economy-wide concentration is supposed to be both so self-evident and so enormous that counterargument is overwhelmed. Nothing about the prediction is self-evident, not the statistics, the correctness of the extrapolation, or the assumed sociological, political, or economic consequences.

These all deserve examination, but the point to be emphasized here is that the superconcentration issue, whether genuine or synthetic in other aspects, is *a bogus antitrust issue*. It has no proper place whatever in enforcement decisions under the present statutes, because it is irrelevant to competition in particular markets and to the allocation of resources by the market mechanism. Consistent with the consumer-welfare standard, it is *market* concentration, not economy-wide concentration, that is the subject of the Clayton Act's provisions concerning "competition" and "monopoly." Congress could write a statute about the sociological implications of economy-wide concentration achieved through mergers—a statute that would perhaps be phrased in terms of the size merging companies' assets. But Congress has not done so. If superconcentration is a matter of concern, Administration officials should appear before the appropriate congressional committees to ask for a political decision, expressed in the form of a statute, on how superconcentration should be dealt with, and how much economic benefit we are willing to sacrifice in the process.

Another hobgoblin is reciprocity, the business practice of buying from those who buy from you. Though it has probably been going on since men traded arrowheads for mammoth hides, it has only recently been discovered to be anticompetitive. The discovery comes at an opportune time for the anti-conglomerate campaign—the more diversified a firm becomes, the more likely that somewhere in its complex dealing it will find the chance to practice reciprocity. Attorney General John N. Mitchell has indicated that the potential for reciprocity will be a key argument in the attack on conglomerate mergers. He characterized the practice as "one of the most easily understandable dangers posed by the conglomerate merger."

On the contrary, in economic terms the "danger" is not understandable at all, much less easily. As the Stigler task force reported, the "economic threat to competition from reciprocity (reciprocal buying arrangements) is either small or nonexistent." The objection to reciprocity involves the Carruthers fallacy—counting a quantity of market power more than once. If a company is using its position as an important customer to bargain the best possible prices from its suppliers, then that company has no market power left to force the suppliers to buy from it on noncompetitive terms.

The rhetoric of "barriers to entry" is the latest conceptual fig leaf used by the enforcement agencies to hide the obtrusive fact of life that commercial success is usually due to superior efficiency. So far this rhetoric, too, has been highly successful. It persuaded the Supreme Court to strike down Procter & Gamble's acquisition of Clorox on the theory that any addition to Clorox's effectiveness in the market for household liquid bleach would raise barriers to entry. (See "The Supreme Court versus Corporate Efficiency," Fortune, August, 1967.) In the long course of that litigation, nobody—not the FTC, the Antitrust Division, the Solicitor General, or the Court—ever explained even once how a "barrier to entry" differed from superior efficiency.

The case centered on the "barrier" that would be created if Clorox shared in the quantity discounts that Procter was supposed to receive from the television networks. Nobody ever showed why the ability to get such discounts should not be considered an efficiency. And now, most humiliating development of all, it begins to appear from the

separate researches of David Blank, a vice president of C.B.S., and John L. Peterman, a professor at the University of Chicago law school, that the crucial quantity discounts may have suffered from the even more serious defect of not existing. This whole episode has an air of satire: a major merger was dissolved, an unsound concept was embedded in the law, and a vital precedent was established—all on the application of an erroneous theory to an apparently nonexistent "fact."

The only way a company can make entry more difficult through a conglomerate acquisition is by increasing efficiency, and that is beneficial. But if the Antitrust Division succeeds in inhibiting conglomerate mergers with these theories, it will have erected real, and truly anticompetitive, barriers to entry. A successful legal attack would deny us the benefits these mergers can confer: revitalizing sluggish companies and industries; improving management efficiency, either through replacement of mediocre executives or reinforcement of good ones with aids such as superior data retrieval or more effective financial-control systems; transferring technical and marketing know-how across traditional industry lines; meshing research or distribution; increasing ability to ride out fluctuations; adding needed capital; and providing owner-managers of successful small companies with a market for selling the enterprises they have created, thus encouraging other men to go into businesses of their own.

MISTAKING HORIZONTAL FOR VERTICAL

The same sort of confusion that characterizes antitrust arguments against conglomerate mergers also shows up in arguments against vertical mergers. A vertical merger, of course, is one in which the acquired company is, actually or potentially, a customer or supplier of the acquiring company. The courts, at the urging of the Antitrust Division, treat vertical mergers with a ferocity wholly unjustified by economic analysis. The law supposes that a manufacturer, M, with 5 percent of a market, can "foreclose" his rivals and "lever" himself to a competitively unjustified market share by acquiring a retailer R, who has 1 percent of the market and has been selling other manufacturers' products. This is the Carruthers double-counting fallacy again. The theory assumes that R can both enjoy whatever market position it had established and simultaneously transfer its enjoyment to M. It is assumed, in other words, that by forcing its good on R, M picks up an additional 1 percent of the market in manufacturing, while R keeps its 1 percent in retailing.

But whatever considerations of price, quality, consumer preference, etc., had previously persuaded R not to specialize in M's goods are still operative. If M's goods are forced on R, then the retailer loses the profits that the manufacturer gains. The law's theory of foreclosure, then, turns out to be mistaken. The only sensible explanation for the vertical merger of M and R is that through economies in distribution, management, and the like, it creates profitable efficiencies, which are socially beneficial.

Apologists for tough rules against such mergers (joining manufacturers and merchants in the same line of goods) usually prefer to argue an extreme case. Suppose M should buy 100 percent of the retailers, they say; that surely confers the ability to gain a manufacturing monopoly. As an objection to vertical merger, this argument is spurious—the case as stated is horizontal, not vertical. The problem in such a situation is not the foreclosure of rival manufacturers but the elimination of rivalry at the retail level. To be clear about that, ask yourself whether the situation would be any better, if instead of M, a complete stranger to the industry had bought all the retailers. The answer, clearly, is no: in either case a horizontal monopoly has been created at the retail level.

What I am suggesting is that vertical mergers should be judged by horizontal-merger standards. Thus any acquisition by a manufacturer of a single retail firm should be lawful, because it does not increase market power at the retail level. If the manufacturer acquires two or more retailing companies, horizontal merger standards should be applied to the share created in retailing. I am further suggesting that a manufacturer's acquisition of retailers in the same line of goods should be judged by the same standards as would apply to their acquisition by a newcomer to the industry.

AVOIDING BOTH KINDS OF MISALLOCATION

Size or market concentration created by horizontal merger (merger between actual or probable rivals) is a completely different animal from size achieved by internal growth or by conglomerate or vertical merger. Growth demonstrates superior efficiency; horizontal merger to a very large market share does not—it may have been motivated primarily or even solely by a desire to reap monopoly profits. Conglomerate and vertical mergers cannot create the ability to increase profits with restricted output; large horizontal mergers can. On the other side, however, monopoly profit cannot be the motivation for horizontal mergers that add up to only a small share of a market.

To take a clear case: when companies each having 1 percent of a fragmented industry merge, they cannot be supposed to have a monopoly profit in mind. As in the case of conglomerate and vertical mergers, their motivation must be either increased efficiency or some effect irrelevant to antitrust. It is, therefore, intelligible policy to set limits on market shares achievable by horizontal merger, but the limits must not be so narrow that their predominant effect is to ban mergers motivated by valid business considerations. Error in either direction will be costly. Allowing horizontal mergers that are too large invites resource misallocation through deliberate restriction of output. Allowing only horizontal mergers that are very small enforces resource misallocation through lowered efficiency.

We are dealing with a spectrum, and it must be confessed that the proper place to cut it is not at all clear. Unfortunately, our guidelines are few and uncertain. But rough observations are enough, I think, to indicate that present law about horizontal mergers is far too harsh.

A CONCESSION TO A PHOBIA

The purpose of limiting horizontal mergers to market shares far smaller than those that would be required for monopoly profits is to guard against "oligopolistic" erosion of competition, i.e., the possibility that a few dominant companies may restrict output through noncollusive mutual restraint. (The term "noncollusive" is essential here, for collusive restraint of competition is illegal per se.) In a concentrated industry, according to some theories of how oligopolies work, it is possible for supposed rivals to soften rivalry through "conscious parallelism." By following an industry leader, or by acting in accordance with what they know of each other's policies, it is said, these companies move in lockstep in matters of production levels and pricing without actually communicating with each other.

But even if one assumes this picture to be accurate for some industries, that still does not justify the stringency of the present rules on horizontal mergers. Judging from such indications as the eagerness of oligopolists to engage in actual collusion despite the considerable legal dangers, the frequency with which even elaborately negotiated and policed collusive schemes break down under the temptations and pressures of the marketplace, and the dramatic drop in prices that often occurs when even a two-company situation replaces a one-company situation, I would estimate that noncollusive restriction of output is usually not a serious problem where there are as many as three substantial companies in a particular market. (I am not asserting that it is necesarily a serious problem where there are only two.)

As a tactical concession to current oligopoly phobia. I am willing to weaken the conclusion that should follow from that and propose a rule permitting horizontal mergers up to market shares that would allow for other mergers of similar size and still leave four significant companies in the market. In a fragmented market, this would indicate a maximum share attainable by merger of about 30 percent. In a market where one company already has more than 30 percent, the maximum would be scaled down somewhat. For example, where one company has 50 percent, no other company could go above about 20 percent by merger (barring some exceptional case, such as the imminent failure of one of the merger partners).

I do not claim that such a rule, or any other I might devise, would either completely prevent noncollusive restriction of output or completely avoid needless destruction of efficiencies. Some such welfare losses are inevitable in any policy that can be framed with respect to horizontal mergers. But I am reasonably confident that this rule, whatever its imperfections, would strike a much better balance between the factors impinging upon consumer welfare than the present judge-made proscription of horizontal mergers creating market shares as small as 5 percent. The harmful effects of that rule upon consumers may be imagined if one realizes it is equivalent to saying that when there are a hundred lawyers in a town no law firm may contain as many as five. Such a rule obviously cuts far too deep into the efficiencies of integration.

The rules on mergers, it should be clear, urgently require reform. And the need for antitrust reform extends beyond merger rules, to fields it has not been possible to discuss here. To put the matter bluntly, we have now reached a stage where the antitrust laws, as they are being interpreted and applied, are simply not intellectually respectable. They are not respectable as law or as economics, and, because they proceed to stifle competition while pretending to protect it, they are not even respectable politics.

THE MISSING DISCUSSION

Most of the rules that should be changed were made over the years by the Supreme Court, usually at the urging of the Antitrust Division, and reform can quite legitimately come in the same way. The antitrust statutes lay down very little hard law. The courts remain free to change the subsidiary rules they constructed, and the head of the Antitrust Division should play a key role in that process.

Reform should have an ideal in view, and an ideal consumer-oriented law would, for the most part, strike at large horizontal mergers and at cartel agreements among competitors. I agree with the recommendation of the Stigler task force that more resources and ingenuity should be devoted to a drive against price-fixing and market-division cartels, since there appear to be many that enforcement of the law does not now reach. An enforcement drive against collusion in national, regional, and local markets would pay high dividends in consumer welfare, particularly since cartels, being subject to a rule of per se illegality, are among the least difficult and least expensive offenses to prosecute.

Beyond the reformation of existing antitrust law there is a broader and potentially far more important role that lies waiting to be seized by a bold and creative antitrust administration. The original antitrust philos-

ophy of open markets and free competition that underlies the rule against cartels should be steadily expanded to cover other fields of economic behavior where control of entry, price fixing, and similar eliminations of competition now occur *with governmental blessing*. The Antitrust Division should make itself the spokesman for antitrust ideals throughout the economy, by testifying on proposed legislation, by intervening in federal and state regulatory processes, and by other means. The opportunities are innumerable—in the regulation of trucking, banking, communications, drug retailing, and in many other fields where regulation often acts less to protect consumers than to preserve business fiefdoms from competitive challenge. A positive antitrust program such as this would elicit enough outraged screams from protected companies to dispel any notion that the policy is narrowly "pro-business."

Some readers may suppose that the views I have expressed here are extreme. They are not. Far from being personal or idiosyncratic, they represent, in their general outline, a broad and growing school of thought about antitrust policy. Views in many respects quite similar to mine are presented, for example, in the Stigler report, which the Administration has so far assiduously ignored. Reform is a necessity, and, regardless of his own views, Richard McLaren could contribute greatly by using his office to start and focus a systematic discussion of antitrust goals and economics. Without reappraisal and reform, antitrust is likely to go on fighting—and, worse, winning—even more dubious battles.

ANTITRUST'S PREGNANT SILENCE

Though neglect and oblivion may follow, reports submitted by presidential panels often start out with a moment in the sun: they are received with expressions of thanks, hailed as major contributions to sound policy, and officially released along with a commendation by some high official or the President himself. Only after these rituals are the reports filed and forgotten. But a quite different start in life, it appears, awaits reports by presidential panels on antitrust policy. They meet with deep silence right from the start.

Lyndon Johnson and Richard Nixon each appointed a task force, made up mostly of economics and law-school professors, to scrutinize U.S. antitrust policy and to present recommendations. In both cases, oddly enough, the chairman was a University of Chicago professor: Phil C. Neal of the law school headed the Johnson panel and economist George J. Stigler of the business school headed the Nixon panel. In both cases, also, the President who appointed the task force showed no inclination at all to make its report public. The Johnson Administration never did release the Neal report. The Nixon Administration finally released Neal last May, without comment, but has not yet released its own Stigler report, though the text has appeared in the *Congressional Record*. The Administration, indeed, has yet to make a formal acknowledgment of the Stigler report's existence.

This official silence is what fiction writers like to call a "pregnant silence." A reading of the Stigler report makes it quite clear that the Administration must find the report terribly embarrassing. Its analysis and recommendations run almost totally contrary to what the Justice Department's Antitrust Division has been saying and doing since Nixon appointed Richard W. McLaren to head it. (See "Antitrust in Dubious Battle," page 103.) The Stigler report urges "a series of strategic cases against regional prixe-fixing conspiracies, which we believe to be numerous and economically important," but McLaren has not noticeably bestirred himself in that direction. On the other hand, he has very energetically thrown himself into an assault on large conglomerate mergers, while the Stigler report says: "We seriously doubt that the Antitrust Division should embark upon an active program of challenging conglomerate enterprises on the basis of nebulous fears about size and economic power."

The Stigler report is full of other sound recommendations that it would be well for McLaren and Attorney General John N. Mitchell to heed. It urges them, for instance, "to insist that every antitrust suit make good economic sense." It also urges them "to resist the natural temptation to utilize the antitrust laws to combat social problems not related to the competitive functioning of markets." It argues that, in appraising a merger, the Antitrust Division should delineate the relevant market with care, "for if the market is drawn narrowly enough, virtually any merger can be made to seem monopolistic in its effects."

We do not suggest that Mitchell and McLaren adopt the Stigler report as their own: they clearly have no intention of doing that anyway. Nor that it is right in all respects: its analysis proceeds from classical perfect-competition economics, which does not always accurately correspond to what actually goes on in particular industries. But this cogent, tough-minded, and admirably lucid document has laid down a powerful challenge to the Administration's antitrust policies, and McLaren owes the members of the task force, the business community, and the public at large a reply.

A PROPOSAL FOR CAMPUS PEACE

Mr. CASE. Mr. President, recently Parade magazine published an article entitled "A Proposal for Campus Peace," written by Sam Zagoria. As might be expected from Sam, his article is a succinct and constructive statement of a problem we all recognize. To help resolve it, he suggests we turn to a method that has worked well in the field of labor-management relations—the establishment of a formal grievance procedure. It has much to recommend it.

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

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

A PROPOSAL FOR CAMPUS PEACE

(By Sam Zagoria)

WASHINGTON, D.C.—Seven million American students are on college campuses this fall. College administrators, after five years of campus unrest, are naturally worried. Some student disruptions have taken their toll, resulting in vacancy signs displayed outside 200 college presidents' offices.

The problem, it seems to me, is not the university administration's alone. We all have a stake in providing orderly processes for resolving campus disputes, for as taxpayers, parents, fund contributors or merely as citizens seeking an educated community we recognize disruption of university training is a tragic and expensive waste.

One technique which has proven itself in the labor-management field is the establishment of a formal grievance procedure. Employers in both union and non-union plants have found that workers need a method for voicing complaints, some clear-cut way of sounding off and seeking relief without suffering retribution. For management, it may be a way of discovering problem areas, of clearing the atmosphere of pent-up irritation, of improving operations.

The grievance process may start with a written protest, followed by investigation and then hopefully culminate in a calm, problem-solving discussion. If agreement is not forthcoming, an appeal to higher authority is usually provided. In the course of this procedure the issue is clarified, often cooled down. There is no need to create a crisis confrontation in order to be heard.

Similar grievance machinery in the university would, in my opinion, help achieve these same benefits. The very existence of a clearly designated, well-publicized formal plan for prompt adjustment of grievances would help students realize that the university is willing to hear, discuss and act on problems. In some schools, such as the University of Chicago, this has taken the form of appointment of an ombudsman, following the Swedish plan of an official empowered to hear individual complaints and act on them.

FACE TO FACE

Such points of contact would provide students and administrators with opportunities to defuse explosive situations, to occasionally face parties with the tempering question, "What would you do about it if you were in my place?" They would also make it harder for groups seeking revolution rather than reform to attract a following for disruptive, violent tactics.

Those college presidents who argue that their doors are always open are discovering that students are little taken by these grandiloquent gestures and are more impressed by the earnest ring of specific methods by which they can file a grievance and get an adequate response.

This does not mean that a university should give in to every complaint, swinging from firm authoritarianism to docile concurrence. It does mean that both administrator and student can profit by the give and take of discussion, for at the heart of their relationship is the simple fact that they have more to gain by getting along than by trying to destroy one another. Even though the grievance procedure does not assure perfection, experience in the industrial field proves that it does resolve thousands and thousands of grievances in a peaceful, lawful way each year.

While I do not believe traditional collective bargaining is appropriate for resolving student disputes, I do suggest that if the grievance process fails to resolve the issues, mediation be tried. Here a third party is called in to help resolve a dispute by offering advice or suggestions. Indeed, several experienced labor-management experts have already taken part in campus disputes with some useful results. Professor Fred Freilicher of Cornell University successfully mediated a many-sided dispute at Wilberforce University in Ohio, and other mediators such as Theodore W. Kheel and Ronald Haughton have eased problems on other campuses. Kheel helped establish a permanent office of student discussion at Pennsylvania State University as a grievance mechanism for use in future disputes.

State mediation boards, the Federal Mediation and Conciliation Service and the National Center for Dispute Settlement of the American Arbitration Association are available when both students and administration feel they can contribute to peace-making. Their mediators can bring a fresh approach to a festering problem and help develop acceptable and sometimes innovative solutions. They know how to engineer the face-saving devices which may be necessitated by wild-swinging statements of both inexperienced administrators and students.

There are those who tend to look down from ivory towers on college students as veritable babes who should be seen and not heard. But if students are old enough and responsible enough to lead men into battle, to help choose the President of the United

States and to marry and raise a family, are they not ready to be given a role in the discussion of decisions that affect their university life?

CAN PENSION PLANS HELP IN THE HOUSING CRISIS

Mr. JAVITS. Mr. President, as the author of S. 2167, a bill to establish minimum standards for private pension plans, I have naturally taken a great interest in all aspects of the private pension plan system as it exists in America. In the past, I and many others have had occasion to point to the tremendous growth of the private pension plan system in recent years and the prospects for its continued growth in the future. Today, private pension plans control over $100 billion in assets; that money constitutes one of the largest single sources of investment capital which exists today in the United States.

I have also pointed out that the administrators of private pension plans who control these great resources have it within their power to utilize this money to make a significant contribution to helping to solve the urban crisis with which we are not confronted in the United States. I recognize that the first responsibility of the pension fund administrators must be to invest their resources safely and productively, to the end that plan beneficiaries receive their retirement benefits. Nonetheless, I believe that without in any way derogating from this responsibility, fund administrators might invest in a wide variety of projects directed at helping to upgrade and improve conditions in our cities. Particularly appropriate, I believe, would be investment in housing. The Nation's insurance companies have already agreed to invest some $2 billion in housing projects; moreover, numerous jointly administered pension funds have invested in lower or middle income housing with no deleterious effects whatsoever on the security of their beneficiaries.

I think that the present time is particularly appropriate for pension fund administrators to consider the desirability of investing in the housing market. There is today an acute shortage of capital to finance badly needed new housing; mortgage money is difficult to find, and exorbitantly expensive when it is available. Housing starts are down, reflecting the tight money market.

In the October 1969, issue of Pension and Welfare News, Mr. Raymond D. Edwards, president of Glendale Federal Savings & Loan Association of Glendale, Calif., and past president of the Conference of Federal Savings and Loan Associations, suggests that one of the ways in which pension funds could help to alleviate the current housing crisis may be to invest a part of their funds in savings and loan associations. This suggestion certainly makes a good deal of sense to me, and I hope that Mr. Edwards' article will receive wide attention. 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:

ARE PENSION FUNDS HELPING OR HINDERING THE HOUSING MARKET?

(By Raymond D. Edwards)

Today, during a time of tight money, rapidly rising interest rates, increased taxes, and decreasing savings flows, savings and loan associaltons are finding it more difficult to provide needed funds for the home building industry. These economic pressures come at a time when our nation is badly in need of housing.

Recently, the Department of Housing and Urban Development set a goal of 26,000,000 housing units projected for 10 years. Our statisticians have been telling us for some time that many factors are combining to spell out the necessity of a substantial housing boom in the 1970s. We know that new family formations will create a good part of this market. It is estimated that the population of the United States will reach 203,940,000 in 1970 and is expected to increase an additional 11 percent to 227,000,000 by 1980. The home buyer's desire for the amenities of newer homes, obsolescence of existing housing, and the announced planned return of veterans from Vietnam all lend support to this prediction of increased housing.

PENSION FUNDS AND THE ECONOMY

What about the involvement of pension funds in supporting this vital sector of our nation's economy?

Pension funds have taken the traditional place that the savings and loan industry has had over the past decades. They have become the fastest growing segment in the financial world. In fact, pension funds have now become the largest buyers of common stocks, holding somewhere in the neighborhood of $50,000,000,000 in stocks listed on the New York Stock Exchange. Total reserves of private pension funds approximate $90,000,000,000. It is predicted that by 1980 reserves of private and state and local government pension funds will exceed $345,000,000,000.

As a result of the contributions of thousands of individuals, as well as the employing businesses and governments, pension fund assets have increased from $28,200,000,000 in 1955 to over $140,000,000,000 in 1968, an increase of 396 percent. During this same period, savings and loan association assets increased from $37,700,000,000 to over $152,000,000,000, or an increase of 303 percent, 93 percent less than pension funds. Pension funds have experienced a growth in assets of 28 percent from 1965 to 1968 as compared to a growth rate in savings of only 5 percent for savings and loan associations during the same period.

WINNING THE COMPETITION

The pension funds are in competition with all the other financial intermediaries—and they are winning. With this growth, however, comes responsibility. It is not enough that a pension fund measure its growth in terms of interest rate achieved or growth of dollars. *Pension funds have become of such size and membership that they must look to see what kind of effect they have on the total market, what responsibility they have in the total marketplace,* and *what means are available to fulfill these responsibilities.*

Since the pension funds are actually taking more of the dollars that in prior years were voluntarily saved by the general working public and deposited in savings and loans, it is logical to assume that this is an area that pension fund members must look to as one of their responsibilities.

Although savings and loan associations continue to be the major suppliers of funds for housing, it is significant to note that pension funds have shared only to a limited extent in this responsibility with investment in savings and loan associations. As shown by the accompanying table, pension funds, which play a substantial role in financial markets, have only $452,000,000, or 0.4 percent, of all savings.

Type of ownership	Account balances (millions)	Balances as a percentage of total savings
Personal and household	$115,357	94.4
Nonpersonal:		
Corporations	2,325	1.8
Unincorporated business	571	.5
Financial institutions	1,560	1.3
Governments	191	.2
Pension funds	452	.4
Nonprofit organizations	1,693	1.4
Nonpersonal total	6,792	5.6
Total	122,149	100.0

Source: Federal Home Loan Bank Board, based on May 1968 survey of FSLIC-insured associations.

HOUSING AND THE ECONOMY

And why housing? Housing has one of the greatest multiplying effects of any industry in the United States. No single force equals the number of people affected by this industry. When there is home building, the services of carpenters, masons, plasterers, plumbers, bricklayers, electricians, painters, and many other craftsmen and tradesmen are needed, so employment goes up. These workmen need materials with which to work and they buy lumber, stone, bricks, mortar, electrical supplies, plumbing equipment, heating plants, paint, and many other materials. These purchases, in turn, create employment for the material manufacturers in the local community and across the nation.

HELPING EMPLOYMENT

When the materials come from outside the local community, the use of various transportation facilities is increased. The materials to provide that housing come from the mining industry, the lumbering industry, the steel industry, the copper industry, just to name a few. And then to service these homes once they are built requires furniture, cooking utensils, carpets, draperies, TVs, radios and all the accouterments of today that make up our standard of living.

Then, of course, the doorbell is rung by salesmen for all the known products—from insurance to encyclopedias, from fund raising candy sales by the local Boy Scouts to burial plots. No other expenditure of capital funds involves so many people and provides employment for so many people as does the housing industry.

FOSTERING HOME OWNERSHIP

In the depression of the 1930s, our government, at that time, recognized the need for a force that would get people back to work. It was then that the FHA government guaranteed type of lending was established. It was then, also, that the federal savings and loan associations were formed with the aid of the government to get the housing movement going.

Amortized loans were developed to bring home ownership within the grasp of the average American. Today, nearly 66 percent of our citizens are home owners due primarily to the financing arrangements offered by savings and loan associations. Monthly payments which could be met out of a man's salary on a planned basis for 20, 25, or 30 years were more workable from the borrower's standpoint than having a balloon payment at the end of 5 or 10 years, which happened with the conventional mortgage of old.

PROPORTION OF HOME OWNERSHIP

As I pointed out earlier, savings and loan associations have played an important role in encouraging home ownership. In 1890, when American society was largely rural, 48 percent of the families in the United States owned their own homes. As society became increasingly more urbanized, however, home ownership took on a lesser significance. Rental units became increasingly popular

until in 1940, 56 percent of the American households rented dwelling units and only 44 percent owned their homes. This level was maintained for the most part until the end of World War II. Since then, home ownership has increased. In 1950, 55 percent of the households owned their own homes. Since 1950, this proportion has climbed to nearly 66 percent.

In 1968, savings and loan associations provided nearly 44 percent of the mortgage money used by home buyers. They financed the construction of nearly $5,000,000,000 in new homes and loaned over $11,000,000,000 to families buying existing homes. At year end 1968, savings and loan associations held mortage loans totaling over $130,000,000,000.

It has often been proved that a home owner is a stable citizen who is interested in and contributes to the stability of America. The home owner, and ownership of property, is, in effect, the greatest contributing factor to our success as a country.

FUTURE HOUSING PROBLEMS

The problem of the future will be to continue to provide housing for our growing number of people. In addition, one out of ten existing houses is dilapidated and deteriorated and not up to the standards which this country should enjoy. The number of houses demolished due to urban renewal and highway systems being constructed is rising each year. This means that between our substandard housing that has to be replaced and our new housing to take care of the families that we know will be formed, we will have to have 2,600,000 new units per year.

CHANNELING FUNDS FOR HOUSING

The question is, "Who is going to provide the money for this much needed housing?" There are several possibilities and we have but to look around the world to see how each actually works.

France is a good example of the non-housing approach. With tight governmental lids on rentals, it stifled home building to a point that new housing was nonexistent for years. A black market developed to the point that decent housing required an under-the- table payment in order to pick up the lease at the old maximum rates limited by the government. With this type of operation, there is no incentive and no possibility of obtaining the funds from private sources to build new housing.

Another example is in Russia where the government builds the housing. There, one has to be high up in the government ranks in order to obtain an apartment for his family with any of the limited amenities. Those not so fortunate end up sharing apartments with other families in very, by our standards, substandard accommodations.

IMPORTANCE OF FREE MARKET

In the United States we have always had a free housing market where it is to the advantage of all concerned to have the opportunity to buy or build a house. At times the government has sponsored the insurance of these housing units through FHA or now through the VA loans. We have programs to take care of some of the minority housing that is being implemented through the FHA and through the Housing and Urban Development Agency, but most important of all, we have had the availability of financing for the average American to buy or build his own home.

It is essential that we maintain this availability rather than let our system slip into a socialistic or communistic approach, or total government control by whatever name it may be. Therefore, the pension funds of today can help to maintain this strength of America that has been so successful in providing opportunities and standards of living for our people. This should be continued and housing should be the source of the implementation of our democratic way of life.

How can this be done? The savings and loan industry, with 5,996 savings and loan associations across the country, has the machinery and the skill in the business of providing this housing, especially so, since the enactment by Congress of the Housing and Urban Development Act of 1968. This act makes it possible for savings and loan associations to join hands with government and other segments of private industry to meet head-on the problem of rebuilding our cities and providing housing for the low and moderate income families as well as the conventional markets so well covered in the past by savings and loan associations.

WHAT DO SAVINGS AND LOAN ASSOCIATIONS OFFER?

Savings and loan associations offer the four ingredients desired by a saver—safety, availability, earnings, and convenience. Today, over 96 percent of all savings accounts are insured up to $15,000 through membership in the Federal Savings and Loan Insurance Corporation, an instrumentality of the federal government. They have a record of having paid out funds as needed to all accountholders. Savings and loan associations have generally paid a higher rate of earnings than other types of financial institutions. And as for convenience, most savings and loan associations have modern attractive quarters in central business districts.

In recent years, where the law permits, many associations have opened branch offices in nearby residential areas and shopping centers. Drive-in teller stations, save by mail service, are other conveniences provided for savers. Many savings associations provide other services such as safety deposit boxes, sale of travelers checks, money orders, United States Savings Bonds, and bill-paying services for the local utilities.

People save money in many ways. They can purchase homes, Government securities and corporate stocks and bonds. The value of all of these, however, fluctuates which means that the saver cannot be certain he will get the full amount of his investment in cash at any time he wants it. For example, many savers and investors have realized that common stocks and Government securities do not always result in the higher effective rates anticipated.

Let's assume an investor, for the purpose of increasing his yield, withdraws $10,000 from his savings account to purchase a 6½ percent note issued May 15, 1969, one of the highest rates offered by the United States Government in 100 years. On August 15, 1969, the saver found it necessary to sell this note due May 15, 1976, and received 98-10/32, or $9,831.25, plus accrued interest of $162.50, for a total of $9,993.75. Had the saver left his $10,000 on deposit during this period with Glendale Federal Savings, he would have received $125 in interest in addition to the full principal amount of $10,000.

And how about common stocks? The Dow Jones Industrial average declined from 990 in November 1968 to 802 on July 30, 1969, a 19 percent decrease. This must have had many a corporation treasurer wondering about some of his investments.

Other forms of savings are the purchase of a life insurance policy or regular contribution to a retirement or pension plan. In both instances, the saver agrees to invest a specified amount at regular fixed intervals. One other form of saving, and a popular one, is a savings account in a financial institution. Money so invested is not subject to fluctuation. The saver is under no obligation to place regular amounts in the account at specified times. In other words, the holder of a savings account can put money into or take money out of his savings account at will without the possibility of losing any of his investment.

The simplicity of savings and loan accounts offers a painless way for pension fund members to invest their funds. The immediate availability of funds as well as the insurance of accounts offers a security and convenience not found in many types of investments. In addition, where a higher yield is desired, actual participation in the loans made by savings and loans is possible. There are ways now to purchase a participating interest or loans outright and have them serviced by the savings and loan associations so that there is a minimum of accounting on the part of the pension fund members.

The pension funds can provide and must help to provide the housing of tomorrow. It is in their interest, it is in the interest of the members of the various funds, it is in the interest of all of the corporations, industries, and individuals who have anything to do with housing to see that money is allocated for this purpose.

The pension funds have an ever increasing amount of money. It is logical to assume that these two industries—the savings and loan and pension fund membership—can get together in a way to provide the necessary financing for the housing of tomorrow. This is the way that the pension funds can be a moving, stabilizing force and can help to build a better America.

ATTACK BY OIL INDUSTRY ON NATION'S MASS MEDIA

Mr. McINTYRE. Mr. President, a vice president of Texaco made an address last month in Dallas to the Texas Public Relations Association. Texaco is the second most profitable oil company in the United States, and this address, by one of its top officials, is quite typical of the insensitivity to the public interest which today seems characteristic of a large segment of our domestic oil industry.

The speech was titled "The New Communications Gap." It was given by a Mr. Kerryn King, who, in addition to his position with Texaco, is a treasurer-elect of the Public Relations Society of America. A copy of this speech has come to my attention. I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. McINTYRE. Mr. President, as becomes clear from a reading of it, the speech is basically an attack on the Nation's mass media for the coverage they have afforded the oil industry in recent months. According to Mr. King, the media have been neither fair, accurate, nor objective.

King said:

Business is not getting its story across in the mass media. Objective reporting has gone out the window in most cases, and there is no attempt to balance news. If you are not on the same side of the fence as the editorial page, your chances of being heard are minimal in far too many cities.

To support his case, Mr. King cites several examples of alleged bias on the part of the media. A look at only two of these examples will make crystal clear where the real bias and news management on oil industry matters exist today.

Mr. King is speaking in both instances about the press coverage of the hearings held earlier this year by Senator PHILIP HART'S Antitrust and Monopoly Subcommittee to investigate the merits

of the mandatory oil import control program.

He first attacks the Washington Post. The Post, he charges, ran 300 lines of coverage on the days the anti-industry witnesses testified and no coverage at all when the industry spokesmen were testifying.

Let us look at the facts. Mr. King is correct in suggesting that the Post devoted 300 lines to the anti-industry side. What he overlooks, however, is that on May 23, the Post ran a 93-line story on industry testimony before this subcommittee; and on June 9, it ran another story under the five-column headline "Oil Industry Lashes Back at Its Critics." This story, specifically devoted to the pro-industry viewpoint, ran 276 lines. Three hundred and sixty-nine lines on the industry side and 300 lines against does not sound like an anti-industry bias to me.

Mr. King next attacks the Wall Street Journal. The Journal, he points out, ran only one story 14 inches long on the first day of the hearings. He said:

That was the only coverage of hearings vital to one of the most important industries in this Nation.

In this instance, Mr. King has his facts right but fails to place them in their proper perspective. He should have noted that it is a standing operating procedure of the Wall Street Journal not to cover congressional hearings, except in very unusual instances. Its treatment of Senator HART's hearings was merely in accord with this procedure, and no different from its treatment of other industries and other subject matters dealt with in congressional hearings.

Mr. King's own attention to details leaves a lot to be desired. Even more disturbing, however, is the remedy he urges the industry to adopt.

To begin with, he suggests, the industry should communicate directly and at all levels with millions of citizens directly and indirectly affected by the industry's well-being.

Mr. King says:

We all have stockholders. Let us make certain our story is told to them, not just in our annual reports but in special messages which explain our position.

And, he continues:

Let us go a step further. More than 100 million Americans have a stake in pension funds and mutual funds with investments in oil stocks. We must try to reach these people with our message.

Mr. King goes on to mention other people the industry should go after through some kind of direct contacts—the 1.5 million employees directly working in the petroleum industry, the suppliers and customers of the industry, and "our neighbors in the towns and cities where we have plants."

He concludes that the industry must also take the "effort and time" required to establish a "rapport" with the academic community, with officials of regulatory agencies, and with elected officials at all levels of government.

This barrage of direct contacts should be accompanied, Mr. King suggests, by "increased use of purchased space in newspapers and magazines to get across an editorial message."

Mr. King does not regard such purchased space as "advertising in the usual sense of the word. I am talking about the purchase of space to present your own corporate opinions, in your own words, the way you want to express them, and not as rewritten by some reporter and as edited by some copy desk."

Mr. President, I do not dispute for a moment that the oil industry has a right to have its voice heard. What I fear, however, is that it may speak so loudly as to drown out the other voices in the arena. The industry has a vast array of economic resources available for a campaign of the type advocated by Mr. King. If such a campaign were mounted by this special interest group, I strongly doubt whether consumer-oriented groups would have the resources available to answer it on nearly comparable terms.

Even more disturbing is that such a campaign, like so much of the industry's present public relations effort, would be conducted largely at Government expense. Much of an oil company's public relations costs can be deducted from its income as an ordinary and necessary business expense, with the Treasury paying the price in the form of reduced tax revenues.

It is because of the immense power thus capable of being wielded by special interest groups such as the oil industry that a free and independent press is so essential to our way of life. Mr. King seeks to make a scapegoat of the press. What has actually happened over the past year is that a great number of hard-nosed professional journalists have taken an in-depth look at the workings of the oil industry. They have set down their thoughts in a thoughtful and balanced manner, and in doing so, have performed an important educational service both to the public and to many of us here in Congress.

I think that some of these journalists deserve to be singled out for very well-deserved recognition. As far as feature articles on the oil industry are concerned, I think special credit should be given to August Gribbon, Michael Malloy, Patrick Young, and Edwin Roberts of the National Observer; to Lewis Beaman, of Business Week; to Allen Demaree, of Fortune; to Ronnie Dugger, of the Atlantic Monthly; and to David R. Francis, of the Christian Science Monitor. All of these writers have explored at first-hand the various protectionist schemes available to the industry today. And each in turn has reached the same conclusion—that a way must be found to end this protectionism and make the industry competitive once again.

Apart from these feature articles, a large number of reporters have done an excellent job of covering the day-to-day news on the industry front throughout the past year. Clearly included in this number would be Spencer Rich, Larry Stern, and Frank Porter of the Washington Post; Bill Blair, of the New York Times; Jerry Landauer and Roger Benedict, of the Wall Street Journal; Dick Stewart and Peter Greennough, of the Boston Globe; Theresa McMasters, of the Boston Herald Traveler; New England columnist Don Larrabee, who writes a column for several New England newspapers; Joe Brooks, of the Bangor News; Frank Sleeper, of the Portland Press Herald; Don Bartlett, of the Cleveland Plain Dealer; Stephen Aug, of the Washington Sunday Star. In addition, CBS Television and NBC Television along with the National Educational Television network have all contributed substantially to educating the American public on this issue as have our national wire services, the Associated Press and the United Press International.

Mr. President, seldom have we owed so much to the press as on this oil industry issue. I have news for Mr. King. With journalists like these around, he should stop trying to find scapegoats and stop conceiving ingenious new campaigns. He should instead take a long hard look at his own industry. For it is only by changing that industry—by returning it closer to a free competitive market—that its image is going to change.

EXHIBIT 1

THE NEW COMMUNICATIONS GAP

(An address by Kerryn King, vice president, Texaco, Inc., Sept. 5, 1969)

We are in the midst of an age of immense social upheaval. Changes taking place throughout the world have their counterparts in the United States. Our Society is in trouble, and all indications are that the 1970's may be even more difficult than the 1960's.

That this shifting environment will affect all our institutions is obvious. That this will affect the conditions under which business is conducted is just as clear. For those of us who believe in our system of competitive enterprise, who believe that the private sector must be maintained in strength if our entire economy is not to break down, there are many serious causes for concern.

All of us believe that if business is to survive it must adjust to changing conditions. And as part of that adjustment we must communicate, to all those affected by what we do, the policies of our companies; why we take certain courses of action; our answers to those who attack our system. And we in public relations know full well that unless we can reach those who are affected by our actions, unless we can tell our side of the story, we are failures. It is as simple as that.

The story of business is not getting across. Answers to those in and out of government who attack our motives, who assail our actions, who decry our policies, who would destroy our economic system, must be communicated effectively. Why are our views not reaching the public? What is wrong?

Let us withdraw a little, assess where we stand and look at our recent history. It is essential to do so at this time if we are to see what the future holds, the paths we are to take, how we are to find the way out of the morass we are now in. Public relations practitioners, as communicators, have always depended upon the mass media as one of the best means of reaching the public. If we had a legitimate story to tell, media would report it. Responsible newspapers were anxious to balance their reporting. Good newspapers did not suppress opinions which did not agree with the editorial page viewpoint. If a public relations man understood the needs of media, and provided newsworthy material, editors were glad to judge it on its merits. And if it were a valid, responsible view there would be no difficulty in being heard.

That there have been changes from that traditional position of the newspapers should be obvious to everyone here. We all remember when even our largest and most powerful newspapers reported what a man or an organization had to say, accurately,

fairly. And the best newspapers prided themselves on thoroughly objective reporting. Now this did not mean that the newspaper did not have an opinion. Nor that it published anything and everything without checking, without care, without judgment. But a man or an organization was not stifled, nor its opinion censored because of editorial policy.

The newspapers felt they had an obligation to their readers to give both sides of a controversy. In addition there was competition among several newspapers in one city. If one editor slanted the news to suit his prejudices, another editor across the street would not do so. The competition of newspapers, and so of ideas, provided a safeguard to the reader so that he would get the news and not propaganda. It is essential to our political system that the reader, and therefore the voter have an open door to many views so that he can judge intelligently and * * *.

My father was a newspaperman. I was a newspaperman. In fact, I am a journalism graduate of Southern Methodist University. I was taught at college that our job was to collect the facts, present them in a clear, concise and readable form. And, most important, we were taught that a news story had to be balanced if it were to get by the copy desk. We thought it was our professional duty not to permit our personal opinions to distort our reporting.

What are the conditions today?

The ideal of objective reporting has gone out of the window in far too many cases. If you are not on the same side of the fence as the editorial page, your chances of being heard are minimal in many of our largest cities. In many newspapers there is no attempt to balance the news, to assure that the reader has the other side so that he can reach a decision based on real conditions rather than on the fragmented reporting so many newspapers inflict upon their readers today.

Also, we have fewer newspapers today. In New York, the nation's communications center, there were, only a few years ago, eight daily newspapers. Today there are only three, and two of these are tabloids. So we are left with one standard newspaper, *The New York Times,* through which we are to communicate to the public in a city of eight million people. And if *The New York Times* doesn't tell your side of the story, you do not exist, or, as a friend of mine so bluntly put it, "You are dead," And what *The Times* reports, how it interprets events, has a heavy influence on what the radio and television news departments report.

How severe is this whole problem of both shrinkage and control of mass media can be readily seen from the information the Federal Communication Commission provided to the Senate Antitrust and Monopoly Subcommittee late in 1967: There are 73 communities where one person or company owned or controlled all of the local newspaper and broadcast outlets. Moreover, from 1950 through 1968, there was a decrease of 28 per cent in the number of major metropolitan daily newspapers.

A few minutes ago I mentioned objective reporting. Today many newspapers practice a new type of reporting. It is called interpretative reporting. Now, no one can object to a columnist giving his interpretation of the news. But the place for that is on the editorial page or in a by-line story clearly labelled as interpretative. For the newspaper reporter to write what he interprets you or your company president means, and not tell what he actually said, can lead to all kinds of dangers. In fact it has.

A penetrating comment on this subject appears in the *Quill,* the magazine published by Sigma Delta Chi, the national professional journalism fraternity. It was by Norman J. Isaacs, executive editor of the *Louisville Courier-Journal and Times:* He said, and I quote—

"I have long been for more and more background and interpretation. But this has never meant editorializing in the news columns. We have been seriously damaged all over the country by three types of journalists—one, those lax in ethical responsibility; two, the newspapermen with a cause and determined to jam it down the readers' throats; and three, those so poorly trained and so lacking in skills they simply seem unable to know the difference between a factual statement and an opinion". End of quote.

Part of the reason for this change in newspaper reporting is due to competition with television and its drain on the advertising dollar that otherwise might go to newspapers. It must be remembered that television is essentially a medium of entertainment. When it comes to reporting events like the astronauts' trip to the moon, television is superb. But when it comes to day-to-day news, television with its need for dramatic values, for pictures to illustrate the story, is not as good. It is sad to say that drama and news values are in conflict. What makes news does not always readily adapt itself to picture treatment. Dramatic pictures, often less important than hard news, are given preference by television news shows. And this all too often leads the press to try to follow by stimulating news, by dressing it up to make a greater impact, rather than reporting what may be important but not so exciting.

These changes in news treatment I mention have many distinguished witnesses. Let me quote a journalist who is highly respected as a man of integrity as well as of experience. Arthur Krock won the Pulitzer Prize three times. He was for more than 30 years Washington correspondent for *The New York Times.* In his book, published a year ago, "Memoirs: Sixty Years on the Firing Line," he has this to say in discussing the present publisher of his newspaper, Arthur Ochs Sulzberger. At this time, says Mr. Krock, there is "no proof that he can avert the complacency that too much power and too little competition instill in news and editorial executives, and proof that he can stem the seepage of editorial attitudes into the news columns that his father and Dryfoos vigilantly excluded."

Gay Talese, one of the brighter young men in journalism, in his best-selling book about his old newspaper, *The New York Times,* "The Kingdom and the Power," has this to say about newspapermen: "Most journalists are restless voyeurs who see warts on the world, the imperfections in people and places. The same scene that is much of life, the great portion of the planet unmarked by madness, does not lure them like riots and raids, crumbling countries and sinking ships, bankers banished to Rio, and burning Buddhist nuns—gloom is their game, the spectacle their passion, normality their nemesis."

I wouldn't say that this Talese description of his fellows covers all the newsmen I know. It certainly is not descriptive of the kind of men in whose hands one can expect objectivity and balance on any subject, least of all business.

But in addition to the new modes of reporting, in addition to the shrinkage in the number of major newspapers, there is also much more for the newspapers to cover than they used to. Foreign news is today of vast importance and must be covered. The scope of the entertainment and sports fields is increasing the pressure on space. Of course political coverage demands a great deal of space. The pressure, even under the best of conditions, for the limited space, makes it extremely difficult for business to get its views communicated through the mass media. Compared with demonstrations of hippies, parading students, riots and reports of the reaction to nude plays like "Hair" and "Oh! Calcutta!" the story of business has little hope of obtaining very much of the shrinking news space for its story.

When I say that the business story is not getting across through mass media you have every right to ask me for specifics, for substantiation of what otherwise may be considered only an opinion. Let me cite a few cases, which I think you will agree, make my point.

Let us take first one of the nation's largest and most respected publications. In the June 13th issues of *Life Magazine* there was a five-page layout, complete with color photos and text. The headline was "Irridescent Gift of Death." The sub-head was "As the oil leak off Santa Barbara keeps right on killing wildlife, the proposal is for all-out drilling."

Now, very briefly, the facts as substantiated by the Department of the Interior of the U.S. government, and by independent scientists, were these:

Early this year, an offshore oil well in the Santa Barbara channel experienced an accidental blowout. Considerable oil escaped from its natural reservoir, causing pollution of the Santa Barbara channel and its beaches. The leakage was brought under control, and the company operating the well spent more than four-and-a-half million dollars cleaning up the resulting damage.

Parenthetically, it should be noted that this offshore area of Santa Barbara has been subject to natural underwater seepages of oil for centuries. Explorers in the 1700's and 1800's recorded finding oil and tar on the Santa Barbara beaches and on the rocky coasts of nearby islands.

Also parenthetically, it is worth noting that the oil industry has drilled more than eight thousand wells in the waters offshore the United States. Only sixteen of these have been blowouts, and only one of * * * caused any pollution.

What *Life* published was essentially a horror story—a story of how wildlife, sea lions and elephant seals were allegedly—and I stress *allegedly*—killed by the Santa Barbara oil leakage. The magazine showed a picture of an infant sea lion and the caption said: "Above, on San Miguel Island, 35 miles away, an infant sea lion—himself stained by the spillage—surveys his threatened domain." End of quote.

Now, what actually happened? Two studies were made of the area's wildlife and marine organisms—one by the California State Bureau of Commercial Fisheries, the other by the California Institute of Technology. Both agreed that there was indeed a substantial loss of birds immediately following the blowout. But both studies also agreed that there was *no subsequent damage* to wildlife attributable to oil.

Now, the *Life* article appeared four-and-a-half months *after* the blowout. Their reporters overlooked or ignored these two studies. And they ignored or misinterpreted the photo of the baby sea lion. Contrary to the caption, that sea lion was *not* stained by oil spillage—his fur was wet only from *sea water*—as the area's scientists quickly confirmed when they examined the picture.

The reporters from *Life* not only had trouble interpreting what they thought they saw. Their sense of smell also got them into difficulty. They reported that, sitting in their boat downwind from San Miguel Island, and I quote, "another odor met our nostrils, borne upon the wind and more sickening than that of the oil. It was the stench of death."

Now, any sailor in the Santa Barbara area can tell you what that smell is. The all-pervasive odor downwind from San Miguel is the stench from the excrement of more than 20,000 sea lions and elephant seals of that island. It does not resemble the stench of death, and in fact it completely blots out all other odors in the area.

But perhaps *Life's* reporters are only slightly myopic like the rest of us. While they were at San Miguel, other newsmen rushed northward to Point Conception. Someone had reported there were two dead seals on

the beach. When the newsmen arrived to report the inquest, the two seals woke up and went swimming away.

Further inaccuracies were strewn throughout the *Life* story. Essentially, *Life* claimed—after an all-too-brief and all-too-superficial visit to San Miguel Island—that the wildlife there was dying out. The truth was and is that—as attested by expert scientists and wildlife specialists living on the island—the wildlife was and is thriving—sea lions and elephant seals, fish and wildfowl.

After the oil company involved prepared and presented a full refutation to *Life*, the magazine ran a box in the Letters to the Editors columns which indirectly admitted a few points. But, once again, the correction could never catch up with the distortion.

Now let me offer one further evidence of my point that business' case is not getting to the public through the mass media.

I work in the oil industry, as the chairman mentioned. It is an important industry, affecting many millions of our people. In fact the Department of Commerce issued its Input-Output study in July which tells much better than I can what this industry means to the country. That study, which represents a comprehensive survey of overall inter-industry transactions, shows that the petroleum and rubber industries are the only industries, excluding the service industry, upon which every other U.S. industry is dependent.

So, naturally, I am peculiarly sensitive to what is said and done about the oil industry.

In March, April, and May of this year, Senator Hart of Michigan held hearings before his Senate subcommittee which were vital to the oil industry. The subject of the hearings was the oil import program and whether this nation needed to maintain a healthy and viable domestic oil industry.

I have made an analysis of how the daily press reported those hearings. And I say the results of my analysis will convince any public relations practitioner of the futility of trying to communicate with the public through the press.

Some papers, of course, were better than others. Many papers, particularly those in producing states, gave a fairly well balanced account of what happened at the Hart hearings. But let me give you the results of a check of three important and extremely influential newspapers: *The Washington Post*, *The New York Times* and the national newspaper of business, *The Wall Street Journal*.

Now, first, as to *The Washington Post*. It is one of the most influential newspapers in the country. It is seen and read by the President, by senators, by congressmen and by those senior civil servants whose daily decisions affect the oil industry. It is read as well by those members of the regulatory agencies so important to any large industry. And, of course, *The Washington Post* is read by Washington correspondents representing various media in this country and abroad.

Here is the record of *The Washington Post*:

For seven days the Hart committee heard what may well be called the anti-industry witnesses. Fifteen economists pontificated about the oil business, including three from the London School of Economics. How well informed these latter could be about an American industry I leave to you to assess.

These anti-industry witnesses testified on March 11, 12, 24, 25, 26, and on April 1 and 2. Here is what the record shows about *The Washington Post's* coverage:

On March 12, that newspaper ran a two column head, top middle on Page 3. The coverage totalled 100 lines. On March 26 the coverage was on Page 2, with a three column head, lower left. There were 80 lines of space devoted to the witnesses. In the issue dated April 3, a story appeared on Page 7, under a two column head, top left corner. There were 120 lines of space devoted to the story.

After that date, and during the entire testimony of the witnesses stating the case for the oil industry, there was not one single line of coverage by *The Washington Post*.

So the score for *The Washington Post* was: Anti-industry days, 300 lines, Pro-industry days, 0.

Now let us take a look at what happened in *The New York Times*. And I cite *The Times* because it is one of the great newspapers in the world. Their news is syndicated to papers all over the country. It is published in the heart of the American communications world. *The Times* is read by opinion-formers throughout the country, not to speak of the fact that the television and radio network news heads and writers read *The Times* as well.

Let us then survey the coverage by *The Times;* first, the anti-industry witnesses:

The Times carried stories on five days in March and April reporting the views of anti-industry witnesses. These stories totalled 80 inches.

In May, the pro-industry witnesses testified for six days. They were a blue-ribbon panel if there ever was one—the nation's leading oil and conservation experts. How did *The Times* cover the views of these witnesses?

It carried three stories—totalling 19½ inches.

The score for *The Times*, which proclaims on the front page of every edition these words: "All the New's That's Fit to Print" was as follows: Anti-industry days: 80 inches. Pro-industry days: 19½ inches.

Now what did *The Wall Street Journal* do? How well did this, the most important business newspaper in the country, report Senator Hart's hearings?

Here is the record. On March 12, *The Wall Street Journal* ran a story on page 16. It appeared under a one-column heading, top center of the page. Space devoted to the story was 14 inches. And hear this. That was the only coverage of the hearings vital to one of the most important industries in this nation. That was all. Just one day out of a total of thirteen days of hearings before the Senate Committee.

Now may I ask you? How well is the oil industry reaching the public through the press?

Older newsmen might find fault with the analysis I made of the news reports and complain that I did not take into account other events on the news front during the Hart committee hearings. They might ask what were the big stories that forced out the industry side of the story?

I know that every editor has only a certain amount of space allocated to him each day and that big news-breaks can affect what is run and what remains as overset in the composing room. I agree that on certain days major news-breaks can force lesser news to fall by the wayside.

But let me say this in reply. This can happen on one day or on two different days or perhaps more. But it is beyond reason to expect anyone to believe that a story which stretches over thirteen days of Senate hearings in a three-month period is only a matter of news budget and not a lack of fair representation of the case of business. No. There is no other basic reason except that some editors, at least those responsible for the publications I discussed today, feel that the reporting of a balanced story does not rank high in their editorial or news priorities.

And at this point let me make it clear that I do not mean to be overly critical of the press, radio or TV. After all, they are selling a commercial service to the American public. And if the public is interested primarily in shock value, controversy, sex, murder and what self-appointed oracles have to say about the world, no self-respecting businessman can seriously object. But he should—and can—take the steps necessary to see that his ideas, his opinions, his points-of-view are communicated to the people who are concerned—to the people who *do* have an interest that goes beyond the superficial, biased or slanted, perhaps even prurient views so easily tossed about by our biggest by-line reporters today.

I have spoken about business not being heard through the mass media. But others are worried about this as well. Indeed there is the beginning of a movement, which is now clearly apparent by those now being overlooked by media to insist on the right to be heard.

As evidence that this is more than idle talk let me refer you to an article on the right to access in the mass media. It appeared in the March issue of the *George Washington Law Review*. It was written by Professor Jerome A. Barron of George Washington University. The title of the article is "An Emerging First Amendment Right of Access to the Media?" I recommend that you read it, for it is more than a glimmering of the feeling of many that views which are not presented in the mass media should be given space and time.

I would also like to mention several articles in the Spring edition of the *Columbia Journalism Review* in which the First Amendment is discussed. These articles show an interesting trend for they too deal with the problem of groups which can't get a hearing in newspapers. There is even a group which feels that newspapers should be licensed. Their argument is that if radio and TV are subject to FCC regulations, why not the press?

But this is not for us. At least, I am sure it is not the answer for me. Most of us are communicators who must work through the means we have. And we have a special job to do for our employers, for our industries.

If we are frustrated in our efforts to reach the public through the mass media, it is also up to us to find other means of reaching the public. This is our challenge. And complaints and breast-beating are not going to solve our problems.

Let us also face the fact that we are in a period when public confidence in our institutions is being undermined by mass media. And unless we can get our message across, unless we can explain the position of business, we are in for the kind of trouble that will make today's problems look insignificant. I am not exaggerating when I say that unless we can communicate more effectively, the very structure on which business is built will soon crumble.

We must re-think our approaches and change them to fit the altered environment. The only option we have is to adopt new methods, new techniques, to build a total communications program to win public confidence and hopefully its support. Let us get out of our minds that mass media represents the only answer.

Let me suggest the path it seems to me we must pursue. But remember that executive management must support our plans completely and be willing to communicate in the fullest sense of the word. Executive management must also be prepared to provide the budget and participate in carrying out our plans.

Let's begin first of all with those who have a vital interest in our companies and in our industries. They are the ones who have a real interest in the survival of American business.

We all have stockholders. They certainly have an interest in the company they put their money into. In the case of the oil industry let me cite some figures which show how extensive is one of our audiences who will listen to our case properly presented. Of the 24 million stockholders in the country one out of every seven has stock in the oil industry directly. Here are then about

three million citizens who want their companies to succeed. Let us make certain our story is told to them, not just in our annual reports but in special messages which explain our position. These stockholders have family, relatives, friends.

Now let us go a step further. More than 100 million Americans have a stake in pension funds and mutual funds with investments in oil stocks. We must try to reach these people with our message.

Let me outline another step in my suggested plan. The number of employees directly working in the petroleum industry is 1.5 million. Every one of these employes' jobs depends on the health of the industry. These workers in the industry are ambassadors. And let me remind you they can be ambassadors for good or for ill. No matter how well they are paid, no matter how good their working conditions and pension plans, they cannot know our story unless we tell them. And by that I do not mean a one-shot effort, but a continuing and fruitful job of providing information. Not in our terms but in the terms that involve them.

In addition, we must reach other groups who have a special interest in our industry. I mean our suppliers, our customers, all those with whom we do business directly. They are the ones who know us and to whom we can communicate if we are sufficiently creative, sufficiently imaginative.

Then there are our neighbors in the towns and cities where we have plants. They too know us by our deeds and if our performance is in their interest they will listen to what we have to say. And, of course, continue every effort to provide hard news to that vast portion of the press that wants and will use it.

But we must develop a more thorough and imaginative use of our own communication devices. I mean our publications, our films, our exhibits, our seminars, our meetings and our community events. We must also build bridges to the academic community, the teachers, and if we are creative enough we can also reach students in the schools.

Elected officials, government employes, the members of regulatory agencies also must know our story and here we simply must develop new and effective means of communicating with them. And by that I do not mean only when a company or an industry has pressing problems, but on a year-round basis. Think back. How often do your company executives visit their congressmen or senators? How often do they see their local city fathers or state legislators unless they go to them for some help? To develop a rapport with these men requires effort and time. And it must in large measure be face to face. For no matter how well written your material may be, no matter how creative are your films, none can match the value of a direct meeting between your executives and key opinion leaders.

Now, this brings me to another point in my suggested program. Our executives must get out more. They must make speeches. They must appear before varied groups. And by this I do not mean the chairman or president alone, but all executives. They cannot leave the communications job to their public relations departments. They, too, have a job to do and without their direct participation the mission cannot be wholly effective.

A company must be willing to think through its position on every issue. If it is to make a successful stand on any issue, it had better know where it actually stands. And it must communicate its policy to everyone in the company. It must do so by providing background memoranda, by circulating "white papers," and in large measure by giving face-to-face briefings to its field people. Moreover, the company must turn its field people loose—it must authorize them, it must persuade them, it must encourage them to get out and tell the company's story at the local level in every area.

Make no mistake about it, no one yet has developed a communication technique that is as effective as personal give-and-take, man-to-man, the kind of personal communication we are having here today.

Getting our message across to Washington and to the public at large presents a greater challenge. On rare occasions, we can capture free space in the mass media with the ingenious gimmick and the staged event. But how can we hammer home our case on the big issue? There is a crying need for the answer—in fact, a whole pocketful of answers that will represent the best thinking of the most experienced public relations professional.

Among the most promising answers is the increased use of purchased space in newspapers and magazines to get across an editorial message. I don't consider this to be advertising in the usual sense of the word. I am talking about the purchase of space to present your own corporate opinions, in your own words, the way you want to express them, and not as rewritten by some reporter and as edited by some copy desk. This kind of an approach can sell our ideas, can explain our positions, in such a way that it will command the reader's attention because it is not only important but interesting.

Now, I know that management is always worried about expense. But I assure you that such paid space can be especially effective for handling local issues in individual communities at a surprisingly low cost, even for full-pages. And you can buy a half-page in a local newspaper for as little as two hundred dollars. Just check the figures and you will find out how economical this technique can be, especially when you use reprints for direct mailing to employes, customers and influentials.

Other promising answers involve the use of the newer methods—television, radio, movies, a whole range of audio-visual techniques. You can develop news events or interviews for television, especially if you can be fast enough to rebut a Congressman's attacks while they are still news. You can obtain prime time and wide audiences on radio-interview shows, if you can talk provocatively and if you are not so thin-skinned as to wilt under some barbed questioning. You can get your short subjects into movie theaters from coast to coast—if you can convince your own management that you must deliver entertainment as well as a subtle sales message.

Perhaps I can best summarize the point this way:

No company would hesitate to buy space to sell its products. Why hesitate to buy space to sell the *ideas* that will preserve your right to keep on selling those products?

The battle lines for men's minds are clearly drawn. The issue at stake is nothing less than our competitive enterprise system. Have we the commitment, the willingness and the imagination to use our resources to the full? Much depends on your answer. This is the challenge to you as public relations professionals. The question is: Are you and the management you represent ready to meet this important challenge?

I hope that you are.

Thank you very much.

EVERETT McKINLEY DIRKSEN

Mr. MOSS. Mr. President, our late beloved colleague, Everett Dirksen, is sorely missed by all of us on both sides of the aisle. As a member of the same college fraternity with the late Senator, I feel that we shared an additional closeness.

Aside from his expertise in performing his senatorial duties, Senator Dirksen brought great joy and laughter to this body at a time when laughter and joy are becoming more and more scarce. The melodious tones drifting throughout this Chamber on the merits of the marigold versus the rose, or any other bloom, to be our national flower afforded us a much-needed relief from the crises facing the Nation, both here and abroad. It helped give us a new perspective.

As one commentator put it, the passing of Senator Dirksen may be the marking of the end of an era—an era of great oratory and debate where a politician was distinguished more by his performance on the Senate floor than his performance before the television camera. The commentator also intimated that when a bust of Senator Dirksen is placed in the Capitol with his craggy face and fly-away hair, he will certainly stand out from the newer crewcut models—though, he added, it will certainly save on plaster.

I miss Senator Dirksen for many reasons, not the least being his splendid humor and fine wit.

CONFUSING WEALTH WITH INCOME

Mr. STEVENS. Mr. President, the Committee on Finance has been doing a yeoman job on the House tax reform bill and will soon be reporting that bill to the Senate. I wish to point out one oversight in our tax philosophy that apparently will be perpetuated even by this extensive reform legislation.

For many years, we have recognized the unfairness of the graduated tax system when applied to individuals whose income varies greatly from year to year. We have special rules for capital gains, which are often realized by the taxpayer in a lump sum in 1 year and may represent income actually earned over several years. We provide special treatment for lump sum distributions of retirement funds built up over many years. We have rules which allow a taxpayer to average his income over several years when income in a given year is substantially above his previous earnings.

But for some reason—which I cannot fathom—we do not have any provisions for adjustments in situations where the buying power of a taxpayer's income is substantially less where it was earned than it would be if it had been earned elsewhere. For example, the cost of living in Fairbanks, Alaska, is approximately 50 percent higher than it is in Seattle.

Thus, it would appear, a family in Fairbanks would have to earn $15,000 in order to maintain the same standard of living as a family earning only $10,000 in Seattle. But, if we compute the taxes that would be paid in each situation, we see that the tax in Seattle would be $1,114—assuming a family of four and a 10-percent deduction—whereas in Fairbanks it would be $2,062 for the same family of four. In this example we are talking about two families whose incomes maintain precisely the same buying power, but whose taxes are not at all in proportion to the differences in dollar income. The family in Fairbanks has paid 13.8 percent of its gross income in Federal income taxes while the Seattle family has paid only 11.2 percent of its

gross income in Federal income taxes. Or, to put it another way, the Seattle family was permitted to retain 4.6 percent more of its buying power than was the Fairbanks family, even though they purportedly have comparable incomes.

The solution to this problem is a simple one. The fixed exemptions and deductions now permitted under the income tax law should be adjusted to reflect the geographic differences in buying power. I have introduced a bill (S. 1908), which would accomplish this for the exemptions allowed for a taxpayer and his dependents. A similar provision should also be added to the limit on the standard deduction.

This would not be the first instance in which geographic differences in cost of living were taken into account. Industry provides for cost-of-living adjustments for transferred employees. Many government programs provide for adjustments to reflect cost of living differences. My proposal is simply to extend this concept into the area of Federal income taxation.

What we are doing with our present tax law is confusing income with wealth. A person is not wealthier simply because he has a larger dollar income. He is wealthier only if he has greater buying power. I urge the Committee on Finance, in its deliberations on the present tax reform bill, to consider the provisions of S. 1908, which relate to adjustment for geographic cost of living differences, and to include this basic and truly meaningful reform in the bill it reports.

THE CRISIS OF THE ENVIRONMENT

Mr. MONDALE. Mr. President, the public is becoming increasingly aware of the "other war" we are waging. It is a war we cannot win, but can certainly lose, because it is a battle of man against nature. If we continue on our present course, driving toward progress and comfort, all the while ignoring the side effects of our new luxuries, we may well wipe out the possibility of any future for our children.

It is time to channel the renewed interest in the preservation of our natural resources into the creating of an effective national environmental policy. The junior Senator from Wisconsin (Mr. NELSON) has been at the forefront of this effort for nearly all of his political life. He has called for a nationwide teach-in on the crisis of the environment, a day next spring to be set aside for educating the public on the severity and urgency of the problem. It is hoped that the teach-in may launch a movement that will lead to a positive environmental program.

Senator NELSON mentioned his teach-in proposal at a congressional conference on the crisis of the environment on October 24. An excellent report of the main points of the conference, written by Wolf Von Eckardt, was published in the Washington Post on Sunday, November 2. Because the problem is one that concerns us all and one that demands our immediate attention, I ask unanimous consent that the article be printed in the RECORD.

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

[From the Washington Post, Nov. 2, 1969]

MEETING THE CRISIS OF AMERICA'S ENVIRONMENT

(By Wolf Von Eckardt)

Next spring the kids on the campuses all across the nation will conduct a teach-in on the crisis of environment.

A special day, still to be announced, will be set aside from routine business. And that day may launch a popular movement to demand a national environment program much as we have a national defense program and on much the same scale.

The teach-in is the idea of Sen. Gaylord Nelson (D-Wis.) who, like so many of us, had reached the desperation point about the the insanity of a society that offers its young no hopeful future, a society that is about to kill its own children, if not by nuclear war, more slowly, by poisonous pollution.

Sen. Nelson announced the teach-in 10 days ago and says the response has been "overwhelming." There will be symposiums, convocations, panel discussions and outdoor rallies among students, scientists and faculty members, as well as labor, conservation, women's and other citizen organizations.

The senator says a Washington office to coordinate the event will be opened next week. But on each campus the students will do their own thing.

At the University of California they are likely to focus on the Santa Barbara oil spills. At Wisconsin they'll mostly talk about the impending death of Lake Erie.

On city campuses, the foremost concern will be the poisoned air. All the teach-ins will endeavor to involve their local community and emphasize local problems.

But the teach-ins will undoubtedly stress that the crisis of the environment cannot be viewed or solved in isolated local fragments—an oil spill in Santa Barbara or DDT-poisoned mother's milk in Boston.

Like national defense, which would hardly be assured by a submarine base here and an anti-missile missile there, it must be viewed and attacked in its ecological entirety.

Nor will we get very far with negative police measures, though they are an essential beginning. Air pollution control ordinances, for instance can at best have only a limited effect, as long as we keep building more freeways and predicate all our metropolitan planning on further proliferation of combustion engines.

What is desperately needed—and as a matter of the highest priority—is a positive national environment policy. The Congressional Conference at which Sen. Nelson first announced the teach-in brought out some premises on which such a policy must be based.

The conference, perhaps the most constructive I have ever attended, was sponsored by about 100 Congressmen and Senators and organized by the Fund for New Priorities in America (a New York-based organization of business and professional people), which had called together some two dozen bright people, including scientists and journalists.

The new phrase around which most of the discussion evolved, coined by Aaron J. Teller, dean of engineering and science at Cooper Union, was "looping the system."

It means the continuous reuse and regeneration of the water, fuels and chemicals that we now waste because we consider them garbage.

The garbage, of course, is often poisonous and always ugly and is now piling up to such an extent that it is seriously clogging the American way of life. The richer we get, the more garbage. We have reached, as John W. Gardner so eloquently put it, a state of affluent misery—"Croesus on a garbage heap!"

But the stuff isn't really garbage if you look at it rationally. Teller points out, for instance, that, although we are short of sulfur, one of the most important resources of our economy, we dump 12 million tons of the 16 million tons we consume each year into the atmosphere and into our streams. That is an expensive way to cause a lot of damage. The price of sulfur is up from $20 to $40 a ton because of the shortage.

Abatement laws reduce the damage but not the waste, Teller says. One abatement process removes sulphur oxide from power plant stacks and converts it into a new waste—four pounds of waste for every pound of sulfur removed. A typical power plant will build a mound of 150,000 tons of solid waste every year.

The same is true of attempts to put afterburners into automobiles, which waste enough fuel to provide all the power and heating needs of two cities the size of Philadelphia. The afterburner makes the effluent less toxic. But it still wastes the fuel—12 billion gallons a year.

Instead, men like Teller say, we should reuse that sulfur and that carbon monoxide and all the other materials with which we now foul up America.

Teller says: "Pollution and preservation of natural resources are inexorably intertwined by nature, and the ultimate solution must result in the simultaneous solution of both problems. Such a solution must be based on the reality of the ecological system and not merely by policing a fragment. We must loop the system."

The technical machinery for recycling "wastes," insofar as it doesn't already exist, can be researched and developed as easily and quickly as we researched and developed the technical machinery to get to the moon (and probably a lot easier than getting to Mars). The question is how to start. Teller suggested a system of special taxes and tax incentives. But there wasn't much sentiment for that at the Congressional Conference. It is doubtful that a tax rise would have gotten us to the Sea of Tranquility or that a tax-manipulated market economy can buy us a livable environment.

Much of the country is sick of oily depletion allowances and at the same time as the conference in the Old Senate Office Building was hearing some doubt about industrial wisdom, another conference in the Interior Department heard one water polluting industralist after another tell Secretary Walter J. Hickle that he was all in favor of clean water if only someone else will pay for making it clean.

"We the people," it says in the preamble of the Constitution, must provide not only for the common defense, but also promote the general welfare for ourselves and our posterity.

Building new towns, re-building the old cities, new fast trains and rapid transit, new order in the metropolitan areas, recreation parks and green-belts are therefore part and parcel of the effort of recycling wastes, and cleaning up our air, rivers and lakes. It's all one effort—the design of a human environment.

This is nothing new. More than 30 years ago, under Franklin D. Roosevelt's New Deal, we started all this with the Tennessee Valley Authority, the National Resources Board and the Greenbelt towns. Only the TVA survived.

Too expensive, say the small minds. But far more dangerous is the lofty computer mind that argues that a national environment program would be too cheap to replace our war program in the national economy. The "Report from the Iron Mountain on the Possibilty and Desirability of Peace," which found that only ever-accelerating defense production could sustain our national economy, may have been a hoax. But the line of thinking that an environment program is too cheap for economy-sustaining is not.

The military-industrial complex is not convinced that sulfur recycling, rapid transit, new towns, recreation parks, swimmable rivers and breathable air gives them as much benefit for our cost as their ABMs and SSDs and the rest of ther deadly alphabet soup.

This should give next spring's teach-in a lot to talk about.

DEDICATION OF HAMPSHIRE FIELD IN VIETNAM

Mr. McINTYRE. Mr. President, earlier this month I discussed my views on Vietnam in an address before the National Academy of Sciences at Hanover, N.H.

In the course of that speech, I said the war had truly come home to TOM MCINTYRE in a moment last month at Grenier Field in Manchester, N.H.

There I witnessed a scene I will never forget—the arrival of five flag-draped coffins bearing the bodies of five young members of New Hampshire's 197th Field Artillery Battalion of the National Guard—five young men from one neighborhood—killed in action the very week the battalion was to return home from Vietnam.

Last week those five young guardsmen were honored at the dedication of Hampshire Field, near where they fell in Vietnam on August 26.

The account of the dedication of the field was published in the Manchester, N.H., Union Leader on October 29. I ask unanimous consent that this touching tribute be printed in the RECORD.

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

FIVE SLAIN NEW HAMPSHIRE GI'S HONORED IN VIETNAM

FSB THUNDER III, VIETNAM.—Five New Hampshire National Guardsmen, killed by a mine near here on Aug. 26, were honored at the dedication of Hampshire Field here last week.

The newly dedicated field is a memorial to Staff Sergeant Richard P. Raymond, SP5 Richard E. Genest, SP4 Guy A. Blanchette, SP4 Gaetan J. Beaudoin and SP4 Roger E. Robichaud, all of Manchester.

Also honored during the ceremonies was 2nd Lieutenant Thomas J. Dostal, Des Moines, Iowa, who was killed Aug. 24 while serving as a forward artillery observer.

Battery A, 2nd Battalion, 12th Artillery, the unit which replaced Battery A, 3rd Battalion, 197th Artillery, N.H. National Guard, when the unit returned home in September, conducted the ceremony.

Most of those who took part in the dedication had known and served with the men they were honoring.

During the ceremonies, the rifles of the six men, with fixed bayonets and their helmets laying atop them, were stuck into the ground in the traditional tribute to fallen GIs.

Capt. Leo X. Dwyer, Marshfield, Mass., Battery A commander, told the artillerymen present "I can think of no better way to honor these American soldiers than to fly two flags over the field. The American flag to commemorate the country they loved so much and the Vietnamese flag for the country they were fighting to save."

At the conclusion of the ceremonies, a final salute was fired by the 155 millimeter howitzers that the six men had lived with for a year.

FSB Thunder III is about 65 miles north of Saigon and sits on Vietnamese National Route 15, known as Thunder Road," a vital link between the capital and bases along the Cambodian border.

It was on Thunder Road, about 15 miles south of the base, that the five Granite Staters were killed when their truck struck a mine on Aug. 26.

Lt. Dostal, a regular Army officer who had been with the battery since May, was killed by small arms fire two days earlier while serving as a forward observer with the Third Mobile Strike Force, a composite Vietnamese-Cambodian unit with Special Forces advisors, which was operating in the Duc Phong area, about 40 miles north of Thunder III.

THE MUKTUK GUARD

Mr. STEVENS. Mr. President, recruiting for the Alaska National Guard is not an occupation, it is a way of life.

M. R. "Muktuk" Marston is the most famous of the recruiters.

This summer "Muktuk" will again go on a recruiting mission. Muktuk Marston is a living legend in Alaska. He was responsible for the establishment of a territorial guard during the bleakest days of World War II; days when a Japanese invasion of Alaska was a reality, not just a fear.

Muktuk Marston is one of the men who helped to preserve Alaska and contribute to its growth. The Nation owes him a hearty thanks. But men like Muktuk do not rest on their laurels.

I ask unamimous consent that the news release about Muktuk's new efforts be printed in the RECORD.

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

M. R. "MUKTUK" MARSTON

A familiar face will appear in Unalakleet, Nome, Kotzebue and Barrow next month, in conjunction with a National Guard recruiting campaign in those towns.

"Muktuk" Marston, the man generally credited with organizing the Alaska Territorial Guard during World War II, will visit the four cities to help recruit men for the 1st Scout Battalion, Alaska Army National Guard.

Now retired, and living in Anchorage, Marston volunteered to go north to help with the recruitment program for two reasons. First and foremost is his strong attachment to the Scouts, successors to his old ATG units, and second is his attachment to the youthful new commander of the 1st Scout Battalion, Major John W. Schaeffer, Jr.

Schaeffer is the son of John Schaeffer, Sr., of Kotzebue, a man who served Marston as a dog musher in those earlier days, and whom Marston credits with saving his life during a trying five-day ordeal in the Baird Mountains, east of Noatak.

The pair were traveling from village to village in the area, talking with the Eskimos, explaining the importance of the Alaska Territorial Guard, and forming ATG units in each village. During bad weather, in the dead of winter, the pair lost the trail, and spent five days in temperatures below minus 50 degrees before finding the trail and continuing their mission.

Marston won't admit they were really lost, "just a little confused" but he readily pays compliments to the trail-wise senior Schaeffer, and avers that he might not be here today "had it not been for a real man, and one of the greatest dog-mushers, John Schaeffer, Sr."

The story of Marston and the Alaska Territorial Guard goes back to the early days of World War Two.

In 1942 there was no Alaska National Guard. Alaska's Guard units had been called into Federal service, and its men were scattered through units in the south 48. The regular Army forces in Alaska were still spread thinly through the Aleutians and Southeast Alaska. With the advance of Japanese invaders in the Aleutians, then-Governor Ernest Gruening resolved that Alaska needed a better defense, some kind of territorial guard.

He established the Alaska Territorial Guard, and gained the appointment of Major M. R. Marston, a reserve officer assigned to the staff at Ft. Richardson, to assist in the formation of ATG units.

Marston's efforts were invaluable. He served as an administrator, recruiter, organizer and trainer. Traveling throughout the state, Marston spread the gospel of self-defense in Alaska. He located men willing to tackle the tasks of organizing units in villages and towns across the state. He helped to procure arms, ammunition, equipment.

Often traveling in the dead of winter, going into villages which could be reached only by dog team, Marston perservered. Through his efforts a live and functioning Alaska Territorial Guard was available should the enemy have reached the mainland of the Great Land.

The bulk of the units he formed were located in the western half of the Territory. When the ATG was disbanded in March 1947, its peak strength had exceeded 3000 men. Throughout the war, it had provided the psychological security so necessary to prevention of panic in the State.

It was not until 1949 that the present day successors to the ATG, the Eskimo Scouts, were formally organized, but it was easy to recognize the lineal descent from the old ATG in the new Scout units. A large percentage of the men who joined in the villages were the same men who had volunteered seven years earlier.

It was during those troubled times in the early forties that Marston earned the nickname "Muktuk". He was accepted by the Eskimo and Indian residents of the remote area he knew so well. Accepted because he accepted them as the proud people they were, and learned their language and ways.

Stopping in one of the villages to check on the condition of the ATG unit there, Marston was invited to have his evening meal with a villager recognized as the champion eater in that area. During the course of the meal, Marston was offered a heaping platter of muktuk, the Eskimo delicacy formed of the skin and first fat layer of the whale. Whites, not being used to the extreme richness of the meat, normally can eat only a few bites. Because the major had been living with the natives during most of his travels, he had overcome this weakness of the stomach, and at the end of the meal had become the new local champion. His nickname was earned.

Even today, almost thirty years after his earlier recruiting trips into the villages, people look forward to the return of "Muktuk."

And this year, he will return to the scenes he knew so intimately in World War II.

Muktuk is going north to spread again the word of preparedness, and the need for a strong National Guard.

His first foray on behalf of the Scout Battalions will take him to Unalakleet on Nov. 10th, Nome on Veteran's Day, to Kotzebue on the 12th and Barrow the following day. There, Marston will talk with old friends, and meet new friends, the young men of the towns. He will tell these young men of the value to the Nation of their service in the National Guard, and of the returns they can gain by serving as volunteers in the 1st Scout Battalion units of the northwest.

Traveling with Marston on his mid-November journey will be Major John W. Schaeffer, Jr., who in his own right is a pioneer. Schaeffer is the first Eskimo to command a scout battalion. A native of Kotzebue, Schaeffer

joined the Scouts in 1957 as a private. Slightly over a year later he completed the strenuous Infantry Officer Candidate course at Ft. Benning, Ga., and was commissioned a second lieutenant in the Alaska Army National Guard. Since that time, Schaeffer's progress up the ladder of command has been steady. He has served as patrol leader, company commander, staff officer at the battalion level and at Alaska Army National Guard headquarters in Anchorage.

Schaeffer is one of the two Eskimo officers to reach field grade (major or higher) in the National Guard. The other is Lt. Col. Lloyd Ahvakana, of Barrow, now assistant G–3, State Headquarters and Headquarters Detachment, Alaska Army National Guard.

Alaska's adjutant general, Major General C. F. Necrason, asked Marston to join in the Scout recruiting effort because, in his words, "Muktuk is known to every Eskimo along the coasts of Alaska. They all know men who served with his ATG units during World War II, and they know that Marston has a sincere interest in their well-being." He went on to say "Marston performed a great service for Alaska during World War II, and we feel that his presence in the northwest, even for just a few days, will do a great deal to awaken the young men to the opportunities that await them in the National Guard."

The part-time soldiers of the Alaska National Guard receive basic infantry training at Ft. Ord, California, then may attend a specialty training course at another stateside post. Upon completion of their training, they return to their home villages, assigned to one of the nearby National Guard units.

Each year of their enlistment, the Guardsmen work at their military specialties for a minimum of 48 training periods, and attend an annual field training session held each winter at Ft. Richardson. During this two week encampment, the men receive further concentrated training in scouting, field maneuvers and other military skills.

Each four-hour training period during the year brings one day's pay for the rank the man holds. During the two week field training, he draws full military pay and allowances for his rank. All the while the men remain in the Guard, they accumulate points which may be translated into a permanent retirement pay after twenty years' service, and reaching age 65.

BUDGETARY CUTS IN HEALTH RESEARCH FUNDS

Mr. McGOVERN. Mr. President, I am disturbed that in the process of making legislation and spending money, Government tends to forget that it is people and not laws and dollars which count. The treatment which our health programs have received at the hands of this administration is one good example of placing dollars before people.

The human tragedy involved in this budget decision is clearly set forth in the story of Sandra Vitorelo, a 22-year-old nurse dying of leukemia, who wrote the President about the need for cancer research funds. She received a typical, insensitive bureaucratic response and died 3 days later. No more compelling argument can be made for the need for health funds than the story of this young woman. I ask unanimous consent that the Associated Press story concerning this young woman, which appeared in the Huron, S. Dak., Daily Plainsman on October 30, 1969, be printed in the RECORD.

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

WHITE HOUSE LETTER EXPLAINS CUTS; GIRL DIES 3 DAYS LATER

SAN FRANCISCO, Calif.—A month ago Sandra Vitorelo, 22-year-old leukemia sufferer, wrote to President Nixon protesting cuts in federal funds for medical research.

The reply from the White House arrived Monday at the University of California Cancer Research Institute, where she was a patient.

"I opened the letter for her—she was so feeble," said her mother, Mrs. Emile Silver. "She read it in a great deal of pain. It was three pages of explanation.

"Then she sort of shrugged and said, 'Just about what I expected. That's his rationalization, not mine.' And she told us to see that the newspapers got the story."

On Wednesday, Sandra died.

Newspapers and the California Nurses Association monthly bulletin had printed the Sept. 27 letter in which Sandra, a college-trained nurse, told the President:

"We who are afflicted with such diseases as leukemia and cancer live only in the hope that a cure can be found in time . . .

"By cutting off the great federal allotment to this cause, you have greatly jeopardized our hopes of a breakthrough."

The reply was from White House staff assistant Noble M. Melencamp, who said the President "has asked me to relay to you his personal good wishes and hopes for your speedy and complete recovery."

The letter listed "peace for this country and the world" as the Nixon administration's first priority and halting "erosion of the purchasing power of the dollar" as its second.

"The administration is convinced," the letter said, "that the excellence and productivity of the nation's biomedical research effort generally, and particularly the high priority cancer research programs, will not be jeopardized by the current situation."

Mrs. Silver said Sandra was stricken with leukemia two days afer her 21st birthday, Sept. 9, 1968.

She was able to finish work for her bachelor's degree and registered nurse's certificate at San Francisco State College and was graduated last June.

Her fiance, John A. Vitorelo, Jr. came home last autumn from Vietnam, where he served in the Signal Corps. They were married Oct. 5, 1968, and he was reassigned to the Presidio of San Francisco.

There will be a funeral Mass for Sandra Friday morning.

Explaining why Sandra wrote to the President, her mother said:

"All she hoped was that some good would come out of it . . . some benefit to sufferers."

DEVELOPMENT ASSISTANCE

Mr. JAVITS. Mr. President, in the near future the full House and the Senate Foreign Relations Committee will take up the Foreign Assistance Act of 1969.

The other body has already materially reduced the administration's appropriations request.

In considering the administration's appropriation's requests—the lowest in recent history—I ask Members of Congress to ponder the wise article on developmental assistance which appeared in the November 1 issue of the London Economist.

The great foreign aid fraud which the Economist refers to is the widespread popular belief that "after years of generous aid giving, the poorer countries are as poor as ever, mainly because they are inept, prolific and ungrateful." As the Economist points out, the recently released Pearson Commission report on which the United States was represented by a most distinguished American, Douglas Dillon, former Secretary of the Treasury and Ambassador to France, clearly indicates that this belief is "grotesquely false."

The Economist article also puts the developmental assistance activities of the Communist world in proper perspective. As the Economist points out the transfer of developmental assistance funds by the Communist states to the developing world only runs at $350 millions a year—"no wonder Russia has excused itself from joining in the preparations for a second UN Development Decade."

The Economist article also puts in perspective the recommendations of the Pearson Commission when it notes that the Commission's recommendations ask only that one-sixtieth of the increase in the gross national product of the developed world be earmarked for aid. The Economist asks, "Is this absurdly visionary?"

It is a question well worth pondering not only for the future but as we consider this year's foreign assistance appropriations request.

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

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

THE GREAT FOREIGN AID FRAUD

In 30 years' time, the majority of the world's poorer countries can achieve self-sustaining growth. That is the judgment of the Commission on International Development headed by Mr. Lester Pearson, which includes such hard heads as those of Mr. Douglas Dillon, Sir Arthur Lewis and M. Robert Marjolin. They justify their judgment by the record of recent years. These countries already show an average annual real growth rate of 5 per cent. A rate of 6 per cent would do the job by the year 2000.

The commission's report[1] shows how this rate can be generally attained if the community of nations would actually do some of the things its members have lately talked of doing. The report is wholly realistic. Of the population explosion, it says that: "No other phenomenon casts a darker shadow over the prospects for international development." It notes that massive family planning programmes have now been launched in countries that contain 70 per cent of the poor world's population; and it shows the need to sustain and extend this work. It is very specific about action required to increase the poorer countries' earnings from exports. It insists on the role of private capital in development, and prescribes means of encouraging investment.

But it is most revealing when it discusses aid; and it may have most impact here. "Aid" is the word that leaps into the average man's mind when he reads something about international development. His current cynicism reflects the prevalent idea that, after years of generous aid-giving, the poorer countries are as poor as ever, mainly because they are inept, prolific, and ungrateful. The Pearson report shows this belief to be grotesquely false.

When President Kennedy launched the United Nations into its first "development decade" in 1961, two main targets were set. The poorer countries (roughly, those where average annual incomes were less than $500) were each to aim at achieving at least 5 per cent annual growth by 1970. The richer ones

[1] "Partners in Development." Pall Mall Press. 400 pages. Cloth 50s., paperback 18s.

(including communist states) would undertake to channel to the poorer ones, in aid and investment, at least 1 per cent of their national incomes. Later, it was agreed to raise this target to 1 per cent of their gross national products—an increase of over a fifth.

The less developed countries, on average, now show an annual rate of gross investment equal to 17.8 per cent of gnp; and 85 per cent of this has come from domestic savings. In the face of worsening terms of trade, they have raised their export earnings by an annual average of 6.1 per cent. In the face of the population explosion, they have raised average production per head by 2.5 per cent per year. Even in the huge "hard case" of India, the new farming breakthrough leads the Pearson commission's staff to envisage a steady annual gnp growth rate of 6 per cent in the 1970s.

If the richer countries had fulfilled their part of the compact, they might now have more right to carp at the poorer ones' performance. But carp they do. The commission is obliged to speak of "aid weariness" and to record that "international support for development is now flagging." And one reason is that "the real economic burden of foreign aid to wealthy countries is often considerably exaggerated."

This exaggeration largely arises from the habit of seeing "the total flow of resources to developing countries . . . as something that the rich countries 'give' to the poor. Nothing could be farther from the truth." The report shows that the developing countries are now paying back to the richer ones over $4,000 million a year in servicing their debts (quite apart from paying dividends on investments), and that in the 1960s these debt service payments have mounted by 17 per cent per year. If present trends continue, there would by 1977 again be a large net flow of money from the poor to the rich countries.

Far from approaching their own target, the richer countries as a group have receded from it. At the start of the decade, the net flow of resources to the poor world from the non-communist richer nations equalled 0.89 per cent of their combined gnps. By 1968 it had sunk to 0.77 per cent. Its composition had also deteriorated. By 1968, nearly half consisted of investment and commercial credit. This, the Pearson commission points out, can in no sense be termed "aid"—though it too often is. Of the remaining half (now equal to only 0.39 per cent of the gnps), the proportion taking the form not of grants but of loans tripled during the 1960s. The proportion "tied" to purchases in one country rose until only a sixth of the aid was untied. Tying, the commission notes, usually reduces the aid's value by over 20 per cent. A fifth of the aid took the form of surplus food and commodities. The commission questions whether in such cases there is any real cost to the supplier.

During the 1960s the richer non-communist nations doubled their combined gross national products to a total of $1,700 billion in 1968. Yet the aid they provided in grant (or "grantlike") form fell from $4.5 billion in 1961 to $4.1 billion in 1968. The fall in real value was much sharper. This performance can be favourably viewed in only one perspective: in comparison with that of the communist states. These states' transfers to the poorer countries still run at only about $350 million a year. No wonder Russia has excused itself from joining in the preparations for a second UN development decade.

The Pearson commission, regretting its inability to get information about the communist states' activities, does not prescribe for them. For the others, its primary recommendation is that they should each aim at making an aid contribution equal to 0.7 per cent of gnp by 1975 (without abandoning the 1 per cent target for all resource flows). It urges them to channel at least a fifth of their aid (instead of the present tenth) through multilateral agencies, and to make commitments for periods of at least three years at a time. Its 20 proposals for making aid more effective include a plan for gradually (and painlessly) untying the greater part of it. It is also urged that aid loans should bear no more than 2 per cent interest and provide for grace periods of 7 to 10 years, with maturity at between 25 and 40 years.

What the main recommendation on aid means is that nations which will by 1975 have probably increased their combined annual gnps by $600 billion (at 1968 prices: the nominal increase being doubtless much greater) should earmark for aid something like a sixtieth part of that increase. Is this absurdly visionary?

RICHER NATIONS' 1968 AID PERFORMANCE

	Net aid as percent of GNP	Grants as percent of commitments	Average loan terms: Rate of interest	Average loan terms: Years to maturity	Average loan terms: Years grace
Switzerland	0.10	48	4.9	13.5	2.0
Japan	.25	57	3.9	18.0	5.4
Canada	.28	75	1.1	43.5	8.6
Sweden	.28	75	2.5	34.0	9.6
United States	.38	45	3.5	30.0	7.8
Britain	.42	46	1.3	24.8	6.3
Germany	.42	36	3.9	21.2	5.9
Holland	.54	56	3.9	29.7	6.6
Australia	.57	100			
France	.72	70	3.7	18.0	.8
Average for 15 DAC countries [1]	.39	50	3.3	24.8	6.5

[1] The 10 shown plus Austria, Belgium, Denmark, Italy, and Norway.

HOW THE MAIN AID RECIPIENTS HAVE BEEN DOING

GNP growth (annual average 1960–67)	GNP per head, 1967: Under $100	$100 to $200	$200 to $300	$300 and over
Over 6 percent		S. Korea 7.4	Taiwan 5.2 Jordan 31.9	Mexico 2.0 Peru 5.1 Spain 2.0
5 to 6 percent	Pakistan 4.2	Egypt 3.7	Turkey 5.7	
4 to 5 percent		Kenya 6.4 Philippines 2.8	Brazil 2.7 Colombia 5.2	Chile 14.5
3 to 4 percent	India 2.4 Nigeria 2.1	Congo 7.1 Morocco 6.9	Ghana 7.7 Tunisia 18.9	
Under 3 percent		Indonesia 1.0	Algeria 12.3 Senegal 13.9	

Note: Figures after each country show, in dollars, annual aid received per head of population (1964–67 average). Each country shown received over $50,000,000 aid per year in 1964–67. So did Israel, Yugoslavia, Laos, and South Vietnam.

BRITAIN'S RECORD IN THE 1960'S

	1961	1968
Gross aid disbursements (£mn)	170	210
Net aid (deducting loan repayments and interest) (£mn)	151	150
Net aid as percent of GNP	.55	.42
Grants as percent of aid commitments	52	46

Note: The latest studies indicate that the balance-of-payments cost of aid is less than £50,000,000 a year. Each £100 allotted to bilateral aid has brought £63 of orders to British firms. And for each £100 channeled through multilateral agencies, orders worth as much as £116 have been placed in Britain.

Britain's 1 notable advance during the 1960's was the switch in 1965 to interest-free loans. In 1968 these loans made up 30 percent of its aid disbursements.

ASSISTANCE FOR OUR BLIND CITIZENS

Mr. MONTOYA. Mr. President, blindness is perhaps the worst affliction which a man can suffer and still hope to function as a full-fledged member of society. In this country there are nearly one-half million blind people, about 150,000 of whom are of working age. Many of these people are able to work and do work. Others who are able to work, even though blind, find it impossible to find steady work, and some are unable to find any kind of work.

The economic consequences of blindness to the individual are staggering. Regardless of what work or activity a man would do, man needs sight to assist him. The blind man purchases this sight. A blind person's earning capacity is diminished and his living expenses are increased. The aids he needs to live and to work in a community of sighted people are expensive. Inasmuch as our society is oriented to and structured for the sighted, I feel that society has a responsibility to help the blind to adjust to our society of sighted people. Over the years we have made great strides in helping the blind to be self-sufficient members of their communities. There is, however, much more that we can do.

Mr. President, in the spirit of helping our sightless fellows, the Senate, starting in the 88th Congress with an amendment by then Senator Humphrey to a star-crossed social security bill, has on three occasions passed an amendment to the Social Security Act substantially liberalizing the conditions under which blind people can qualify for social security benefits. On each of these occasions the provision has failed of enactment. On the first occasion, the entire social security bill died in conference. On the two subsequent occasions, important parts of the amendment for the blind were adopted. The major parts, however, which would allow blind people to qualify for social security benefits with six quarters of social security coverage, rather than 5 years out of the last 10, and which

would have repealed the earnings test as it applies to blind people, have yet to be enacted.

I am proud to be counted among the 69 Senators who this year have joined in sponsoring a bill, S. 2518, to complete the job which former Vice President Humphrey started as a Senator in the 88th Congress. I feel confident that the next time we pass this provision it will be in the bill which is sent to the White House. Over the past few years, support for the measure has been building in the House, and more than 150 Members of the other body—under the leadership of Representative JAMES A. BURKE—have sponsored identical legislation in this session.

I am gratified to see this growing recognition of the financial disadvantages under which blind people labor when they try to function as self-sufficient members of our sighted community. The enactment of S. 2518 will enable many blind people to pay the extra costs of hiring sight so that they may operate as responsible and self-sufficient citizens. It would provide these people—in a dignified way and as a matter of right, not as charity—with a regular source of funds to offset some of the economic consequences of blindness.

I hope that when this measure comes before us for a vote that it will pass without a dissenting voice.

Mr. President, I am also deeply gratified to count myself as a cosponsor of another important measure which will enable many able-bodied blind people to retain their pride and dignity through earning their own way. This important measure, S. 2461, would significantly update and expand the far-reaching Vending Stand Act enacted 33 years ago to establish the program of granting preference to blind persons in the operation of vending facilities in Federal buildings.

The bill would change the term "vending stand" to "vending facility" to cover more accurately the wide variety of concessions operated on Federal property by blind persons. It would further define a vending facility to include various types of concessions, including vending machines. Since the assignment of vending machine income has adversely affected blind vending stand operators in some instances, the bill tightens the procedure for making this assignment.

Under the provisions of S. 2461 the State licensing agencies could license responsible and capable blind individuals who are under 21. It would also permit food, beverages, and other items to be prepared on the premises, as in fact is presently being done in many locations, and it would eliminate the 1-year residence requirement as a prerequisite for licensing of blind concessionaires. An important new provision is the requirement for inclusion of sites for vending facility locations in the design, construction, or substantial alteration of Federal buildings or those leased by Federal agencies.

The fair hearing mechanism for aggrieved licensed blind operators now in the law is expanded to include an arbitration procedure if a dispute arises which cannot be settled otherwise. Another provision would permit arbitration of disputes between agencies controlling Federal property and State licensing agencies. In addition, a blind person or State licensing agency is authorized to seek judicial review of any agency action if they are adversely affected by that action.

Mr. President, the proposed legislation will bring present law into conformance with accepted practice in the vending stand program and effect additional needed improvements. The enactment of this measure is vital to the dignity and welfare of many working blind persons, and I would urge Senators to stand firmly behind the bill and give it their full support when it comes before the Senate for a vote.

Mr. President, I ask unanimous consent that the texts of S. 2518 and S. 2461 be printed in the RECORD.

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

S. 2518

A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence of section 222(b)(1) of the Social Security Act is amended by inserting "(other than such an individual whose disability is blindness, as defined in section 216(i)(1)(B))" after "an individual entitled to disability insurance benefits".

(b) Section 223(a)(1) of such Act is amended—

(1) by amending subparagraph (B) to read as follows:

"(B) in the case of any individual other than an individual whose disability is blindness (as defined in section 216(i)(1)(B), has not attained the age of 65,"; and

(2) by striking out "the month in which he attains age 65" and inserting in lieu thereof "in the case of any individual other than an individual whose disability is blindness (as defined in section 216(i)(1)(B), the month in which he attains age 65".

(c) That part of section 223(a)(2) of such Act which precedes subparagraph (a) thereof is amended by inserting immediately after "(if a man)" the following: ", and, in the case of any individual whose disability is blindness (as defined in section 216(i)(1)(B)), as though he were a fully insured individual.".

(d) Section 223(1) of such Act is amended—

(1) by inserting "(other than an individual whose disability is blindness, as defined in section 216(i)(1)(B))," after "An individual"; and

(2) by adding at the end thereof (after the sentence following subparagraph (B)) the following new sentence: "All individuals whose disability is blindness (as defined in section 216(i)(1)(B)) shall be insured for disability insurance benefits in any month if he had not less than six quarters of coverage before the quarter in which such month occurs."

(e) Section 223(d)(1)(B) of such Act is amended to read as follows:

"(B) blindness (as defined in section 216(i)(1)(B))."

(f) The second sentence of section 223(d)(4) of such Act is amended by inserting "(other than an individual whose disability is blindness, as defined in section 216(i)(1)(B)" immediately after "individual".

SEC. 2. The amendments made by this Act shall apply only with respect to monthly benefits under title II of the Social Security Act for months after the month following the month in which this Act is enacted, on the basis of applications for such benefits filed after the date of enactment of this Act.

S. 2461

A bill to amend the Randolph-Sheppard Act for the blind so as to make certain improvements therein, and for other purposes

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 "Randolph-Sheppard Act for the Blind Amendments of 1969."

PREFERENCE FOR VENDING FACILITIES ON FEDERAL PROPERTY

SEC. 2. Section 1 of the Act entitled "An Act to authorize the operations of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes," approved June 20, 1936 (20 U.S.C. 107), is amended to read as follows:

"SECTION 1. For the purposes of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting, blind persons licensed under the provisions of this Act shall be authorized to operate vending facilities on any Federal or other property. In authorizing the operation of vending facilities on Federal property, preference shall be given, so far as feasible, to blind persons licensed by a State agency as provided in this Act; and the head of each department or agency in control of the maintenance, operation, and protection of Federal property shall, after consultation with the Secretary and with the approval of the President, prescribe regulations designed to assure such preference (including exclusive assignment of vending machine income to achieve and protect such preference) for such licensed blind persons without adversely affecting the interests of the United States."

CONCESSION VENDING SURVEYS

SEC. 3. Section 2(a)(1) of such Act of June 20, 1936 (20 U.S.C. 107a), is amended to read as follows:

"(1) Make surveys of concession vending opportunities for blind persons on Federal and other property in the United States;"

VENDING FACILITY

SEC. 4. Such Act of June 20, 1936, is further amended to strike the words "vending stand(s)" and "stand(s)" wherever they appear and inserting in lieu thereof the words "vending facility(ies)".

ELIMINATION OF AGE REQUIREMENT AND VENDING OF FOOD AND BEVERAGES

SEC. 5. Section 2(a)(4) of such Act of June 20, 1936, is amended by (1) striking out "and at least twenty-one years of age" and (2) striking out "articles dispensed automatically or in containers or wrapping in which they are placed before receipt by the vending stand, and such other articles" and inserting in lieu thereof the following: "foods, beverages, and other such articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, as determined by the State licensing agency:".

DELETION OF CERTAIN LIMITATIONS IN LICENSING BLIND OPERATORS OF VENDING FACILITIES

SEC. 6. Section 2(b) of such Act of June 20, 1936, is amended by (1) striking out "and have resided for at least one year in the State in which such stand is located" and (2) striking out "but are able, in spite of such infirmity, to operate such stands."

PROVISION OF VENDING FACILITY LOCATIONS

SEC. 7. Section 2 of such Act is further amended by adding a new subsection (d) at the end thereof:

"(d) In the design, construction, or substantial alteration or renovation of each pub-

lic building after January 1, 1970, for use by any department, agency, or instrumentality of the United States, there shall be included, after consultation with the State licensing agency, a satisfactory site or sites with space and electrical and plumbing outlets and other necessary requirements suitable for the location and operation of a vending facility or facilities by a blind person or persons. No space shall be rented, leased, or otherwise acquired for use by any department, agency, or instrumentality of the United States after January 1, 1970, unless such space includes, after consultation with the State licensing agency, a satisfactory site or sites with space and electrical and plumbing outlets and other necessary requirements suitable for the location and operation of a vending facility or facilities by a blind person or persons. All departments, agencies, and instrumentalities of the United States shall consult with the Secretary (or his designee) and the State licensing agency in the design, constructon, or substantial alteration or renovation of each public building used by them, and in the renting, leasing, or otherwise acquiring of space for their use, to insure that the requirements set forth in this subsection are satisfied. This subsection shall not apply when the Secretary (or his designee) and the State licensing agency determine that the number of people using the property is insufficient to support a vending facility."

ARBITRATION BETWEEN OPERATORS AND LICENSING AGENCIES

SEC. 8. Section 3(6) of such Act (20 U.S.C. 107b) is amended by substituting a comma for the period at the end thereof and adding the following new wording: "including binding arbitration by three persons consisting of one person designated by the head of the State licensing agency, one person designated by the licensed blind operator, and a third person selected by the two."

DEFINITIONS

SEC. 9. (a) Section 6(b) of such Act (20 U.S.C. 107e) is amended to read as follows:

"(b) The term 'blind person' means a person whose central visual acuity does not exceed 20/200, in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees."

(b) Section 6 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) The term 'vending facility' includes, but is not limited to, automatic vending machines, cafeterias, snackbars, cart service, shelters, counters, and such other appropriate auxiliary equipment (as the Secretary may by regulations prescribe) as are necessary for the sale of the articles or services referred to in section 2(a)(4), which are, or may be operated by blind licensees."

ARBITRATION BETWEEN AGENCIES

SEC. 10. Such Act is further amended by redesignating section 8 (20 U.S.C. 107f) as section 9 and by inserting the following new section after section 7:

"SEC. 8. (a) An arbitration board of three persons consisting of one person designated by the Secretary who shall serve as chairman, one person designated by the head of the Federal department or agency controlling Federal property over which a dispute arises, and a third person selected by the two who is not an employee of the departments concerned shall hear appeals as provided in subsection (b) of this section.

"(b) If, in the opinion of a State licensing agency designated by the Secretary under this Act, any department or agency in control of the maintenance, operation, and protection of Federal property is failing to comply with the provisions of this Act, or any regulations issued thereunder, it may appeal to the board. The board shall, after notice and hearing, render its decision which shall be binding. If the board finds and determines that the acts or practices of any such department or agency are in violation of this Act, or the regulations issued thereunder, the head of the affected department or agency shall promptly cause such acts or practices to be terminated, and shall take such other action as may be necessary to carry out the decision of the board. All decisions of the board shall be published."

JUDICIAL REVIEW

SEC. 11. Such Act is further amended by adding the following new section:

"SEC. 10. Notwithstanding other provisions of this Act, any blind person or State licensing agency suffering legal wrong because of any agency action, or adversely affected or aggrieved by such action within the meaning of this Act or other relevant statutes, shall be entitled to and shall have standing for judicial review thereof."

EFFECTIVE DATE

SEC. 12. The amendments made by this Act shall become effective January 1, 1970.

THE SECRET GOVERNMENT OF OIL—ADDRESS BY SENATOR McINTYRE

Mr. BROOKE. Mr. President, my good friend the able Senator from New Hampshire (Mr. MCINTYRE) has written an incisive and illuminating article entitled "The Secret Government of Oil," published in the Boston Globe of November 2, 1969.

The article chronicles a part of the fight which we in New England have waged against the pervasive power of the oil industry. The battle started many years ago with attempts to channel the benefits of imported oil to our six-State region. It found partial success in the subsequent removal of trade restrictions on imports of residual oil, and has most recently found its greatest symbol in the project to establish a foreign trade zone and oil refinery at Machiasport, Maine. TOM MCINTYRE has been in the thick of this battle throughout, and has done as much as anyone to change Machiasport from a small, unknown town on the coast of Maine to a symbol in the national fight to achieve lower consumer prices.

The junior Senator from New Hampshire deserves our gratitude for his courageous efforts. I recommend his article as important reading for all, and ask unanimous consent that it be printed in the RECORD.

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

THE SECRET GOVERNMENT OF OIL

(By U.S. Senator THOMAS J. MCINTYRE)

We have heard much in recent days about the military-industrial complex. As a member of the Senate Armed Services Committee, I have been made aware of this complex and have spent may hours trying to understand and control it.

But during this past year I have run up against a wholly different force, just as subtle in its pervasive influence on our lives. I like to call it The Secret Government of Oil.

In Washington, D.C., in our state capitals, and in our major financial centers, its pressure is brought to bear. And so effective is it that it now controls the prices we have to pay for almost all our energy needs. Whether it is gasoline for our cars, heating oil for our homes, or a wide range of plastics, chemicals, and textiles—the price is set by the Secret Government of Oil.

I knew very little about this Secret Government until I became involved in the Machiasport project. This is the imaginative project which calls for the construction of a modern oil refinery in a Foreign Trade Zone at Machiasport, Maine.

Devised by Governor Kenneth Curtis of Maine, it has won the support of all six New England governors, all twelve New England senators, and all twenty-five New England congressmen. It has been supported also by the New England Council for Economic Development and by a wide range of business and community leaders.

The reasons for this support are not difficult to discover. Above all, the Machiasport project would lower significantly the heating oil costs of New England consumers. But it would also bring employment to the sorely pressed area of Washington County, Maine. It would strengthen the competitive position of the independent terminal operators and independent fuel dealers of New England in their battle with the oil industry's giants. And it would strengthen our national security by dispersing our domestic refining and storage capacity now heavily concentrated along the Gulf Coast.

In fact, the Machiasport project offered so many compelling and obvious benefits that I naively assumed it would be rapidly approved in Washington.

How wrong I was. More than 16 months have passed since applications were filed with the Federal Government. How much I have learned during these months about the far-reaching influence expertly wielded by the Secret Government of Oil!

In some respects, this Secret Government actually dwarfs the military-industrial complex. In scope, for example, it is international rather than just domestic. And its annual sales—the sales of the oil industry—are over $100 billion, far in excess of the cost of our annual defense budget.

It is simply amazing what handouts this Secret Government has won from our elected governments. They are of three basic types, and each of them serves to reinforce the others.

The first type of handout is the series of production controls established and enforced by our main oil producing states, such as Texas and Louisiana. The purpose of these controls is simple—to limit the amount of oil produced to keep prices high. They work as follows: Buyers of crude oil estimate each month to state regulatory agencies the amount of oil they plan to buy in the state during the following month. These state agencies then "pro-rate" the state's oil fields, curbing their production so that it never exceeds the expected demand. It is through this market control mechanism that our oil producing states first create and then maintain rigged petroleum prices.

These prices are close to 200 percent higher than the East Coast delivered price of totally comparable foreign-produced oil. In a free market environment one would expect this low-cost foreign oil to capture a large share of our domestic market. In fact, that is what was starting to happen in the 1950's, until oil's Secret Government won another of its handouts.

This handout, known officially as the Mandatory Oil Import Control Program, was initiated by President Eisenhower in 1959. It limits the foreign-produced oil imported into the United States to only 12.2 percent of our own domestic production. It has produced rising crude oil prices at home even as crude oil prices abroad have fallen sharply over the last decade. It has cost American consumers more than $6 billion a year.

Moreover, the Program has discriminated harshly against New England. There are at latest count, 284 refineries in the United States. None of these are in New England, and

the reason is very simple. There are no indigenous oil supplies in the region and because of import controls enough foreign oil to run a refinery cannot be imported. The main source of oil for a New England refinery would therefore have to be the Gulf Coast and it is simply too costly to ship high priced domestic oil that far to be refined.

Because there are no refineries in New England, the major oil companies headquartered elsewhere have the market to themselves. It is the market power of these companies—preserved by the Oil Import Control Program and now being expanded into the wholesale end of the industry—which has made New England home heating costs the highest in the country.

And on top of these two handouts there is yet a third—the elaborate system of tax loopholes which allow the oil industry to keep the vast profits made possible in the first place by state prorationing and import controls.

The oil depletion allowance is by far the best known of these many tax loopholes. It permits tax-free treatment of 27.5% of an oil company's revenues, up to 50% of its net profits. The official purpose of this loophole, which has been in effect for over forty years, is the encouragement of oil exploration at home. Yet it is applied in full, not only to domestic oil, but to all oil produced by American companies abroad.

This depletion allowance does not stand alone. Oil companies, for example, can "expense" their intangible drilling costs instead of amortizing them over a period of years like most other industries. And they can deduct from their United States tax bills the "tax" payments they make to foreign governments, even when these payments are nothing more than royalties which bear no resemblance to the income they actually earn from foreign operations. These and other loopholes too complicated to mention together provide the oil industry with even more tax-free income than does the depletion allowance.

With loopholes like this it is really no wonder that oil companies end up paying Federal income taxes many times lower than those of most corporations. In 1968, for example, the average corporation had a 40% tax rate while the average oil company had a 7.7% rate. Sinclair actually paid no taxes at all on profits of over $100 million, while Gulf, with profits of almost $1 billion, had a rate less than 1%.

State prorationing, import quotas, and tax loopholes—these are the three types of handouts won in the past by The Secret Government of Oil. I know about them now if I did not a year ago. And I know, too, about the pressures brought to bear by oil's Secret Government on anyone so brash as to try to change the system.

And that is what Machiasport is all about. It has become a symbol for change, a change badly needed not only in New England but in oil consuming states from Maine to Hawaii. With a Foreign Trade Zone and a refinery at Machiasport, New England could end its dependence on oil from the Gulf Coast. Heating costs could fall to more reasonable levels, as cheap foreign oil was substituted in its place. The new refinery could compete with major oil companies and drive down their prices. The savings would be at least 10%, or $20 on a $200 heating bill. And if Machiasport were successful, other oil consuming regions with higher than normal prices would probably seek Foreign Trade Zones of their own. Machiasport could produce a leak in oil's protective shield.

Because Machiasport is a symbol of change, it has also become a target, a very prime target, for the Secret Government of Oil. The pressures exerted against it provide a classic case study of the Secret Government's response whenever oil's profits begin to appear vulnerable.

It was in May, 1968, that the State of Maine first applied to the Federal government for permission to establish a Foreign Trade Zone in Portland, with a sub-zone at Machiasport. Application was made to the Foreign Trade Zones Board, an interdepartmental agency with the Secretary of Commerce as chairman and the Secretaries of the Army and the Treasury as the two other members. Three months then went by before officials of the Board formally agreed to even consider Maine's application.

Hearings on the application were finally scheduled for Portland on October 10th. Before they got under way, however, several changes were announced in the rules under which such hearings had been held for years. And on October 9, the very eve of the Portland hearings, another precedent was decreed. The Portland hearings would have to be followed by special additional hearings in Washington.

By late October all these hearings had been held. But problems then developed with the transcripts of the hearings. The few copies available were almost hopelessly garbled, with parts of a divorce proceeding appearing at one point right in the midst of Machiasport testimony. Normally, of course, accurate copies of a hearing transcript are available within days, both to interested parties and to the examiners charged with a hearing report. Yet in this particular case, a full month and a half went by before the transcript was in order.

This series of delays operated very strongly against Maine's interests. For in late 1968 every week counted if the application was to be approved before the Nixon Administration, heavily in debt to oil industry campaign contributors, took office in January.

Oil's Secret Government was also at work outside government channels. Shortly after the hearings the Sinclair Oil Company brought suit in Federal court to prevent the Foreign Trade Zones Board from acting if it wanted to. This attempt to stall till January was thwarted when the case was thrown out of court for lack of merit.

But hopes of early approval were severely dashed in mid-December when Commerce Secretary Smith suddenly announced that Maine's application was simply too important for an outgoing Administration to deal with, and that he planned, therefore, to take no further action on it.

This announcement was really quite a shock. I had been assured repeatedly by Foreign Trade Zones Board officials that a decision would be forthcoming before the year's end.

What is more important. Secretary Smith had no authority whatever to make the decision he did. It is true, as he suggested, that Maine's application had important implications for the long-range future of the Oil Import Control Program. But this program was under the direction of the Department of the Interior. The Foreign Trade Zones Board, on which Secretary Smith's authority rested, has no discretion to consider such peripherally related matters. The Board's enabling legislation very clearly states—and Federal court decisions have held—that a Foreign Trade Zone "shall" be granted to any qualified applicant.

It was at this point, as chairman of the Senate Small Business Subcommittee, that I held hearings of my own to investigate the roadblocks in the way of Maine's application. These hearings clearly established that the Board had an obligation to act. They also made clear that Maine's application deserved acceptance. But as I might have expected by this time, no Administration officials ever showed up for the hearings.

As a result of the hearings, however, consideration of Maine's application got under way again. In the last month of the Johnson Administration, the hearing examiners at last made their report, unanimously approving the application.

This report was then transmitted to the Committee of Alternates, a body composed of high-ranking officials from Commerce, Treasury, and the Army. Given the busy schedules of the Secretaries themselves, it has always been this Committee which has made what in practice have been final Board decisions. There was plenty of time left for the Committee to act before the Johnson Administration left office. It met to consider the matter, but it never did act. Some months after President Johnson left office, I was informed by a completely authoritative source that the Committee had been ordered to kill the application.

You can imagine my frustration as Administrations changed. My whole effort, and that of many of my New England colleagues, had been premised on the belief that the outgoing Administration would act as the public interest required.

But all we had received from the Foreign Trade Zones Board was an endless series of unjustified delays. The Board appeared firmly within the Secret Government's control. In fact, as I came to learn over these last crucial months, some Board officials had such close personal ties with the oil industry as to appear themselves almost a part of that Secret Government.

Then for a short while it seemed as though the new Administration itself might be responsive. Shortly after January 20th, the Committee of Alternates went back to work and a few weeks later gave unanimous approval to Maine's application. When the new Commerce Secretary, Maurice Stans, publicly announced that the Board itself would meet within two weeks to review the Committee's action, the light at the end of the tunnel seemed in sight. For in the entire history of the Foreign Trade Zones Act, the Board had never reversed a Committee determination.

But it was not to be. Before the two weeks were up Secretary Stans reversed himself. Like Secretary Smith before him—and with the same lack of any justification—he raised Machiasport's implications for the whole Oil Import Control Program. Any Board decision would have to be deferred, he said, until a full-scale study of the Program had been concluded.

In the interim there had been a visit at the White House. A top official of the American Petroleum Institute and the Chairman of the Board of Standard Oil of New Jersey had met with Dr. Arthur F. Burns, a top Presidential adviser, to request such a study.

Five of my Senate Republican colleagues from New England then journeyed to the White House for a meeting of their own. The President admitted to them that under the law Maine was entitled to a Foreign Trade Zone. He promised them that while he had commissioned a Task Force to study the Oil Import Control Program a Machiasport decision would still be made "before the snow flies in New England again."

The President's Task Force, under Labor Secretary Shultz, has almost completed its work. It will report to the President soon, "before the snow flies," unless oil's Secret Government can win still more delays.

During the past several months many government agencies, public officials, and private individuals have submitted to the Task Force their views concerning the Oil Import Control Program. Among the most interesting are those from within the Administration itself.

Since the Program was first initiated because imports were thought to threaten our national security, the Defense Department's submission has a special relevance. While it makes no recommendations, it makes a number of interesting points:

1. That some foreign sources, such as Canada and Mexico, from which imports

are now restricted, are probably as secure as our domestic oil supply;

2. That shipments of oil to the East Coast from the Caribbean are no less secure than shipments from the U.S. Gulf, as both move by tanker and are equally susceptible to hostile submarine action; and

3. That Alaskan supplies, due to the North Slope's high vulnerability to enemy action, offer less security than those in Canada, Mexico, or the Caribbean.

Another interesting submission is that of Richard McLaren, head of the Justice Department's Antitrust Division. It calls for an end to all oil import controls. According to McLaren, the present Program creates "serious and persistent market distortions." And as McLaren also argues, the United States could store all the oil it might need in an emergency for considerably less than the $6 billion cost of the Program to consumers.

Other Administration officials have also expressed doubts about the Program's merits. Now the time of decision draws near. Despite my frustrations during the past year and a half, I hope the President will stand firm, that he will not give in to The Secret Government of Oil.

I hope that he will not try to thwart the drive to close the industry's tax loopholes at last under way in Congress. I hope that he will approve some obviously needed changes in the Oil Import Control Program. And I hope, above all, that he will, at least, soon give the go-ahead on the Machiasport proposal.

ROSEL HYDE, DISTINGUISHED PUBLIC SERVANT, RETIRES

Mr. BENNETT. Mr. President, last week brought to a close the distinguished Government career of one of this Nation's most dedicated public servants—Federal Communications Commission Chairman Rosel H. Hyde.

It has been my personal pleasure to have known Rosel well both officially and unofficially for many years, and his integrity and devotion to duty have been a source of consistent inspiration.

During the 45 years that Rosel has been in Government service, the world has experienced a virtual revolution in communications technology. He has been in the forefront—through 23 years on the Commission, including two terms as Chairman—in advocating maximum possible freedom to allow radio and television to develop to its fullest potential.

In his farewell address before the International Radio and Television Society last month, he enunciated this philosophy:

> The greatest service to healthy and vigorous broadcast journalism the Federal Communications Commission can render is to set aside the temptation to interfere with the freest workings of the journalists' craft . . . Over-zealous government intervention is more to be feared than the dishonest reporter.

In an informative article on the work of the FCC and Mr. Hyde's considerable role in shaping its policies, the November 3 issue of Broadcasting magazine notes:

> Today, the FCC regulates some 8,000 radio and television stations, is struggling to develop policy for the regulation of the new CATV industry, has set color-television standards and authorized a new pay-TV service, presides over the enormous telephone and telegraph industries and is deeply involved in space-age communications by computers and satellites.

As the magazine says, Rosel Hyde—who has had the distinction of being named Chairman by two Presidents, Eisenhower and Johnson—leaves Government service "with no visible enemies, many friends, and free of any taint of corruption."

I ask unanimous consent that an editorial, a feature article, and a news article describing Mr. Hyde's farewell ceremony—all from Communications magazine—be printed in the RECORD.

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

ROSEL HYDE—CAREER OFFICIAL

Last week the longest and most illustrious career in the regulation of communications ended with the formal retirement of Rosel H. Hyde after 41 years, the last 23 as member or chairman of the FCC. The running story of his career—a contemporary account of the communications explosion—is told elsewhere in this issue.

Mr. Hyde reaches 70 next April. He is young for his years, blessed with exceptional vigor. It would be a colossal waste of manpower, wisdom and experience to allow Mr. Hyde to remove himself permanently from public life. Certainly he has earned retirement. But after he loafs a while, if that's at all possible for a man who has never indulged in that pursuit, he should be called in by his government, when needed, as consultant and adviser in both domestic, and international communications affairs.

A ROSEL HYDE RETROSPECTIVE—A GENTLE MAN WHO WAS PAINED BY CONTROVERSY WAS CALLED TO LEAD IN A TIME OF MAVERICKS

One day recently, as he was in the final countdown of his term as chairman and a member of the FCC, Rosel H. Hyde sat in his shirt-sleeves at a long table in his office picking over the oddments from his years of government service.

There were copies of orders he had helped draft and of speeches he had delivered, including the penciled manuscript of one he had given somewhere in Texas and never had transcribed, and letters. There was, also, a 16-year-old copy of a trade magazine bearing his picture on the cover, with the legend, "FCC's Ninth Chairman."

"How about that?" he said to a visitor who had called his attention to it. "I sure don't look like that any more, do I? The ravages of time have taken their toll."

He delivered the line with the lightness the cliche deserved. But, although one has the feeling his native Bannock county, Idaho, would still recognize him, there had been changes since the days of his first tour as commission chairman. The face smiling out from the trade journal was youthful looking, even for a man of 53, lean and handsome with even features and thick gray hair waving back from a high forehead.

The face is still relatively unlined and pink-cheeked, and there is spring in his step and a quickness in his movements. But, at 69, there are pouches under the eyes; the hair, now white, has thinned, and there is a thickness behind the belt that, one is sure, the man in the photograph never knew.

To survive, indeed, to thrive, as Mr. Hyde has—for 45 years in the jungles of Washington requires a good measure of skill, resourcefulness, resilence and patience. And in the last three-and-a-half years, in his second tour as commission chairman, he has had to dig deep into his resources of those qualities. The commission seemed at times about to be overwhelmed by two revolutions—one technological, the other social.

Problems related to domestic and international satellites, computers, CATV and pay television, the soaring spectrum demands of land-mobile radio users, high capacity undersea cables—all these and more seemed at times to stretch the commission's technical facilities beyond the breaking point. And the growing rash of petitions to deny television renewal applications, by citizens' groups dissatisfied with the service they are receiving, and of competing applications, by bold, well-financed local groups prepared to battle such broadcast giants as NBC and RKO General Inc. for TV channels in major markets, have presented the commission with the kind of judging jobs seldom known in an earlier, more ordered day.

It has not been a time for slack administration.

"You know what the referee says when he gives the fighters their instructions before a fight," Mr. Hyde was saying, by way of explaining what he meant by the ravages of time, " 'protect yourselves at all times.' That's how I feel when I go into a commission meeting—I have to be prepared to protect myself at all times."

The image was an odd one. For Mr. Hyde is a gentle man who never developed a reputation as a battler. This fact frequently dismayed his friends in and out of the agency who felt the conservative Mr. Hyde was not holding the line against the demands of the activists on the commission—Commissioners Kenneth A. Cox and Nicholas Johnson. They have increasingly sought to fill what they seemed to regard as a power vacuum in commission leadership.

One former commission official who greatly admires Mr. Hyde nevertheless felt constrained to say recently: "He was no real leader. He acted in meetings on the assumption that other commissioners could read [the material on the issues before them]. He did not try to impose his views."

This view overlooks some essentials. Mr. Hyde, in a series of rulings on complaints about various broadcast-news reports, managed to persuade the commission to "eschew the censor's role" and give broadcasters considerable latitude in their news and documentary efforts.

In the last such ruling, dealing with CBS's documentary, *Hunger in America*, Mr. Hyde drew considerable satisfaction from the commission's promise not to defer action on a license renewal because of complaints against a station's news programing, unless there is evidence the licensee or top management is involved (Broadcasting, Oct. 20). The commission, over the chairman's objections, had previously deferred action on CBS's California renewals while *Hunger in America* was under investigation.

He felt that the disposition to withhold license renewals while an investigation was under way represented a serious threat to the free flow of information. And in his farewell appearance before the International Radio and Television Society last month, he made his position public, and clear: "The greatest service to healthy and vigorous broadcast journalism the Federal Communications Commission can render is to set aside the temptation to interfere with the freest workings of the journalist's craft," he said. "Overzealous government intervention," he added, "is more to be feared than the dishonest reporter" (Broadcasting, Sept. 29).

Mr. Hyde took a leading role in other matters, too—in the fashioning of commission policy on international and domestic communications satellites, and on CATV and, more spectacularly, the commission's actions in first applying the fairness doctrine to cigarette advertising and then in proposing to ban all such advertising from radio and television. He also prides himself on his role in helping to develop the fairness doctrine. And under him, the commission adopted rules prohibiting broadcasters from discriminating in employment on the basis of race, and is now considering making those rules tighter and more extensive.

However, he seemed out of character in supporting two proposals that could have far-reaching effects on the structure of broadcast ownership. One was the notice of rulemaking looking to bar owners of one full-time station from acquiring another one in the same market. The other provided for an investigation of conglomerate ownerships of broadcast stations. Those proposals seemed to have been forced upon him.

And his refusal to vote in the WHDH–TV Boston case stunned broadcasters everywhere. The commission, in a 3-to-1 decision last January, denied WHDH–TV a renewal of its license and awarded the contested channel 5 to a competing applicant, principally on grounds of diversification of ownership of mass media (WHDH–TV is owned by the Boston *Herald Traveler*) and on the promise of the proposed winner, Boston Broadcasters, Inc., to provide greater integration of management and ownership of the station. Mr. Hyde, who had voted for and against WHDH–TV in two previous rounds of the 15-year-old case, found it "no less difficult" in the third round to choose among the applicants, so he abstained. He noted his vote would not affect the result (Broadcasting, Jan. 27). However, nervous multiple-owner broadcasters wondered how the chairman could walk away from a decision which, to them, threatened the foundations on which the industry had been built, and which has given encouragement, if not inspiration, to groups challenging renewal applicants for their facilities.

It is no secret that the job of running the commission has been difficult, particularly in the past year, following the departure of former Commissioner Lee Loevinger. Mr. Loevinger, a combative type who shared Mr. Hyde's distaste for strong government regulation of broadcasting, seemed to relish taking on Commissioners Cox and Johnson in their efforts to persuade the commission to take a harder-nosed attitude than Mr. Hyde favored.

After Mr. Loevinger departed, the chairman was left with dwindling support. Commissioner Robert T. Bartley, who is second in seniority on the commission only to Mr. Hyde, increasingly found himself aligned with Commissioners Cox and Johnson, while H. Rex Lee, who succeeded Mr. Loevinger, has attempted to avoid the embrace of the activist wing of the commission while at the same time remaining independent of Mr. Hyde. Mr. Hyde's fellow Republicans on the commission, Robert E. Lee and James J. Wadsworth, offered him their votes and sympathy, but not much else.

The strain on Mr. Hyde was sometimes evident. Late one Wednesday afternoon, after a commission meeting in which the activists had pressed hard for a policy the chairman was doing his best to stave off, he sat slumped at his desk, looking weary, his usual store of optimism temporarily depleted. "I feel," he said, "like I'm being overrun by the Vietcong."

The kind of bitter divisiveness that so tried him that day represented one of the heaviest burdens he had to bear, "and one of the most difficult challenges in 23 years as a commissioner," according to one commission official who knows him well.

Mr. Hyde was particularly disturbed by Commissioner Johnson's frequent free-swinging dissents and statements which the chairman interpreted as attacks on the commission's integrity and intellectual capacity. Commissioner Johnson has accused the commission, at various times, of making a "mockery" of its public-service responsibility, of serving the "economic interest" of one of its "favored broadcast licensees," and of being a "do-nothing" agency that is the captive of the industry it is supposed to regulate.

"The chairman likes everyone to have his say," one official said. "But he doesn't think it helps the commission to engage in name-calling as to skullduggery or alleging intellectual incompetence." And although the chairman occasionally hit back at some Johnson remarks, he more often held his tongue, fearing again, according to commission sources, that a public debate with someone "at the other end of the policy pole" would reflect adversely on the commission.

Frequently, debates within the commission centered on renewal matters, with Commissioners Cox and Johnson urging the agency to look closely at, and set standards for, program service. But the chairman, wary of violating First Amendment rights, has held back (although the Supreme Court decision in the fairness-doctrine case last June appears to bolster the Cox-Johnson position). Station sales to multiple owners have also been controversial, with Commissioners Cox and Johnson—invariably backed by Commissioner Robert T. Bartley whose position on the issue antedates their arrival at the commission—expressing concern about the danger of placing too much "political power" in the hands of multiple owners. Mr. Hyde felt they never demonstrated the reality of that danger.

Mr. Hyde's position on matters has caused some to suggest that he is a "captive of the industry"—a term that is easier to express than to define. But one former official who knows him well and who could not himself be considered "pro-industry" says such a description is unfair. "Hyde's philosophy was arrived at through his experience and background," he said. "He simply feels that the public interest is served best when the regulatory agency provides a climate for industry development." (On this point, though, some communications lawyers see inconsistency in his position on CATV; they feel he tends to be anticompetitive and protective of the broadcast industry. However, that view of him may change as a result of the recent commission order he helped prepare that requires CATV systems with more than 3,500 subscribers to originate programing and permits them to sell advertising, all in competition with radio and TV stations [BROADCASTING, Oct. 27]).

But the chairman's problems were not only internal. When it was suggested, that day as he looked at the 16-year-old picture of himself, that he would miss the commission in retirement, he said, with an irony not unusual for him: "Oh sure, I'll miss the warm and friendly relationship I've had with the House Interstate and Foreign Commerce Committee." That congressional unit has spent considerable time and effort trying to "get something" on the commission.

And his remark was made more than two weeks before the committee took the extraordinary actions of recommending that the House of Representatives cite Mr. Hyde for contempt for refusal to turn over confidential documents that the full commission said could not be released without violating the law.

The fact is, of course, that he will miss the House committee and the rest. For the other side of the pain inflicted by Representative Harley O. Staggers (D.-W. Va.) group and by his own personal Vietcong was the pleasure and pride he took in a career that was truly extraordinary.

It began in 1924, when he entered government service through a Civil Service examination as a member of the staff of the Cvil Service Commission. Four years later, after earning his law degree at George Washington University in Washington, he joined the Federal Radio Commission. He was absorbed with it into the new Federal Communicatons Commission in 1934, rose through the ranks to become general counsel and, in April 1946, was named to the commission by President Harry S. Truman.

The Republican Mr. Hyde has had the distincton of being named chairman by two different presidents—Eisenhower and Johnson. And in the view of many, he was treated with greater consideration under Democratic administrations than Republican. President Eisenhower named him chairman for only one year, ostensibly on the theory the chairmanship was to be rotated. One reason given for President Eisenhower's action was that the White House felt Mr. Hyde lacked the talent for firing Democratic officeholders. Another, not necessarily mutually exclusive, theory was that Mr. Hyde was simply not regarded as "a regular Republican."

Mr. Hyde, who had risen to the top of the commission staff and to the commission itself, under Democrats, was returned to the Chairmanship by President Johnson in June 1966, to succeed E. William Henry. President Johnson reportedly broke precedent to name a member of the opposite party because of his sensitivity to the fact of his family's ownership of broadcast properties and his desire to name as chairman a respected, non-controversial figure. (The former President apparently had no prejudice against controversial figures as such, for at the same time that he elevated Mr. Hyde to the chairmanship, he named Nicholas Johnson, then the very controversial head of the Maritime Administration, to the commission vacancy. But if one apparently well-grounded story circulating Washington is correct, President Johnson apparently did not expect the commission to rock as violently as it has. He is said to have invited both men to the White House, together, before they assumed their new duties, praised Mr. Hyde lavishly and advised Mr. Johnson to take his lead from the wise veteran. No advice was ever ignored as fast.)

After President Nixon's election victory last fall, one of the Republican's tasks was finding a replacement for Mr. Hyde, whose term was to expire on June 30. As that day drew near, with no successor in sight, it seemed Mr. Hyde would be asked to stay on; he wasn't to reach the mandatory retirement age of 70 until April 12, 1970. But it wasn't until mid-June that Mr. Hyde got from the White House a request that he fill the gap until a replacement could be found.

When Mr. Hyde went to work for the FCC's predecessor agency, its main task was to bring some order out of the chaos that the lack of federal regulation had allowed to develop—whim and presumably financial resources were the only factors governing the location, power and frequency of the stations then on the air. One of its jobs was taking about 150 of the country's 732 AM stations off the air. Today, the FCC regulates some 8,000 radio and television stations, is struggling to develop policy for the regulation of the new CATV industry, has set color-television standards and authorized a new pay-TV service, presides over the enormous telephone and telegraph industries and is deeply involved in space-age communications by computers and satellites. (An ironic footnote to all this is that one of the commission's current headaches is, of all things, the need to tighten up its AM allocations policy; the number of stations has been growing at a rate that threatens to create a chaotic situation.) In all of these matters, Mr. Hyde had a hand.

He has also dealt with those men in and out of government who have shaped the communications industry. There were FCC Chairmen Paul Porter, who was principal figure behind the commission's 1946 Blue Book, a statement of policy on broadcasters' public-service responsibilities; James Lawrence Fly, who preceded him and, in a moment of anger at a 1941 National Association of Broadcasters convention, referred to radio management as a "dead mackerel in the moonlight which both shines and stinks;" and Newton N. Minow, who gained a measure of immortality for himself in 1961 by referring to television as a "vast wasteland."

And on the other side there were David Sarnoff of RCA, William Paley and Frank Stanton of CBS, Leonard Goldenson of ABC, and the men who over the years have held the chief posts at AT&T, ITT and Western Union. Mr. Hyde had come a long way from Bannock county.

Perhaps even more remarkable than the length of his career, and the significance of the events it covers, is that he is leaving government with no visible enemies, many friends—and free of any taint of corruption. It is these qualities that those who deal with the commission speak of first in discussing Mr. Hyde. "His integrity is something to which all public officials should aspire," said one prominent communications attorney. "He lent a moral tone to the commission," said another. The same attorney labeled him "the most popular chairman of the FCC" in years—possibly in the agency's history. And there is evidence this is the case.

The Federal Communications Bar Association will break precedent by honoring him at a testimonial dinner on Nov. 7. The National Association of Broadcasters is expected to name him its Man of the Year at its convention next spring. The National Association of Railroad and Utilities Commissioners has already honored him by awarding him its first distinguished service award.

Mr. Hyde, on the eve of his retirement, has some regrets. "I'm sorry we didn't get a domestic satellite policy out," he said. Actually, that wasn't the fault of the commission. Reviews ordered by Presidents Johnson and Nixon stalled commission action.

"On CATV," he added, "we hoped we would have made more progress in resolving what is somewhat of a stalemate," he said in one of his gentle understatements.

But he thinks, these days, not of the past but of the future. "Things are just starting," he says, "in terms of the economic, cultural, and technical potential being created by the technological revolution under way in the communications industry."

And although he has spent an entire lifetime in the service of the FCC, he is prepared to see it superseded by a Department of Telecommunications—a department that would centralize within it all related communications regulation functions and command the appropriations to do the necessary research and spectrum management. He made the suggestion in his IRTS speech as a counter to suggestions by the Department of Commerce that it be given the commission's spectrum-management function.

For some men, it seems, 45 years, however difficult, are not enough, and the post isn't all there is. Mr. Hyde says he has no plans, outside of taking a vacation. One has the impression that he would like to give the government a few years more.

HYDE'S FCC ROLE PRAISED AS "UNIQUE"—LETTERS FROM NIXON, L. B. J. HAIL CONTRIBUTION WHILE HILL UNIT VOTES CONTEMPT

"Unprecedented" and "unique" were words frequently associated with Rosel H. Hyde in his final days as chairman and member of the FCC last week, but not always in the same context.

He was honored on Thusrday at an "unprecedented" ceremony, where his "unique" contribution to government in the past 45 years, 41 of them in the regulation of communications, was hailed by such as President Richard M. Nixon.

And while that ceremony was under way, at a theater in the FCC building, the House Commerce Committee, meeting on Capitol Hill, was voting to cite him for contempt of Congress (see page 26). As far as anyone could recall, such an action against the head of a government agency was unprecedented.

Mr. Hyde was honored twice on Thursday. The ceremony in the theater was held in the morning and was presided over by Metromedia Inc 's Mark Evans. In the afternoon, Mr. Hyde shared the tributes of his fellow commissioners with outgoing Commissioner James J. Wadsworth, who is to become a member of the U.S. delegation to the International Telecommunications Satellite conference.

Many old colleagues were among the 500 or so who virtually filled the theater. Former commission Chairmen Paul Porter, John Doerfer and Frederick W. Ford were there. So were former Commissioners Eugene Merrill, Edward Webster and Lee Loevinger.

Herbert Klein, President Nixon's director of communications, was on hand to express the President's "deepest appreciation" for his years of service.

But the President spoke for himself, in a "Dear Rosel" letter that was read at the ceremony and that praised Mr. Hyde for his "steadfast devotion to the public trust" he has held, and to his "integrity, impartiality and talent."

Former President Johnson, who appointed Mr. Hyde chairman in 1966, was equally lavish in a note from Austin, Tex.

There were dozens of such messages, including letters and wires from Vice President Spiro T. Agnew; Judge Oren Harris, who for 10 years was chairman of the House Commerce Committee; Senate Commerce Committee Chairman Warren G. Magnuson, and former FCC Chairman Newton N. Minow and E. William Henry.

There was one, also, from Representative Torbert H. Macdonald (D-Mass.), chairman of the House Commerce Committee's Communications Subcommittee. His letter, which referred to Mr. Hyde's "deserved reputation for honesty and sincerity," was read at about the time the Commerce Committee was voting its contempt citation against the outgoing chairman. Mr. Hyde's final day on the FCC was Friday, Oct. 31.

MEDICAL EDUCATION OF BLACKS

Mr. KENNEDY. Mr. President, in the United States today—the wealthiest Nation in the history of man—millions of our citizens are sick. They are sick because they are poor. The statistics are alarming:

Death comes earlier to citizens living in poverty. A child born to poor parents has twice the risk of dying before reaching his first birthday. His chance of dying before the age of 35 is four times greater.

Illness is twice as frequent among families with annual incomes below the poverty line. Chronic illness is four times as great.

The poor suffer three times as much heart disease, seven times as many eye defects, five times as much mental retardation and nervous disorders.

Forty-five percent of mothers delivering babies in public hospitals have had no prenatal care. Yet we know that the lack of such care inevitably results in a higher incidence of infant mortality and mental retardation in their children.

Three-quarters of the 18-year-olds rejected by the Selective Service System for medical reasons need immediate medical attention.

Indeed, by almost any standard—visits to doctors, preventive services, or incidence of disease—the data show a clear progression in which the poor have a higher incidence of disease and lower access to medical facilities than other social groups.

A number of factors contribute to our Nation's failure to provide adequate health services for the poor. One important element is simply too few doctors. Especially in the ghetto, there is a scarcity of trained physicians. And in particular, the desperate shortage of black doctors is a national tragedy which strikes heaviest on the poor.

Today 45 percent of the medical students come from families in the upper 10 percent of income groups. Although blacks constitute 11 percent of our population, only 2 percent of our doctors are black. Of the close to 200 black physicians graduated last year, over three-quarters come from two medical schools—Howard in Washington and Meharry in Nashville, Tenn.

Mr. President, 1 week ago a column discussing the shortage of and need for black doctors written by Jack Anderson, was published in the Washington Post. Mr. Anderson cites a number of statistics to indicate how serious the problem is and how important it is that Congress and medical schools give attention to the education of black physicians. We in Congress must fund a major expansion of our overall health training programs. We must assist medical schools to expand, and medical schools, in turn, must pursue further efforts to recruit and assist low-income and minority individuals who wish to become doctors.

Mr. President, the column by Jack Anderson is shocking. It highlights a problem which is or should be a concern for all of us. I ask unanimous consent that the column be printed in the RECORD.

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

BLACK DOCTORS

(By Jack Anderson)

Graduates of the nation's 98 medical schools will assemble as usual next June to hear the usual speeches about responsibility to their communities and their patients. For the socially aware young doctors, the message will smack of hypocrisy as well as Hippocrates. For under the 8,596 black caps and gowns, there will be only 196 black faces.

There is a desperate shortage of Negro physicians in the United States. Although blacks make up 11 per cent of the population, the medical profession is only 2 per cent Negro.

The statistics are reflected in the soaring sickness rates in the ghettos and in the staggering number of blacks who are rejected for employment on medical grounds. Black babies stand a greater chance of dying in infancy than white, and insurance tables show that black adults will die sooner than whites.

Despite appeals from medical authorities, few white doctors are interested in practicing in Negro neighborhoods. The prestige as well as the earnings are higher in white areas, so the burden of treating America's 22 million blacks falls largely on 6,000 overworked black physicians.

Although Negroes have made their mark in every other segment of the American experience, medical schools have somehow managed to remain insulated from the push for equal opportunity. Most black doctors are products of two largely Negro schools, Howard University in Washington and Meharry Medical College in Nashville, Tenn.

The other 96 medical schools will graduate only 34 blacks in the class of 1970. Recruiting efforts by some of these schools have increased the number of blacks in the class of

1972 to 130, still only 1.37 per cent of their enrollment.

The pressures on blacks in medicine are particularly noticeable in the fields of specialization. Black women are desperately in need of more prenatal care, yet there are only 152 certified Negro obstetricians and gynecologists in the nation. Despite the heavy death rate among black children, there are only 143 Negro pediatricians.

In all, there are but 1,074 certified black specialists in the nation. The demands of service and economics prevent Negro medical school graduates from spending the required years in hospital residency.

It adds up to a stacked deck for the eager Negro students and more years of inferior health in the inner cities. One white in every 560 is a physician. The rate for Negroes is 1 in 3,800.

New efforts by some medical schools to encourage and tutor black students at college and occasionally high school levels reflect an awareness by the medical profession of the failings of the past. The prescription, however, is hardly more effective than giving two aspirins to a man with a broken leg.

To bring the ratio of black doctors up to that of the white population, 34,000 new Negro physicians are needed right now. That is the total medical graduation for next four years, and rather obviously beyond attainment.

But unlike much of our society, health is not divided into two Americas. Although there has been a custom of segregation in medicine—and until recently even in medical societies—there is no justification for it.

The programs for enlarging black enrollments in medical schools are long range and, almost certainly, will need government assistance. Yet strangely, plans already under way to produce more black doctors are endangered by planned federal cutbacks in aid to education.

Meanwhile, there is an immediate, urgent need for more doctors in the ghettos. Since there are not enough Negroes, these doctors will have to be white.

MARITIME RISKS ASSOCIATED WITH OIL POLLUTION

Mr. BAKER. Mr. President, during its consideration of the bill, S. 7, to amend the Federal Water Pollution Control Act, as amended, which passed the Senate on October 8, 1969, the Committee on Public Works was faced with many difficult and complex issues concerned with liability and insurability of maritime risks associated with oil pollution. Many days of hearings, followed by several days of executive sessions were devoted to these issues and finally resulted in the language that appears in the Senate passed version of H.R. 4148.

Last week I read an article from the October issue of the George Washington Law Review by Allan J. Mendelsohn, entitled "Maritime Liability for Oil Pollution—Domestic and International Law," that reviews the entire subject of maritime law and policy dealing with marine oil pollution. In my judgment it confirms not only the reasonableness, but also the legal approach of the legislation adopted by the Senate. I would like to highlight several aspects of this article following which I ask unanimous consent that the full text of Mr. Mendelsohn's article be printed.

Mr. President, at the time of the adoption of the water pollution measure by the Senate I discussed certain aspects of the alternative methods of imposing liability particularly those involving schemes of shifting the burden of proof that I think the Senate properly rejected:

If we get into the procedural aspects of presumptions and reversals thereof, it seems to me we have sown the seeds of very extensive litigation.

Mr. Mendelsohn writes on the same point—

But the inevitable consequence of adopting any of these approaches (presumptions) rather than absolute liability is to guarantee that whenever a defendant so wishes he can delay cases of this type indefinitely.

A paramount concern of the Committee on Public Works in writing this legislation was deciding what party should bear the expenses associated with the cost of cleanup, and in what circumstances. Mr. Mendelsohn, supporting the concept of absolute liability, writes:

A modern tort law commentator would have responded that the question today is not one of fault or blame but rather who is in the best position to bear the losses or distribute the risk.

He adds at a later point:

Furthermore, there was also a growing realization that while liability based on negligence might have been appropriate when industrial enterprises were still relatively small and in the process of development, it had increasingly less justification as the industrial revolution matured into the technologically super-sophisticated type of society which we have today. In the vast majority of cases today, the individual has neither the ability nor the finances to withstand protracted litigation involving issues of negligence; there is, in truth, no fair balance between the opposing interests. Moreover, issues of negligence are becoming increasingly more obtuse and complex as technology advances. The structures of aircraft bodies and the mechanics of jet engines are so intricate as to be understood by almost no one except aeronautical engineers and trial lawyers specializing in aviation accident litigation. And finally, there is the element of insurance—now so widespread in our society, unlike the situation in this country even as recently as 1950.

Although the Senate bill adopted a dollar limitation for the primary standard of liability, there are serious policy questions raised by such limits, particularly as limits relate to future vessel size. Mr. Mendlesohn states this relationship quite well:

To the extent that giant tankers represent future trends, it becomes imperative that irrespective of what per g.r.t. or per d.w.t. limit, if any, is adopted, no overall ceiling be adopted either in a treaty or in legislation, unless that overall limit varies with the dead weight tonnage of the tanker. Otherwise a tanker capable of spilling off 500,000 tons of crude oil, with the immense damage this could cause, would be subject to no greater liability than—taking a $10 million overall ceiling with a $100 per g.r.t.—a much smaller tanker carrying only 100,000 tons. In other words, an additional 400,000 tons of crude oil can pollute without additional liability.

I commend this article to all those who are concerned about this legislation and have not been able to read the entire legislative record on the bill S. 7. The article presents a clear and concise perspective and contributes materially to an understanding of the issues involved.

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

MARITIME LIABILITY FOR OIL POLLUTION—DOMESTIC AND INTERNATIONAL LAW

(By Allan I. Mendelsohn*)

It is now well over two years since the Torrey Canyon broke apart off the coast of Southern England. Yet United States maritime law on the subject of liability for oil pollution remains exactly as it was on that day. And this is exactly the same as it was when originally enacted in 1851 as the first limitation of liability statute for a then fledgling American merchant marine.

The statute governing limitations of liability of merchant vessels, as originally enacted,[1] and as it continues to read today,[2] provides that in a disaster like that of the Torrey Canyon the vessel owner may limit his liability, in the absence of a finding of "privity or knowledge," to the value of the vessel.[3] As interpreted by the Supreme Court in 1871, the vessel's value is determined *after*, not before, the accident.[4] Thus in the Torrey Canyon case a United States federal district court held that the value of that vessel was $50,000—the value of the one lifeboat that was not destroyed in the disaster. Accordingly, the vessel owner was permitted by the district to file a limitation petition in that amount.[5]

Recent reports suggest that the owners of the Torrey Canyon have agreed to a $7 million out-of-court settlement covering the clean-up costs of the French and British Governments. There is no word, however, as to what amounts, if any, will be recovered by the privately-owned fishing, hotel and wildlife interests who presumably suffered extensive damages beyond clean-up costs and who, so far as can be determined, are not expected to share at all in the $7 million government recovery.

But apart from the adequacy or inadequacy of that settlement, it seems plain that even a disaster of the magnitude of the Torrey Canyon would not alone have impelled the Congress to modernize the archaic 1851 United States limitation of liability law. In fact, it was not until the Santa Barbara offshore drilling disaster in late January and early February of this year that the problem of oil pollution in this country became something significantly more important than a matter of conversation and sympathetic concern.

To be sure, bills addressed to the subject had been introduced in the Senate and the House from 1966 through 1968. But it was not until after the Santa Barbara disaster that the subject (particularly as it pertained to vessel owner limits of liability), received a searching and thorough public airing. Though Santa Barbara had nothing to do with vessel owner liability or 46 U.S.C. § 183, its effect on these areas was, as shall be seen, far more significant to the maritime industry than anyone could have ever anticipated, particularly in light of the tepid and largely inadequate response that followed Torrey Canyon.

What might best explain the current progress in this area of amending vessel owner liability limitation, however, is the fact that the most important developments are taking place in the Subcommittee on Air and Water Pollution of the Senate Public Works Committee, under the Chairmanship of Senator Edmund S. Muskie (D-Me.). It is an oddity and perhaps and even unprecedented development for hearings to be held on vessel owner liability limits—a subject which vitally affects the maritime industry—by a congressional committee other than one concerned with commerce and the merchant marine. Indeed, there is a very recent detailed memorandum, unsigned and undated,

Footnotes at end of article.

presently circulating around Capitol Hill, which discusses precisely this problem and concludes that jurisdiction should have been vested in the Merchant Marine and Fisheries Committee and not in Public Works. Furthermore, it is by now no secret that the maritime industry is quite disturbed by the reception it received from the Muskie committee compared to that which it is accustomed to receiving from the House Merchant Marine Committee or the Senate Commerce Committee.[6]

But in light of the past inability of both these latter Committees to produce any forward looking legislation on liability limits, either with respect to property damage or even personal injury and death, it was inevitable that the vacuum sooner or later would be filled by some other committee.[7] On this occasion it was Senator Muskie, aided by a concerned subcommittee and two skillful and knowledgeable staff assistants, who did so by proposing and holding hearings on amendments to the Federal Water Pollution Control Act.[8] If enacted, the effects of these amendments would be to substantially revise and modernize 46 U.S.C. § 183, at least in the water pollution context.

OIL POLLUTION—LIMITS OF LIABILITY AND THE 90TH CONGRESS

As early as 1966, even before the Torrey Canyon disaster, S. 2947 was introduced by Senator Muskie.[9] As passed by the Senate, it provided that anyone responsible for oil pollution would be *absolutely* liable for any costs incurred by the United States Government in cleaning up the oil from adjoining shore lines. But S. 2947 was gutted in the Conference Committee, and when it emerged it not only eliminated absolute liability but required a showing of gross negligence for recovery. On April 20, 1967, shortly following Torrey Canyon, Senator Muskie introduced S. 1591.[10] One object of this bill was to remove the test of gross negligence required by S. 2947. The hearings on this bill, however, began to reveal the several inadequacies in the state of United States oil pollution law.[11]

In the light of the facts developed during these hearings, S. 1591 was merged into S. 2760, resulting in the first direct recorded assault on the 1851 statutory limitations as they apply to pollution and property damage. As reported out by the Senate Public Works Committee on December 11, 1967 and passed by the Senate the following day, S. 2760 provided that in the event of a discharge causing pollution the vessel owner would be liable, without proof of fault, for the *full* costs incurred by the U.S. Government in cleaning up the discharge. The only way in which the vessel owner could avoid such liability was by proving that the "discharge was due to an act of God." [12]

Oddly enough, S. 2760, like all the subsequent bills which have since been introduced on this subject, did not even advert to the 1851 statute. It was (as all the later bills have also been) a graphic demonstration of how an encrusted century old statute can be substantially amended, indeed, partially repealed, simply by implication. But despite this, S. 2760 came as a relief to many in the Executive Branch who had been working unsuccessfully toward such maritime law reform for many years.

On March 21, 1968, Senator Muskie introduced yet another bill directed at the pollution problem. Although when introduced this bill did not touch on the maritime limitation problem, S. 3206 was destined to serve as the major vehicle for action in the 90th Congress. During April 1968, Senator Muskie's Subcommittee held hearings on both S. 3206 and S. 2525. But since neither of these bills was intended to deal with the liability limitations, already dealt with and passed by the Senate in S. 2760, that problem was not a factor in the hearings.[13]

Just a few days after the Muskie hearings closed, however, the House Public Works Committee, under the Chairmanship of Congressman Fallon (D-Md.), opened hearings on H.R. 15906 and several related bills, including H.R. 14000—identical to the version of S. 2760 as passed by the Senate. It was on this occasion that a series of maritime and insurance industry witnesses, led by John C. Shearer and Peter N. Miller, began to make the first of several appearances before the three Congressional Committees that were working on the problem. Both Britishers associated with the London firm of Thos. R. Miller & Son, Messrs. Shearer and Miller managed and probably control the major portion of the protection and indemnity (P. & I.) insurance that is available to vessel owners throughout the world.

The Thos. R. Miller firm serves as the Manager of the United Kingdom Mutual Steamship Assurance Association, Ltd., the largest of nine mutual protection and indemnity associations colloquially known as "clubs." Together, these associations are referred to as the London Group of P. & I. Associations. Their business is to insure vessel owners against "P. & I. claims," i.e., liability claims for personal injury and death, cargo loss or damage, and property damage including oil pollution.[14] The associations themselves are made up of member shipowners and charters who, in effect, insure each other by mutually sharing the liability to which anyone of them may become subject.

However, they insure each other only up to a certain monetary amount, known as their "retention" point. For liability beyond, or as it is called in the trade, "in excess" of this point, the associations seek reinsurance. They do this by banding together in the London Group which, through the Thos. R. Miller firm, attempts to place the maximum possible amount of reinsurance throughout the world. Where the retention point is at a given time and whether it changes depending on the extent of reinsurance that is available on the world market is difficult to ascertain. Mr. Miller indicated that while there are differences, the amount retained is usually sufficient to cover all claims "other than those in the major catastrophe class." [15] On the other hand, Mr. Paul J. Kreuzkamp, testifying for the Marine Brokers' Committee of the New York Insurance Brokers' Association, indicated that American companies writing P. & I. insurance "do not usually retain more than $250,000" [16] per vessel, and in the case of inland craft, it "could be as low as $30,000 or $40,000." [17] The issue is interesting because to the extent retention points are low the reinsurers assume the greater part of the risk. Moreover, to the extent that reinsurance beyond a certain point is unavailable, the risks beyond that point fall back on the associations themselves. Thus, the primary insurers, especially the P. & I. clubs, are in large measure dependent on their reinsurers, and the reinsurers tend to give the word for changes in terms and limits of liability.

It is a most complicated system and one which is seldom fully understood by anyone other than the few managing people in the business. Until now, however, the system has managed to work reasonably well—though probably only because limits are generally low throughout the world and, more importantly, because the United States Government has never repealed or even substantially amended its archaic 1851 limitation law. Once that occurs, as may now be happening in the context of oil pollution, the inadequacies of the system become apparent.

Mr. Shearer appeared as the representative of the London Group and Mr. Miller, whose task it is to place reinsurance for the Group, appeared on behalf of the Reinsurance Underwriters. Both men testified that unlimited liability, such as that contemplated by S. 2760 and H.R. 14000, would be "uninsurable." [18] Both also testified that the maximum amount of coverage that could be obtained in the world insurance market was "between $10 million and $15 million." [19] Mr. Miller explained that the reason for this low maximum was that under both H.R. 14000 and S. 2760 liability was to be absolute, rather than based on the "normal underwriting criteria." [20] Both testified against the adoption of absolute liability, leaving the implication that if negligence rather than absolute liability was to be the standard the available coverage could be expanded beyond the $10-$15 million range.

Their testimony was buttressed by similar views from other industry witnesses. The witness for the American Petroleum Institute, for example, suggested limits of $250 per ton subject to a maximum of $8 million,[21] while the witness for U.S. flag vessel owners pleaded that all action be deferred until after the outcome of the then pending international efforts to solve the problem.[22]

On July 10, 1968, the Senate passed S. 3206. The bill was sent to the House and referred to the Public Works Committee. By the time it emerged on October 3, 1968, it had been amended to meet what were perhaps the most restrictive demands of the maritime industry. Rather than providing that the vessel owner would be liable for the *full* costs of clean up, as was the object of S. 2760 and H.R. 14000, amended S. 3206 proposed a limit on liability of only $67 per gross registered ton (g.r.t.) subject to a maximum limit on liability of only $5 million. These limits were far less than those proposed by Messrs. Miller and Shearer and also less than those proposed by the American Petroleum Institute.

Neither the public record nor the Committee Report discloses how or why these limits were adopted by the Committee. At first glance this would seem strange, especially considering that no one had recommended them during the course of the hearings.[23] But to lawyers familiar with maritime law, the $67 per ton figure was the identical limitation that had been adopted in the 1957 Brussels Convention on Shipowners Limitations.[24] The terms of this Convention, though vigorously and continuously supported by American carrier interests, failed to be enacted by the United States Congress in 1962 and 1963 and again in 1968.[25] By 1968, the Convention had not one public proponent within the Executive Branch of the United States Government.

In addition, amended S. 3206 eliminated absolute liability and substituted in its place a system of liability based simply on a presumption of fault. Such a system is little more than the application—typical and traditional in cases of this nature—of the doctrine of *res ipsa loquitur;* it is no improvement over present American law.[26]

The House did not pass its amended version of S. 3206 until October 7, almost three months after its receipt from the Senate and only days before the Congress was scheduled to adjourn. On October 11, the Senate agreed to the House amendments, but suggested some of its own in addition. Since none of these additional amendments concerned the limitations, it was generally believed that the legislation would pass.

But time was running very short and many members of Congress were by this point directing all their energies to the imminent November elections. By October 11 there was not even an opportunity to appoint a conference committee to resolve the few remaining differences. Early on October 14 the House let it be known that it would reject the Senate's proposed amendments. That day Congress adjourned and the House version of S. 3206 thus died in the 90th Congress. Its death, a defeat for the insurance and maritime industries, provided a

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second chance for the proponents of real reform.

TOVALOP

Almost at the same time the 90th Congress was making plans to adjourn, reports began to circulate that the oil tanker owners, primarily the major oil companies, were putting together a plan contemplating voluntary agreement among oil tanker owners on new limits and terms of liability for oil pollution. On November 7, 1968, the scheme was publicly announced.[27] Known formally as the Tanker Owners Voluntary Agreement Concerning liability for Oil Pollution, or simply, TOVALOP, it provided limits of liability of $100 per g.r.t. subject to a maximum amount of $10 million. Liability (as in the House passed version of S. 3206), was to be based simply on a presumption of negligence. Furthermore, the plan was designed to cover *only* clean-up costs of governments, and not all third party claims.

To be sure, the bills that had been introduced in the Congress had likewise been limited only to the issue of Government clean-up costs. This was probably because the entire issue of limitations was first raised not through the Senate Commerce or House Merchant Marine Committees but by the Senate Public Works Committee whose object, at least at that point, was not so much to modernize maritime limits of liability as it was to assure that spills be cleaned up expeditiously and not at the expense of the public treasury. It was only after the Muskie Subcommittee became deeply involved in the problem, during the 91st Congress, that its members began to realize—and then only as incidental to their main object—precisely how the 1851 statutory limits came into play and how adversely they could operate not only to impede expeditious clean-up by the vessel owner but also to preclude innocent private coastal interests from recovering damages suffered from pollution. By that time, however, it was probably too late to broaden the thrust of the attack on the 1851 limits, even assuming that a Committee on Public Works could in some way justify an extension of its jurisdiction into an area which would so plainly impinge upon that of the Commerce and Merchant Marine Committees. In short, it is safe to say that maritime limits of liability did come into the Congress through the back door and, as an unfortunate consequence, only to the extent that they affected recoveries by the Government for its clean-up costs.

But the fact that the problem came up in so restrictive a manner in the Congress certainly should not have been an excuse for knowledgeable tanker owners, conceiving and adopting an unprecedented voluntary scheme for maritime liability, to work within the same restrictive area. Why, one may ask, were the tanker owners not prepared to cover *all* third party damage claims, not merely those of governmental clean-up costs? Are not the damages suffered by private hotel, fishing, and wildlife interests the responsibility of the tanker owners and equally as important as the clean-up costs suffered by the Government? Is it at all proper that limits be substantially improved for recoveries by the Government but left totally unchanged from what they were in 1851 for recoveries by private citizens?

Clearly, if the tanker owners were embarking on an unprecedented and comprehensive scheme, that scheme should have covered all third party damage. And the fact that it did not raised the inference that the main purpose of the plan was not so much to modernize the limits as it was to attempt to head off an even more serious and pervasive modernization either by legislation in the 91st Congress or by an international convention. Indeed, the events at this time called to mind a similar effort by the international airlines in 1965 to increase the international airline limits of liability for passenger injury and death from $8,300 to $50,000. Their plan was promulgated, however, at a time when the United States Government was threatening to denounce the Warsaw Convention unless agreement could be reached on a limit of $100,000. As events ultimately transpired, the United States Government rejected the airlines' voluntary plan, gave notice of its intention to denounce the Convention, but later withdrew that notice in return for a limit of $75,000 and a system of absolute liability.[28] In light of what has occurred in the 91st Congress, it is more than a reasonable likelihood that just as the 1965 airline voluntary plan did not deter the United States Government, nor will—or should—the TOVALOP.[29]

OIL POLLUTION, LIMITS OF LIABILITY AND THE 91ST CONGRESS

At the opening of the 91st Congress, both before, though to a greater extent after the disaster at Santa Barbara, a host of bills was introduced on oil pollution and the limitation problem. On January 15 and 22, Senator Muskie introduced two bills, S. 7 and S. 544 which, as they pertained to the liability problem, were identical in proposing limits of $450 per g.r.t. subject to a maximum of $15 million. On the other hand, both also adopted the presumption of fault system rather than the system of absolute liability. In the House, Congressman Fallon introduced H.R. 4148 which, like the Muskie bills, also set out limits of $450 per g.r.t. with a $15 million maximum. Congressman Blatnik (D-Minn.), proposed H.R. 7361, with the lower figures of $200 per g.r.t. and a maximum of $10 million. Finally, the House Merchant Marine and Fisheries Committee had before it, among several other bills, H.R. 6495, introduced by Committee Chairman Garmatz (D–Md.). It opted for limits, like those in TOVALOP, of $100 per g.r.t. with a maximum of $10 million.

While none of these House bills proposed absolute liability, all of them contemplated limits substantially in excess of the $67 per g.r.t./$5 million maximum that was adopted by the House at the close of the 90th Congress. At the very least, therefore, one might predict that the 1957 Brussels Convention figures will again be rejected and that the decade-long chapter of industry efforts to secure United States adoption of that Convention or its limits will now finally come to a close.

With so many figures in the mill, however, it was inevitable that, perhaps for the first time in history, not only would the limitation problem be subjected to careful examination, but the marine insurance industry would need to be called on to explain and justify in detail how it works, what it can insure, and why.

The first Muskie hearings

The first opportunity arose before Senator Muskie's Subcommittee which held its opening hearings on S. 7 and S. 544 from February 3–6.[30] Messrs. Shearer and Miller again testified for the international insurance interests. Since both S. 7 and S. 544 provided only for a presumption of negligence rather than absolute liability, their testimony was limited primarily to the amount of the limitation. As described earlier, their testimony in 1968 before the House Public Works Committee on this point indicated that the reason the insurance market capacity was limited to a ceiling of "between $10 and $15 million" was because of the presence of absolute liability in the proposed bill. Yet, despite the substitution of a presumption of fault in place of absolute liability in S. 7 and S. 554, both Shearer and Miller continued to hold to the view that the market capacity was such that the ceiling could still not exceed $12 to $15 million.[31] The record contains no explanation for this diminution in market capacity other than the general remark made by Mr. Miller that "the capacity of the Market to absorb such risks has diminished even since the time when I addressed the House of Representatives with my colleague, Mr. Shearer, last spring."[32]

Both men also testified that the combination of a $450 per g.r.t. and a $15 million maximum was "simply uninsurable."[33] Perhaps the maximum could be between $12 and $15 million, both witnesses suggested, but that could not be combined with a limit of $450 per g.r.t. The reason: with a $450 per g.r.t. limit, an accident involving any ship over 33,333 g.r.t. would immediately command the maximum $15 million limitation; and there happen to be many ships of more than that tonnage. On the other hand, if the per g.r.t. limit were only $100, a ship would have to be 150,000 g.r.t. in order to command the $15 million maximum; and there are not too many vessels in existence today of that tonnage.[34] In other words, the ceiling cannot exceed $15 million because of market capacity and the per g.r.t. limit cannot exceed, as both Shearer and Miller estimated, $125 to $150 because otherwise claims reaching the ceiling might come up too frequently.[35]

Perhaps this logic really is understandable, but if so, and if the per g.r.t. figure is so essential, why was it not even mentioned during the 1968 House Hearings when the only concern of both Messrs. Shearer and Miller was to replace unlimited liability by a liability subject to a limit? That limit, as Mr. Miller stated before the House Committee, was somewhere between "$10 million to $15 million each accident, each vessel," presumably without any regard to the vessel's g.r.t.[36] Now, however, when S. 7 and S. 544 set out an upper limit of $15 million and the first goal has thus been achieved, it apparently next becomes essential to include a rather low per g.r.t. limit so that the "$15 million each accident, each vessel" will materialize in as few situations as possible.

The frequency and expense of oil spills also began to play an interesting role for the first time in the hearings. Mr. Shearer introduced a chart which showed that since 1960 the largest oil pollution claim that was paid (except for the Torrey Canyon) amounted to just over $500,000, and the average of all 29 claims that were paid during this seven year period was just under $8,500. He indicated that in view of the smallness of these payments, a limit of $450/$15 million would be simply unnecessary.[37]

It was at this point that Senator Muskie first posed a question which was to be repeated several times in this and later hearings and which never received a persuasive reply: "If experience indicates that no losses in excess of $67 per gross ton are recorded, why then should you be concerned about the $450 limit?"[38] Mr. Shearer deferred to Mr. Miller, who replied that since the Torrey Canyon disaster, underwriters were afraid to underwrite because oil tankers are getting constantly larger and more crude oil is being carried now than ever before.[39] To an observer, this reply confirmed the need for a far higher limit than any under discussion. To the British insurers, however, it seemed to offer a sound reason why limits must be kept low. In short, as the public's need for protection expands with the increasing size of tankers, the willingness of the insurance market to offer them protection seems to contract.

In other testimony, Mr. Kreuzkamp, testifying for the Marine Brokers, indicated that American companies are not interested in providing "excess" or reinsurance and, in light of poor experience, the British capacity "is becoming increasingly limited."[40] Hence, Mr. Kreuzkamp continued, even limits of $67 per g.r.t. would confront the American

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shipowner with "a substantially reduced market capacity, thus restricting his ability to purchase sufficient insurance in respect to such critically important other liabilities as loss of life, personal injury, and so forth." [41] Views of this type are particularly perplexing when one realizes that if the personal injury and death limits of 46 U.S.C. § 183 are literally applied to the survivors of the 90 passengers who died in the 1965 disaster aboard the Yarmouth Castle, no survivor will recover in excess of $2,700 for each victim.

Speaking for the Maritime Law Association of the United States, its President, James J. Higgins, pleaded for return to the $5 million or $67 figures that emerged the previous year in the House amended version of S. 3206. He spoke of "[t]he right of limitation of liability . . . [which] has been the law of the land since 1851." [42]

And thus the first of several sessions of the Muskie Subcommittee in the 91st Congress came to a close. To many, it appeared that the insurance and maritime industry had advanced a formidable case. But Senator Muskie and the members of his Subcommittee were beginning to show signs of a much greater interest in and concern for this subject than had been demonstrated in recent memory by any Congressional Committee. On February 6 the hearings were "recessed until the call of the chairman." It would be almost three months before the call was made. For the moment, however, we should turn to the action on other fronts.

The hearings in the House Public Works Committee

Less than three weeks after Senator Muskie's hearings were recessed two House Committees—Public Works and Merchant Marine—opened hearings almost simultaneously. In the Public Works Committee the primary bills were those of Congressman Fallon (H.R. 4148) and Congressman Blatnik (H.R. 7361), the former containing the Muskie formula of $450/$15 million and the latter containing the lower formula of $200/$10 million.

Mr. Miller, making his second appearance before this Committee, again testified for the international insurance industry, repeating the position that the combination of $450 per g.r.t. and $15 million was "uninsurable." [43] Supporting the figures of $67 per g.r.t. and $5 million, he added, however, that the outside limit of insurability was $150 per g.r.t. with a probable ceiling of $10 to $15 million, though more likely no more than $12.5 million.[44] The exchange between Mr. Miller and the House Committee was largely devoid of the searching questions that were later to be posed by the members of the Senate Subcommittee. The figures most often bandied about in this House Committee were the same $100 per g.r.t. and $10 million maximum appearing in the TOVALOP. In reply to a question about absolute liability, Mr. Miller spoke of its "inherent unfairness" and repeated that it represented a "complete departure . . . from almost all known maritime legal precedents and concepts." [45] The following day Mr. Kreuzkamp appeared, also opposing absolute liability and repeating that anything beyond $100 per g.r.t. and $10 million "is just prohibitive." [46] The United States Maritime Law Association and the American Institute of Merchant Shipping (representing U.S. flag dry cargo vessel operators) filed statements urging adoption only of the $67 per ton figure of the 1957 Brussels Convention, if not the entire Convention as well.[47]

When the bill emerged from the Committee, the same limits as those in TOVALOP were adopted, namely, $100 per g.r.t. and a $10 million ceiling. It also based liability only on a presumption of fault.[48]

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The hearings in the House Merchant Marine and Fisheries Committee

Almost at the same time as Public Works was holding its hearings, Merchant Marine and Fisheries was holding its own, with many of the same witnesses. The primary bill under discussion was H.R. 6495, which adopted the TOVALOP limits of $100 per g.r.t. with a $10 million ceiling.

Though Messrs. Miller and Shearer did not personally appear, a detailed statement was presented on their behalf by two members of the United States Maritime Law Association.[49] The statement again registered the British insurers' opposition to absolute liability and pointed out that its adoption "would not only make the insurance . . . very much more expensive for the shipowner, in particular the American shipowner, but [it] would also cut down the amount of insurance which the shipowner could buy." [50] Why the American shipowner should now have been singled out in this manner poses an interesting question, especially in light of Mr. Miller's testimony just a week earlier before the House Public Works Committee that, unlike other insurance costs, the costs of pollution clean-up insurance would probably not be greater for United States flag operators than for foreign flag operators.[51]

They again attacked absolute liability on grounds of its "inequity," citing the examples of a vessel "[s]triking a mine" or "overwhelmed by a hurricane," cases in which the shipowner is obviously blameless.[52] A modern tort law commentator would have responded that the question today is not one of fault or blame but rather who is in the best position to bear the losses or distribute the risk. Should it be the adjacent shore owner who had absolutely no relationship to the vessel or its cargo, indeed, did not even know of its existence until the oil spilled on his beach, or the Government paying for clean-up costs out of the public treasury? Or should it be the vessel owner, together with the oil cargo-owner, who profit from the carriage contract, appreciate the full risks that are involved, and are in the optimum position to bear the losses or distribute those risks through self, mutual or other forms of insurance?

Finally, in regard to the limits, the statement supported the $10 million/$100 g.r.t. combination but indicated that even these "would impose a heavy additional burden on shipowners." [53]

The United States Maritime Law Association, through its President, also testified on its own behalf and repeated its support for the $67 per ton limitation of the 1957 Brussel's Convention.[54] It also supported an overall ceiling limit of $5 million. This ignored the fact that no such overall ceiling was provided for in the Brussels Convention, which simply set a $207 per ton limit ($140 for personal injury and death, the remaining $67 for property damage, including cargo and pollution). In short, if the Association's position were adopted, it would impose upon the United States a limitation which, because of an overall ceiling, would be even lower than that of the Brussels Convention.

The Merchant Marine Hearings closed on April 1, 1969, and as of this writing a Report has not yet been issued. In view of the fact that the Public Works Committee has already reported out a bill, there has been some speculation that the Merchant Marine Committee may not report out its own. A Committee Print of a bill, presumably agreed to by the Merchant Marine Committee, provides the same $10 million/$100 g.r.t. combination with a presumption of fault as appears in the bill reported out by Public Works. So in terms of maritime liability, both House Committees appear to be in agreement.

The second Muskie hearings and the aviation analogy

When the second Muskie hearings opened on May 23, 1969, it was immediately apparent that since February 6 the members of the Subcommittee had devoted much time and interest to a careful study of the background and facts of the entire limitation problem, and especially its aviation counterpart. The first witness to appear before the Subcommittee was Mr. Clarence Pell, Director of the newly created aviation insurance company, known as Air Transport Insurance, S.A.

At this point it would be useful, for background purposes, to examine the recent history of the airline industry relating to the problems presently facing the maritime industry, namely, the amount of the limit and whether absolute liability is an appropriate doctrine.

On May 14, 1966, the major international airlines agreed to a liability scheme which, it is fair to say, the United States Government insisted on as a condition for withdrawing its notice of denunciation of the Warsaw Convention. If the United States had not withdrawn that notice, it would have become effective on May 15, 1966, and, as of that date, every American on a journey to or from the United States would not have been subject to any limitation of liability. Rather than allow such a system of unlimited liability to come into effect, the international airlines, aided by the International Air Transport Association (IATA), agreed to the United States' proposed limits of $75,000 per person under a system of absolute liability.[55]

Limitations in the Air. Until the United States Government threatened to denounce the Convention unless a limit of $100,000 could be agreed on, probably no one in the international aviation legal community outside of the United States would have conceived that such an increased limit was either possible or practical. After all, the Warsaw Convention limit was only $8,300 per person and as late as 1955, in the Hague Protocol, (never ratified by the United States), this limit had been raised to only $16,600. Moreover, as Mr. Pell testified during the second Muskie hearings, the aviation insurance industry, when questioned prior to May, 1966 as to the insurability of a scheme like $75,000 with absolute liability, was apt to say—as the maritime insurance industry says today—"uninsurable." [56] Yet, when the alternative was a high limit or no limit at all, the high limit was adopted together with absolute liability, and the insurance industry found the necessary market capacity. Today, some three years later, the aviation community is looking toward a limitation figure of at least $100,000, and it may be substantially higher.

The airlines created the Air Transport Insurance Company with the express purpose of providing for the potential liability exposure to which they will be subject when the Boeing 747 "Jumbo Jet" comes into use later this year. One such jet carrying 360 passengers on an international journey has an exposure of up to $27 million (360 x $75,000); a collision of two such jets—the type of catastrophe which is apparently a major factor in underwriting criteria—gives a total insurance market exposure of $54 million. On a domestic flight within the United States—where there are no limits of liability—the exposure for a single disaster could be, as Mr. Pell estimated with his example of 400 passengers who are "young, very expensive sales managers," upwards of $100 million (400 x $250,000).[57] Yet the maritime insurance industry can speak in maximum market capacity terms of only $10 million for a tanker carrying thousands of tons of oil.

Absolute Liability in the Air. The background of aviation and absolute liability is equally instructive. In Rome in 1952, a Con-

vention was adopted covering injury or damage by aircraft to persons or property on the surface. In the sense that it covers damage to third persons who, unlike passengers, have no contractual or other relationship with the aircraft owner, it is identical to the damage caused to coastal interests by oil pollution from vessels.

This "Rome Convention" provided for absolute liability on the part of the aircraft owner.[58] The rationale then was not, such as we have today, one of enterprise liability or which party was in the best position to bear or distribute the risk. Rather, it was a rationale based on simple principles of equity. The person on the surface had no relationship to the aircraft; he was in the least likely position to be able to prove negligence; and he was totally innocent of wrongdoing or risk taking. Accordingly, there seemed to be no reason why in order to recover he should be required to do anything more than prove his damages. Even a presumption of negligence, so it was thought, would not be sufficient protection.

The United States did not ratify the Rome Convention for two reasons. First, considering that there are no limits of liability for this type of damage in the United States, only a Convention with very high limits might, in the interest of international cooperation, be arguably acceptable. And the Rome Convention limits were in fact quite low.[59] But the second and perhaps more important reason was that during this period the United States opposed the theory of absolute liability because, as the instructions to the United States Delegation to the Rome Conference read, "the theory is unjust to the aircraft operator in requiring it to respond to damages regardless of fault." At the Rome Conference, the United States appeared to be the only country favoring a presumption of fault; all the others favored absolute liability.[60]

By early 1965, however, the position of the United States Government had changed. In addition to the equitable factors that were important when the Convention was adopted in 1952, there had developed the entire school of thought that looked upon tort liability not in terms of fault or negligence but rather in terms of risk and loss distribution between the parties to the accident.

Furthermore, there was also a growing realization that while liability based on negligence might have been appropriate when industrial enterprises were still relatively small and in the process of development, it had increasingly less justification as the industrial revolution matured into the technologically super-sophisticated type of society which we have today. In the vast majority of cases today, the individual has neither the ability nor the finances to withstand protracted litigation involving issues of negligence; there is, in truth, no fair balance between the opposing interests. Moreover, issues of negligence are becoming increasingly more obtuse and complex as technology advances. The structures of aircraft bodies and the mechanics of jet engines are so intricate as to be understood by almost no one except aeronautical engineers and trial lawyers specializing in aviation accident litigation. And finally, there is the element of insurance—now so widespread in our society, unlike the situation in this country even as recently as 1950.

In any event, in 1965 the United States Government reversed its position and supported absolute liability in the context of the Rome Convention. In commenting on this reversal, former CAB General Counsel John H. Wanner, who was the Chairman of the United States Delegation to the March ICAO Legal Subcommittee meeting on amending the Rome Convention, pointed out in his Report on this meeting to the Secretary of State, that "the United States withdrew from a position which it alone had maintained for some years without support from any of the 108 other Member States of ICAO."[61] Soon after the United States adopted this position, it adopted the same position in the passenger injury and death context under the Warsaw Convention, for the significant issues in both contexts were the same.

Today, some three years after its adoption by a then reluctant industry, IATA, the trade association representing virtually every international airline in the world, has officially announced that it also is in favor of absolute liability, even if only on the ground that its application will promote "speedy settlement of claims without recourse to litigation."[62] There are, of course, other equally persuasive reasons. But the fact that IATA has endorsed the concept at all is a major step forward in international transportation law.

Thus, international air law today provides a system of absolute liability for personal injury and death claims by passengers and for personal injury, death and damage claims by third parties on the surface. In maritime law, on the other hand, even the enactment of a presumption of fault, not to mention absolute liability, seems a major achievement.

The second Muskie hearings and the substantive issues

As the lead off witness for the second Muskie hearings which opened on May 23, Mr. Pell left the strong impression that the airlines of the world were making every possible effort, even to the point of setting up their own mutual insurance company, to meet their responsibilities to the public. And though he may have been thinking only in terms of the aviation industry, he seemed to please the Subcommittee members by pointing out a fact which was only first appreciated *after* the United States Government insisted on a $75,000 absolute liability air limit. This fact, in Mr. Pell's words, was that: "The chances are that when the crunch comes, somehow or other, the underwriters who may be somewhat loath at this moment to commit themselves on a hypothetical basis will come in and will fill the gaps that you require."[63] That is precisely what happened with respect to aviation limitations in May, 1966, and the Subcommittee members probably concluded that this experience offered them a green light for substantially increasing the maritime limits in 1969.

But then Mr. Peter Miller made his second appearance before the Subcommittee. He opened by pointing out that the new airline insurance company was no more than a mutual association like those comprising the London Group, and that it could therefore be said that "[t]he airlines are . . . a little more than 100 years behind shipowners, in operating self-insurance."[64] Perhaps this is true. But it does not explain the notable disparity between the capacity of the aviation insurance market to insure jumbo jets as high as $50 to $100 million coupled with absolute liability and the inability of the maritime market to exceed $10 million coupled with a presumption of fault.

Moreover, by this date, Mr. Miller categorically indicated that the TOVALOP limits were the maximum insurable limits at reasonable costs. It was no longer a figure between $100 and $150 per g.r.t. or between $10 and $15 million or $12.5 million but simply and only $100 per g.r.t. with a ceiling of 10 million. These limits were characterized as "insurance trail blazing."[65] Even these limits, however, had to be predicated on a presumption of fault system which Mr. Miller described as "something so radical and basic . . . a burden so heavy that in my humble opinion it is as far as need reasonably be done by a legislator or insurer, or anybody else."[66] He did not describe how such a system differs so radically—if it differs at all in results—from *res ipsa loquitur*, a doctrine which would assuredly be applied by every United States court faced with a Torrey Canyon or similar pollution disaster claim. Nor was explanation offered why the $10 million ceiling now applied when only the presumption system was the standard. Moreover, at a later point Mr. Miller insisted that in the event absolute liability was adopted, the maximum market capacity would shrink to only $5 million,[67] and that even this reduced ceiling could only be made available at a cost to the shipowner of twice what it would cost him if the $10 million ceiling was adopted with simply a presumption.[68]

These inconsistencies, however, seemed to be fully appreciated by Senator Muskie and each of the members of his Subcommittee. For example, when Mr. Miller stated that all oil spills are paid for because it is like the "aircraft [that] falls out of the sky, *res ipsa loquitur*,"[69] Senator Muskie was quick to ask: "If as a practical matter you can't envision the failure to pay such a claim, then why should there be such a difference in the insurability between absolute liability and negligence liability—if in either case the results will be payment?"[70] To which Mr. Miller's only response was that the "underwriters . . . have a horror of legal liability based upon absolute liability."[71] At a later point in the hearings Senator Muskie quipped that this was the "first time [he] had ever heard a suggestion that insurance rates are based upon the subjective factor of horror."[72]

But the searching questions did not stop here. The entire theory of tort liability based on negligence was put in issue with Senator Muskie's statement that:

"It strikes me to be a rather unusual situation when the owner of shore property who finds himself inundated from the sea by the results of an oil spill is told he must prove negligence against the unseen perpetrator . . . of the spill in order to get damages . . . it seems to me that the nature of the problem of proof is so unusual as to suggest some different definition of liability."[73]

Senator Muskie followed with the observation that "those who generate the risk ought to have something more than simple negligence responsibility for meeting the costs of the damage that flow from that risk."[74] Mr. Miller's ultimate response was that faced with a choice between $5 million with absolute liability and $10 million with a presumption, the latter was "a much more attractive proposition."[75]

Senator Muskie even raised the primary failing of TOVALOP in not providing for third party liability generally. The response was simply that third party liability is already insured.[76] However, the fact that apart from insurance the limits under present American law (46 U.S.C. § 183) effectively insulate the owner of a totally destroyed vessel from *any* liability to third parties, was not pointed out.

With the conclusion of Mr. Miller's testimony the hearings were again recessed. They were reopened on June 4, however, in order to hear additional testimony from the American Petroleum Institute (API), representing oil tankers and the oil industry, and from the American Institute of Merchant Shipping (AIMS), representing United States flag operators. The API witness, like his predecessors, opposed absolute liability and supported the TOVALOP limits of $100 per g.r.t. with a $10 million ceiling. He too was questioned as to the difference between absolute liability and a presumption of fault, and he too indicated that oil spills are always traceable to some fault and hence damages from oil spills are always paid. But when he was questioned why, in the face of this almost automatic payment, Mr. Miller had nevertheless projected a premium cost twice as high for absolute liability despite a ceiling of only half as much, he candidly replied, "I

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cannot say what is in the underwriter's mind, which at times is as perplexing to us as it is to this committee. . . . We have tried to rationalize this ourselves, and have been unable to arrive at a definite conclusion in this regard." [77]

Testifying as the newly installed President of AIMS, former Undersecretary of Labor James J. Reynolds vigorously opposed the adoption of absolute liability. And it was perhaps only in his testimony that the industry's real and basic reason for opposing absolute liability emerged. He openly and for the first time expressed the fear that:

"If the concept of absolute liability . . . is imposed for oil pollution then I can well imagine the maritime unions shortly coming in and demanding absolute liability for injury or death of a member of the crew, regardless of his own conduct; absolute liability for cargo damage, absolute liability for third parties for property damage, et cetera." [78]

It might well have been asked (except for cases involving contributory negligence), why absolute liability would, indeed, be inappropriate in any of these contexts. It is certainly as appropriate for third party property damage as it is in the aviation law Rome Convention context. In workmen's compensation cases not involving contributory negligence it is already the generally accepted rule. Moreover, with respect to maritime cargo damage cases its adoption, though possibly unprecedented, might prove far more efficient in terms of saving both time and money, public and private, than the system which is presently in effect. For that system, which is set out in the 1936 Carriage of Goods by Sea Act,[79] incorporates all the antiquated defenses devised on behalf of vessel owners during the 19th Century, and does little more today than spawn endless and protracted litigation. In short, these are fears that could stand careful reappraisal.

But Senator Muskie had his own questions and he pursued them with Mr. Reynolds just as he did with Mr. Miller and the API witness.

Thus, he suggested to Mr. Reynolds that if most spills do result from negligence—as all the industry seemed to agree—then the adoption of an absolute liability system should make no difference and insurance costs for it should be no higher than for a presumptive fault system. Mr. Reynolds replied: "I cannot give the answer to that, Mr. Chairman. I don't know why the cost should be double for less insurance when there is absolute liability." [80]

Senator Muskie continued by pointing out that proof of negligence in oil spills could be "a very difficult matter . . . because the facts that bear upon the question of negligence are peculiarly within the possession of the agents or the instruments owned by the alleged tort feasor." [81] In replying, Mr. Reynolds again voiced the fear that absolute liability "brings into the whole field of admiralty law, and the way of the sea, a new concept, which would have most dangerous implications . . . I think it would encourage the view that there should be absolute liability for everything that happens at sea." [82] Shortly following this testimony, the hearings were adjourned.

Posthearing developments

For several weeks following the adjournment there was much speculation over whether the Committee would adopt a system which had been discussed in detail throughout the last stages of the hearings and which seemed to have considerable appeal to several of the Committee members.[83] This system contemplated absolute liability with *no* limits and simply a financial security provision requiring vessel owners to show sufficient financial security to cover damages of $100 per g.r.t., up to a ceiling of $10 million. This would work like an average automobile insurance policy in the United States. An individual opting for coverage of only $50,000 might well later find himself, in the event of a major accident, subject to a court judgment of, say, $75,000. In such a case the uninsured portion could be satisfied by executing against the individual's assets. The obvious effect is the creation of a major incentive for automobile owners to carry very high, if not maximum coverage.

In the vessel pollution context, the vessel owner would be required to cover himself up to the $10 million/$100 g.r.t. combination amount. His liability, however, could be beyond that, and to the extent it did his assets could be levied upon. To be sure, vessel owners have some advantages available to them which are not available to automobile owners. Not the least of these are the ability to insulate other assets by engaging in the increasingly popular practice of incorporating as one vessel corporations, and also of course, the ability to reinsure.

Nevertheless, the adoption of such a system would still have several advantages. First, the large tanker owners, many of whom are responsible well known oil companies, would probably not go the route of one ship corporations to avoid liability. While there might be exceptions, it is more likely that they would rather devote their energies to devising some effective means by which insurance market capacity, both primary and reinsurance, could be increased. As for the smaller owners, the financial security requirements of $10 million/$100 g.r.t. should prove adequate. Second, such a system entirely avoids the perplexing question of an appropriate limit, except to the extent that it requires a showing of certain financial security. Finally, and perhaps most important, the unlimited liability feature would have the effect of providing a major incentive for tanker owners and oil companies to devise an international system of insurance which, unlike the present system, would be capable of coping not only with the problems of today but those of tomorrow as well. Like automobile owners, neither tanker owners nor the oil companies would wish to see their assets levied upon to satisfy judgments. Once limits were eliminated, therefore, it is most probable that both the maritime industry and the oil companies would look to the precedent of the airlines, with their jumbo jets, and devise some system of international insurance that could effectively cover the risks of jumbo tankers.

Despite the advantages of such a system, its adoption would admittedly represent a major departure from the tradition of maritime limitation law as it has developed over the past century. It is perhaps for this reason and also because any major change ought perhaps best be made in the realm of third party claims or personal injury and death claims, that the Muskie Committee seems now to be adopting a narrower approach.

On July 2, 1969, a Committee Print (No. 3) of a bill appeared which set a limit of $150 per g.r.t. without an overall ceiling. As for financial security, a requirement of $67 per g.r.t. was imposed. Considering the absence of an overall ceiling, and that in the light of past pollution clean up claims a $15 per g.r.t. limit is not unreasonable, the bill, at least in these respects, is a significant improvement over existing United States law. However, the liability provisions appear less adequate. These provisions exclude shipowner liability in any case "where an owner or operator can prove that a discharge was caused solely by act of God, act of war, or negligence on the part of the United States Government." [84] Act of God is defined as "an act occasioned exclusively by violence of nature without the interference of any human agency." [85]

While one need not take issue with precluding the Government from recovering when it is contributorily negligent, the other two exceptions pose far more difficult problems. Neither, of course, is consistent with the modern tort law concept of determining liability on the basis of risk distribution rather than fault or blame. Moreover, despite the narrowness of the Act of God definition in the bill, both will inevitably stimulate unnecessary litigation as well as delay and probably depress most recoveries. This author recently received a letter from the head of the legal department of the British Aviation Insurance Company, Ltd. The author of that letter, Mr. Harold Caplan, has long been involved in the Warsaw Convention controversy and its accompanying insurance ramifications. In commenting on whether acts of war should be excepted from the absolute liability feature of the 1966 airline agreement—an issue which is directly facing the international aviation community at this very time—Mr. Caplan stated:

"Those who advocate an exception for 'War Risks' do not realize how difficult it is to devise satisfactory words, or more importantly to prove what was the cause of a particular loss. As you can imagine, we have had considerable experience with this problem in the course of devising War Risk policies and my conclusion is that any international convention which contains reservations for War Risks is doomed to failure." [86]

Is not the same reasoning applicable as well to both war risk and act of God exceptions in United States legislation on maritime liability?

GENERAL OBSERVATIONS

Considering the voluminous nature of the testimony received throughout all the hearings, not to mention the complexity of the subject involved, it is at some risk that anyone undertakes to summarize the problems in terms of firm conclusions. General observations, therefore, seem more appropriate, and these are as follows:

1. On the basis of the testimony it would seem that neither the American flag vessel owners nor the American marine insurance industry have any significant influence, at this time, on either the world market capacity for marine insurance or the costs at which such insurance is made available. The insurance market appears to depend primarily on largely undocumented and uncontrolled personal negotiations in the London Group.

2. Messrs. Shearer and Miller, representing the London Group and the international reinsurance market, are the two pivotal individuals in P. & I. marine insurance throughout the world. At the present time, their conclusions—whether right or wrong—as to capacity and cost determine, if not dictate, not only the limits and terms of liability that can be negotiated in international conventions but also those that can be adopted in United States legislation on the subject.

3. While the international aviation insurance market has adjusted to the adoption of absolute liability in circumstances that will involve much greater potential liability than virtually anything conceivable in the area of vessel pollution liability, the international marine insurers have a "horror" of absolute liability and are presumably prepared to allow it only at double premium costs with a halved ceiling on liability.

4. If absolute liability is appropriate in any transportation context it is certainly appropriate here, where the vessel owner and the oil industry are in a far superior position to bear and distribute the risk than the coastal shore owner, whose property interests are by the merest chance inundated with oil. Moreover, since the United States Government officially demanded absolute liability in the international aviation passenger context, it follows almost a fortiori that the Government

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should favor absolute liability in the oil pollution context. In the passenger context it might always be argued (although in air law the argument was rejected by the United States Government) that simply by contracting with the carrier for passage the passenger assumes a risk or enters into a joint venture which should operate to bar him from the benefits of the absolute liability doctrine. But assuming arguendo that this agrument is valid for passengers, it has no applicability to the Government or to coastal shore interests, neither of whom is in any contractual or other relationship with the vessel causing pollution.

5. Beyond the "subjective factor of horror," there appears to be no persuasive reasons why the costs of absolute reliability should be so high and the market capacity for it so low. Perhaps it is because operating under a presumption of fault vessel owners and their insurers can always attempt to negotiate lower damage settlements simply by threatening to litigate the issues in the courts. Under such circumstances, the average coastal shore owner would probably be prepared to accept a sizable smaller settlement rather than face the prospect of protracted litigation plus the risk that at the end he might recover nothing at all. Moreover, these precise disadvantages to the coastal shore owner would also obtain in any legislation or convention that adopts exceptions for acts of God, acts of war, or acts of third parties.

6. One reason why the maritime industry may be protesting absolute liability so vigorously is their fear that it will spread to other aspects of maritime law. But change is an inevitable concomitant of progress. Eventually the repressive United States limits of maritime liability for passenger death and injury will be modernized. The adoption of absolute liability in the instant context may well influence the outcome on those modernized personal injury and death limits, as well as third party liability in general. It is doubtful, however, whether the influence would extend beyond this point—and up to this point there are persuasive reasons why such a change is justified.

7. The present infrastructure of the P. & I. marine insurance industry appears incapable of meeting even this first change, much less the others—primarily in the personal injury and death area—that will inevitably follow. Accordingly, that infrastructure must be modernized, and there is perhaps no better place to start than with the oil industry. Together with the maritime industry, the oil industry must now begin to direct its energies to developing a system of worldwide insurance, with emphasis and influence in this country, that will adequately cover the vast majority of the risks of oil pollution that are becoming increasingly important as the 300,000 to 500,000 dead weight ton tankers appear on the seas.

8. The need for this change becomes particularly pressing when considered in the context of the claim by the insurance industry that the market capacity is a total figure representing not just coverage for oil pollution Government clean up claims but also for all other third party damage claims, hull and cargo claims and, more importantly, for personal injury and death claims. Thus, to the extent that a greater portion of the limited available capacity is allocated to Government clean up claims, it is entirely possible that the capacity available for personal injury and death claims will be reduced. In short, if oil does not pay its own way, that way may well have to be paid by means of reduced recoveries for personal injury and death victims. When this is considered against the fact that, as Mr. Kreuzkamp testified, the market capacity for the average American shipowner has diminished over the past, five years from $30 million to $17.5 million,[87] the urgent need for a change in the insurance market infrastructure becomes even more apparent.

9. To the extent that giant tankers represent future trends, it becomes imperative that irrespective of what per g.r.t. or per d.w.t. limit, if any, is adopted, no overall ceiling be adopted either in a treaty or in legislation, unless that overall limit varies with the dead weight tonnage of the tanker. Otherwise a tanker capable of spilling off 500,000 tons of crude oil, with the immense damage this could cause, would be subject to no greater liability than—taking a $10 million overall ceiling with a $100 per g.r.t.—a much smaller tanker carrying only 100,000 tons. In other words, an additional 400,000 tons of crude oil can pollute wtihout additional liability.

10. Moreover, considering the immense cost savings effected by the use of such giant tankers, it should not be too much to suggest that tank owners not be permitted to effect additional savings from the lower premiums that result from lower limits and terms of liability. We are not dealing here with a marginal industry or one whose ability to pay is uncertain. According to statistics presented by the industry itself during the hearings, seven major oil companies own 40% of the total privately owned dead weight tanker tonnage operating under the American flag. An additional 26% is owned by seven non-oil companies or "independents" With roughly two-thirds of our tanker tonnage distributed among only 14 companies, it seems clear that they should be able to work out some system—perhaps by an improvement in TOVALOP or through the creation of an insurance pool funded by a royalty assessment on each barrel or ton of crude transported—that would be able to afford adequate protection to the American public. Added cost, if any, to oil users probably would not be significant, considering that a 200,000 d.w.t. tanker carries roughly 55 million gallons of crude oil.[88] Finally, it is a fact that if adequate protection is not legislated now when the giant tankers are just beginning to make their appearances, it will be infinitely more difficult to so legislate once these tankers are common and industry has grown accustomed to the cost savings they realize with low levels and terms of liability.

THE INTERNATIONAL SCENE

While the efforts in progress in the United States Congress are presently the most important, the critical scene may soon be shifting to the efforts of the international maritime legal community. Shortly after the Torrey Canyon disaster, this community embarked upon an effort to draw up a convention covering the limits and terms of liability for future cases of pollution damage. The work was undertaken largely by the newly created Legal Committee of the Intergovernmental Maritime Consultative Organization (IMCO), a United Nations Agency specializing in international maritime affairs. However, ths appears to be the first time that IMCO, unlike its aviation counterpart, the International Civil Aviation Organization (ICAO), has entered into the area traditionally known as "private international law."

Historically, this area, (at least in the maritime field), has been the province of the Comité Maritime International (CMI) a non-governmental body composed of the maritime law associations of 29 countries, the majority of which are economically developed. Most individual members of these national associations are lawyers who, in their private practices, represent shipowner interests to a large extent. Through the efforts of these indvidual members, the CMI has traditionally assumed the responsibility of preparing drafts of the private law maritime conventions. These drafts are then transmitted to the Belgian Government which, in turn, calls a diplomatic conference so that governments may consider, approve, and promulgate the drafts as international treaties, for signature and ratification by states.

At latest word, a diplomatic conference called by the Belgian Govrnment is scheduled to take place in Brussels from November 10 to November 28. The tentative agenda of the conference includes consideration of two separate draft treaties. The first treaty covers public law issues such as when and under what circumstances a state may take action, as the British Government did, to bomb a vessel like the Torrey Canyon to prevent further pollution. The other concerns itself with the private law issues of terms and limits of vessel owner liability for pollution damage.

The draft of the first treaty was prepared exclusively by the IMCO Legal Committee. While acceptance of its terms will not notably advance the rights of governments in polluton disaster situations, it will at least codify the existing state of international law on the subject. The draft of the second treaty, however, is far more important because it could well become the international law on this sensitive subject for several decades. At the moment, there appear to be two drafts of this second treaty—one prepared exclusively by the CMI and the other prepared by the IMCO Legal Committee with some assistance from the CMI. Both are inadequate for several reasons.

First, the CMI draft provides a limit of liability of only $67 per ton. Considering that the minimum figure presently before the U.S. Congress is $100 per ton, and that one seriously considered proposal envisioned no limits at all, it is hard to understand how or why the drafters opted for the $67 million figure, unless it was only by way of anticipating the horse-trading that will occur at the conference and to open that trading at the lowest conceivable price. The IMCO prepared draft on this subject, as of this writing, leaves a blank space to be filled in by the participants at the November conference.

Second, both drafts are directed to pollution by oil and not to all forms of pollution. If adopted, therefore, this very narrow approach would probably always leave the nations of the world one convention behind each maritime disaster. Only after a disaster involving a tanker carrying dangerous gases or chemicals would an additional convention or protocol be undertaken to provide a more expanded coverage. Here too, it is hard to understand why the drafters were not moved, particularly in view of the increasingly obvious dangers of pollution, highlighted recently by the Rhine River poisoning disaster, to cover all forms of pollution irrespective of the responsible agent.[89] This too, however, may well prove to be no more than another negotiating tactic.

Finally, neither draft continues the modern tort law concept of making the vessel owner liable for damages without regard to the issue of fault or negligence. The CMI draft simply incorporates the same presumption of negligence as industry urged on the Senate Subcommittee. The IMCO draft, much like the Committee Print that emerged from the Senate Subcommittee, excludes liability in any case where pollution damage results "directly from an act of war, hostilities, civil war, insurrection or a grave natural disaster of an exceptional character."[90] These inclusions, identical in object to the acts of God and war exclusions in the Committee Print, do no more than retain in the law of torts what is rapidly becoming recognized as the technologically displaced theory of basing liability on fault or negli-

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gence. Their inclusion as possible defenses against third party claims is even less justifiable than it might arguably be against government clean-up claims. Were liability to be based on the modern concept of risk distribution, none of these exclusions—with their inherent potential for spawning unnecessary litigation—would be necessary or appropriate.

The effect of congressional activities on the international scene

There can be little doubt that the members of the international maritime legal community, particularly those who will play a leading role at the forthcoming November Brussels Conference, are studiously watching the efforts and progress of Senator Muskie and his bill. Naturally, there is a significant difference between the Muskie efforts and those of the forthcoming Brussels conferees. The former, as indicated earlier, cover only damages incurred by government as a result of clean-up work, while the latter will cover all damages, including, for example, loss of income by fishing interests, loss of customers and, of course, loss of income by hotel interests. But despite these differences, it may be said with some assurance that whatever ultimately emerges from the Senate (or the Congress if the bill should proceed rapidly), will inevitably constitute the floor, but to a large extent also the ceiling of what the United States Government can hope to achieve at the November Conference.

Thus, for example, if the Senate passes a bill which provides only for a presumption of fault or for liability subject to the exceptions for acts of God, war and third parties, rather than for absolute liability, it would be extremely difficult, if not impossible, for the United States Government at the Conference to stand steadfastly in favor of absolute liability.

To be sure, the perfectly tenable argument can be advanced that in disaster situations, governments can and should be better able and more prepared than private citizens to bear the clean-up costs of a true accident, i.e., one in which fault cannot be ascribed to any party. Moreover, private citizens who suffer coastal pollution damage are not in the optimum position, assuming they are even able, to insure against the highly contingent risk of pollution damage from a vessel. Thus, while governments can be expected, as part of their governmental responsibilities, to bear some or all of the clean-up costs of a true accident, there is no persuasive reason why perfectly innocent third parties suffering coastal damage should be expected to bear the burden of damages over and above clean-up, assuming, of course, that in such circumstances the government will clean up. Tenable as this argument may be, however, its adoption by the international maritime legal community is at best only a speculative possibility—particularly in the face of what may well appear to be, or be made to appear as, a policy decision by the United States Senate that absolute liability is not an appropriate rule of law generally for maritime pollution damage. In short, if the Senate or the Congress rejects absolute liability, its chances for adoption by the Brussels Conference in November are diminished.

An equally important area where the resolution of the Senate will largely be both a ceiling and a floor is that of the limitation itself. For if an overall ceiling of, for example, $10 or $15 million is adopted, it is inevitable that the Brussels Conference will insist on the principle of an overall ceiling, though they might be prepared to increase the amount slightly to compensate, if only in small part, for damages over and above clean-up costs. Moreover, if a per ton limitation figure is ultimately adopted in the legislation, inevitably the horse trading at the conference will begin in the area of that figure; and judging from the insurance industry's testimony during the hearings, it is safe to say that the prospects for a much higher figure will not be bright.

To what extent either the Senate or the House of Representatives are today or will in the future be moved by this intriguing international interplay cannot be known. Nor would it be prudent to venture even the slightest prediction how this mini-crisis in both domestic and international law will be resolved. Suffice it to say, however, that the Congress is faced with the major and immediate burden of rectifying a United States law which has been with us almost unchanged, since 1851. That law, moreover, has at no time since its enactment been the subject of an international treaty sufficiently attractive to the United States Government to warrant its repeal, accompanied by ratification of the treaty. Perhaps the Muskie hearings may have served their most important purpose in moving the marine insurance industry to reappraise and revise their methods of operation. If so, the November Conference might just produce an acceptable treaty. If not, and assuming Senator Muskie succeeds in getting some bill enacted, the public will at least have witnessed one reform of the 1851 law. And considering the information that Senator Muskie and the members of his Subcommittee succeeded in developing, it may not be too much to hope that other broader reforms of that law will not be long in coming.

FOOTNOTES

* Member, Glassie, Pewett, Beebe & Shanks, Washington, D.C. B.S., LL. B., University of Illinois; LL.M., Harvard University.

[1] Act of March 3, 1851, ch. 43, § 3, 9 Stat. 635.

[2] 46 U.S.C. § 183 (1964).

[3] *Id.*

[4] Norwich & N.Y. Transp. Co. v. Wright, 80 U.S. (13 Wall.) 104 (1871).

[5] *In re* Barracuda Tanker Corp., 281 F. Supp. 228 (S.D.N.Y. 1968).

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[6] Morison, *Shipping Industry Irked on Pollution Hearings,* J. Com., June 3, 1969, at 11, col. 5.

[7] For a review of the absence of progress, domestic or international, on the subject of maritime limitations for personal injury and death, as well as oil pollution and property damage generally, see Mendelsohn, *The Public Interest and Private International Maritime Law,* 10 Wm. & Mary L. Rev. 783 (1969). In the personal injury and death area, for example, the limit provided for in 46 U.S.C. § 183 (1964) remains the value of the vessel or $60 per ton, whichever is higher. As applied to the Yarmouth Castle disaster, where the vessel had no value following the accident, section 183 would permit a recovery of no more than $2,700 for the survivors of each of the 90 fatal victims.

[8] 33 U.S.C. § 431 *et seq.* (1964). The members of Senator Muskie's Subcommittee during the 91st Congress are Senators Randolph (D-Va.), Bayh (D-Ind.), Montoya (D-N.M.), Spong (D-Va.), Eagleton (D-Mo.), Boggs (R-Del.), Cooper (R-Ky.), Baker (R-Tenn.) and Dole (R-Kan.).

[9] S. 2947, 89th Cong., 2d Sess. (1966).

[10] S. 1591, 90th Cong., 1st Sess. (1967).

[11] *Hearings on S. 1591 and S. 1604 Before the Subcomm. on Air and Water Pollution of the Senate Comm. on Public Works,* 90th Cong., 1st Sess. (1967).

[12] S. 2760, 90th Cong., 1st Sess. (1967).

[13] *Hearings on S. 2525 and S. 3206 Before the Subcomm. on Air and Water Pollution of the Senate Comm. on Public Works,* 90th Cong., 2d Sess. (1968).

[14] There are two other important marine insurance interests which, for purposes of this article, need only be briefly mentioned. The first, known as "hull insurers," serve the vessel owner but only insure against damage or loss to the vessel's hull. The other, known as "cargo underwriters," serve the shipper of cargo aboard the vessel but not the vessel owner. They insure the cargo against loss or damage. It is a significant question why, apart from tradition, the marine insurance industry continues to make it necessary to have two groups of insurers—the P. & I. Groups and the cargo underwriters—insuring the same cargo.

[15] *Hearings on S. 7 and S. 544 Before the Subcomm. on Air and Water Pollution of the Senate Comm. on Public Works,* 91st Cong., 1st Sess., pt. 1, at 156 (1969) [hereinafter cited as *1969 Senate Hearings*].

[16] *Id.* at 157.

[17] *Id.* at 163.

[18] *Hearings on H.R. 15906 and Related Bills Before the House Comm. on Public Works,* 90th Cong., 2d Sess. 391–407 (1968) [hereinafter cited as *1968 House Hearings*].

[19] *Id.* at 394.

[20] *Id.* at 403.

[21] *Id.* at 362–63.

[22] *Id.* at 390.

[23] House Comm. on Public Works, Water Quality Improvement Act of 1968, H.R. Rep. No. 1946, 90th Cong., 2d Sess. (1968).

[24] International Convention Relating to the Liability of Owners of Sea Going Vessels (Brussels, Oct. 10, 1957) (not ratified by the United States). Though this Convention is presently in force, it apparently has not been registered with the United Nations and hence does not appear in the U.N. Treaty Series. The text has been reprinted, however, in 68 Yale L.J. 1676, 1714–1719 (1959).

[25] S. 3602, 90th Cong., 2d Sess. (1968); S. 556, 88th Cong., 2d Sess. (1962); S. 2314, 88th Cong., 1st Sess. (1962).

[26] Perhaps the only difference between the two appears in whether the case is tried with or without a jury. If tried with a jury and a presumption is applicable, a directed verdict will be granted in the event the defendant does not proffer any evidence to rebut the presumption. If *res ipsa* is applicable and the defendant proffers no evidence, the case will in any event go the jury, who would be appropriately instructed that the application of *res ipsa* should call for a judgment for the plaintiff. In a non-jury context, the judge, when confronted with a situation calling for *res ipsa* would probably himself simply shift the burden of proof from one requiring the plaintiff to show negligence to one requiring the defendant to show an absence of negligence. Such a shifting of the burden is identical to what would occur under a statutory presumption of negligence. But the inevitable consequence of adopting any of these approaches rather than absolute liability is to guarantee that whenever a defendant so wishes he can delay cases of this type indefinitely.

[27] N.Y. Times, Nov. 7, 1968, at 93, col. 1. For the exact terms and details of the agreement, see *1969 Senate Hearings* pt. 1, at 257–65.

[28] For a general description of these events see Lowenfeld & Mendelsohn, *The United States and the Warsaw Convention,* 80 Harv. L. Rev. 497, 548–50 (1967).

[29] At latest reports more than 50% of the world's privately owned tanker tonnage has voluntarily agreed to the plan. In accordance with the terms of TOVALOP, this means that the plan should now or shortly be in effect. It is doubtful, however, whether implementation will actually occur before the present Congress concludes its work on the subject.

[30] *1996 Senate Hearings.*

[31] *Id.* at 141, 143, 146, 156.

[32] *Id.* at 156.

[33] *Id.* at 153.

[34] According to information obtained from the U.S. Maritime Administration, there are only 4 vessels operating today which have a g.r.t. in the area of or in excess of 150,000. An additional 3 are under construction. Vessels, such as tankers, are measured both by their g.r.t. as well as by their deadweight tonnage (d.w.t.) which is their cargo-carrying capacity. A comparison of the 2 weights of several randomly selected tankers follows:

Vessel	Flag	D.w.t.	G.r.t
Vega	French	50,600	33,000
Egmont	German	50,300	31,800
E. Maersk	Dutch	100,600	53,000
Iyoharu Maru	Japan	103,000	61,300
Bergebig	Norwegian	149,500	78,700
Esso Scotia	United Kingdom.	250,000	130,000
Universe Island	Liberia	312,000	149,600
Universe Kuwait	do	312,000	149,600

Other than the fact that g.r.t. is always substantially lower than d.w.t., there appears to be no reason why g.r.t. should be the basis for a pollution damage limitation, particularly when d.w.t. bears a much closer relationship to the carrying capacity and hence the potential for damage by pollution. Historically, however, it seems that in maritime law the lowest basis for limitation is always selected. For example, in limitations for personal injury and death, it is not the g.r.t. of a vessel that is selected as the basis for limitation but rather a complicated tonnage formula which, as compared to g.r.t., shows the following significant differences:

Vessel	Flag	G.r.t.	Formula
Yarmouth Castle	Panama	5,000	4,074
Constitution	United States	20,269	18,830
France	French	66,348	57,294
Michelangelo	Italian	45,900	39,269

No one has ever explained why this formula has been devised for use as the basis for personal injury and death limitation rather than simply the vessel's recorded g.r.t.

The limitation figures, based on the formula, are taken from hearings on S. 1351 and related bills before the Subcommittee on Merchant Marine and Fisheries of the Senate Commerce Commission, 89th Cong., 2d sess. 210 (1966).

[35] *1969 Senate Hearings*, pt. 1, at 146, 164–65.
[36] *1968 House Hearings* 405.
[37] *1969 Senate Hearings* pt. 1, at 141–43.
[38] *Id.* at 154.
[39] *Id.* at 148–49, 155.
[40] *Id.* at 158.
[41] *Id.*
[42] *Id.* at 124.
[43] *Hearings on H.R. 4148 and Related Bills Before the House Comm. on Public Works*, 91st Cong., 1st Sess. 219, 223 (1969) [hereinafter cited as *1969 House P.W. Hearings*].
[44] *Id.* at 224.
[45] *Id.* at 226.
[46] *Id.* at 552.
[47] *Id.* at 643–47, 671–74.
[48] HOUSE COMMITTEE ON PUBLIC WORKS, WATER QUALITY IMPROVEMENT ACT OF 1969, H.R. REP. No. 91–127, 91st Cong., 1st Sess. (1969).
[49] *Hearings on H.R. 6495, H.R. 6609, H.R. 6794, and H.R. 7325 Before the House Comm. on Merchant Marine and Fisheries*, 91st Cong., 1st Sess. 261–69 (1969) [hereinafter cited as *1969 House MMF Hearings*].
[50] *Id.* at 262.
[51] *1969 House P.W. Hearings* 225. Testimony during the earlier Muskie hearings (*1969 Senate Hearings* pt. 1, at 158–62) indicated that insurance costs on a comparable fleet of vessels can be as much as ten times higher for U.S. flag owners than for foreign flag owners. In P. & I. coverage for personal injury and death claims there might be some justification for at least a part of this difference, if only because a high value is normally attached to these claims by courts and juries in the United States. But this justification would not appear applicable at all to loss or damage claims for cargo (which has a definite value no matter what the flag of the vessel on which it is shipped). And as for hull and third party claims, while there might be a justification for some difference, a ten times higher cost appears hardly justifiable. Mr. Miller did suggest that one of the reasons for the difference is "that the legal costs in defending a case [in the United States] are very high and form part of the claim." *Id.* at 161. No one mentioned, however, that by adopting absolute liability, these legal costs could be considerably reduced.
[52] *1969 House MMF Hearings* 263.
[53] *Id.* at 262.
[54] *Id.* at 249–57.
[55] *See* note 28 *supra*. These limits and terms of liability apply only to passengers who are traveling to, from, or by way of the United States. British European Airways (BEA), however, has voluntarily extended these limits and terms of liability to all of its passengers regardless of origin or destination. It is the first and only international airline that has so far adopted this public interest approach.
[56] *1969 Senate Hearings*, pt. 4, at 1332.
[57] *Id.*
[58] The text of the Convention appears at 19 J. AIR L. & COM. 447 (1952).
[59] *See* Brown, *The Rome Conventions of 1933 and 1952: Do They Point a Moral?*, 28 J. AIR L. & COM. 418 (1962).
[60] I ICAO, *Conference On Private International Air Law, Rome*, Sept.-Oct. 1952, Minutes and Documents 12–15 (1952); II ICAO, *id.* at 113–14.
[61] This report is on file in the Office of Legal Adviser, United States Department of State.
[62] ICAO Doc. LC/SC Warsaw WD 13, November 19, 1968.
[63] *1969 Senate Hearings* pt. 4, at 1326.
[64] *Id.* at 1363.
[65] *Id.* at 1368.
[66] *Id.* at 1382.
[67] *Id.* at 1372.
[68] *Id.* at 1309, 1375.
[69] *Id.* at 1370.
[70] *Id.*
[71] *Id.*
[72] *Id.* at 1452.
[73] *Id.* at 1370.
[74] *Id.* at 1371.
[75] *Id.* at 1372.
[76] *Id.* at 1369.
[77] *Id.* at 1413–14.
[78] *Id.* at 1446.
[79] 46 U.S.C. § 1300 *et seq.* (1964).
[80] *1969 Senate Hearings* pt. 4, at 1450.
[81] *Id.* at 1451.
[82] *Id.*
[83] *See, e.g., id.* at 1350–51, 1384–85, 1399, 1401–02, 1419–20, 1429–31.
[84] S. 7, 91st Cong., 1st Sess. § 12 (1969) (Comm. Print No. 3). When the final report was ultimately issued, the reported bill contained, in Section 12(f)(1), still another exception from liability, *i.e.*, when the damage results from "an act of a third party." Moreover, the reported bill also reduced the per ton limitation from the $150 amount in Committee Print No. 3 to $125. In addition, the reported bill provided an overall ceiling limit of $14 million. It would be interesting to speculate on the scope and intensity of the industry's efforts between the publication of Committee Print No. 3 and the publication of the Committee's final report. *See* S. REP. No. 351, 91st Cong., 1st Sess. 106 (1969). However, in a seeming effort to reach some balance, the Committee's final bill provided that in the event negligence can be proved, the vessel owner is subject to unlimited liability. This type of provision, colloquially known as a "breaking the limits" clause, does no more than inspire litigation in any instance where damages may exceed the limits. Internationally, clauses of this type are rapidly falling into disrepute and, indeed, the current position of the United States Government vis-a-vis the presence of a similar clause in the Warsaw Convention is one of opposition.
[85] S. 7, 91st Cong., 1st Sess. § 12 (1968) (Comm. Print No. 3).
[86] Letter from Harold Caplan to the author, June 30, 1969. For a thoughtful analysis of these and other problems in aviation law, see Caplan's recent article, *Law for Aerospace Activities 1966–2066*, 73 AERONAUTICAL J. ROYAL AERONAUTICAL SOC'Y 255 (1969).
[87] *1969 Senate Hearings* pt. 4, at 1336.
[88] It is also interesting to note that the seven oil companies owning the largest amounts of deadweight United States flag tanker tonnage (Standard Oil of New Jersey, Texaco, Gulf, Mobil, Sun Oil, Atlantic Richfield and Standard Oil of California) also happen to be among the nine oil companies receiving the largest oil import allocations under the Interior Department's Oil Import Quota System. *See id.* at 1422–23, 1434–39.
[89] According to reports of the U.S. Corps of Engineers, 45 million tons of chemicals were transported in U.S. waterborne commerce during 1966. *See id.* at 931–32.
[90] IMCO Doc. LEG. VI/6, Annex, p. 3.

GOLDEN ANNIVERSARY OF LEAGUE OF WOMEN VOTERS

Mr. BOGGS. Mr. President, this year the League of Women Voters celebrate their golden anniversary. For 50 years, this organization has served our Nation.

In 1920, women won the right to vote. Since that time they have had an enormous effect on American politics and Government. Their participation has strengthened the foundations of our Nation.

Women have come a long way in a short time. In Delaware, as across this great Nation, the role of women in government has expanded. In the election of last year, women not only occupied positions of authority in political parties and campaigns but many were successful candidates for public office.

In Delaware much of the credit for the encouragement of feminine involvement goes to the chapters of the League of Women Voters. As an organization, their nonpartisan approach to government has had great effect on the system. Participants in the league have also reaped the personal benefit of increased knowledge of our political system. Equipped with this increased knowledge these women have become hardworking, conscientious citizens, anxious to educate and serve their fellow Americans.

Mr. President, I salute the ladies of the League of Women Voters on the 50th anniversary of their great organization. I take this opportunity to thank the many members of the Delaware chapters who have been so kind to me in my years of public service. An article describing the growth of the League of Women Voters in Delaware and its many contributions to the citizens of the First State was published in the Wilmington Morning News of October 24.

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:

1920: A great year not only for women but for the country. Women won the vote and the League of Women Voters was founded.

An outgrowth of the women's suffrage movement, the League since then has worked to better inform citizens about their government. One of the mottos of the League is: "Toward a More Responsible and Responsive Society". To expand its services and activities the League is celebrating its 50th anniversary with an 11 million dollar national fund-raising campaign.

The 50th anniversary celebration was officially launched on April 17 in the East Room of the White House. Mrs. Bruce Benson, na-

tional president; Mrs. Alf H. Gundersen, national campaign chairman; and John W. Gardner of the Urban Coalition working with the League as chairman of the sponsors committee met with President and Mrs. Nixon and various members of Congress.

President Nixon spoke highly of the League and of its valuable contribution to the country. He said in his speech that "The League of Women Voters . . . has played a major role . . . on a nonpartisan basis of stimulating creative thought, new ideas, discussion on the great issues confronting the American people".

Wilmington's League has joined in this celebration. Coffees and teas have been given to tell old and new members about the campaign, to arouse their interest and to ask for contributions. Mrs. William Cann gave a coffee for charter members (22 are still in Wilmington since that League's founding in 1953). Members present were Mrs. Bessie Grant; Miss Catherine Johnson; Mrs. Clifford Stirba, now President; Mrs. J. M. Tinker; Mrs. van Zonneveld, vice president in 1953 and Mrs. Charles Young. Also present were Mrs. Ralph Lilly and Mrs. Henry Linton, who are connected with the 50th anniversary campaign.

Mrs. William Said gave a tea for early members of the League, and Mrs. Roger Hines gave a coffee for recent board members.

All these events and the efforts of member solicitors resulted in spectacular membership contributions last year. 192 members out of 280 contributed money and made pledges in the amount of $6,501.12.

The League is now ready to go out in the business community to ask for funds. As part of the publicity for the drive a display was placed in the window of the Delaware Trust Building from Oct. 13 to 20. Theme "50 Years of a Great Idea," the display showed how far women have come in such a short time.

Why is the League having this national drive; why does it have such a large national goal? A look at its activities past and present will more clearly explain what the League actually does and what it stands for.

Delaware's League goes back to 1921 when Mrs. A. D. Warner of Wilmington was president. Other board members were from Dover, Milford, Middletown, Smyrna, Del Mar, Georgetown and Newark. An annual convention of the Delaware League was held at the Hotel du Pont Nov. 13, 1923. The following are some of the activities of this early League:

(1) As part of a highway tour in connection with a national "Get Out the Vote" campaign, members toured the state from one end to the other on the new state highway built by the DuPonts.

(2) League members sought to abolish child labor, formed a ratification committee toward this end.

(3) In 1925 the League was instrumental in organizing a joint legislative committee with an ambitious program and 20 organizations participating. First item on the program was an adequate school building program for Delaware sponsored by Pierre S. duPont.

In 1926 there were directors from Wilmington, New Castle County, Kent County and Sussex. There is little more mention of the League in Delaware for the rest of the decade, except that it seemed completely under the control of Mrs. Warner, nor was there any indication of why it disbanded. It seems as if a dynamic person had carried a really interesting League program for a number of years, but had not built the kind of organization that could survive.

The League reappeared in Delaware in 1952 with the formation of the Newark League. Among the charter members who were instrumental in organizing Newark's League is Mrs. Samuel Handloff, now serving her second term as mayor of Newark. Mrs. Handloff was Newark's first president and the first state president. The Newark League now has 120 members.

The Dover and Laurel Leagues which were formed in the late 50s have a membership of 70 and 30 respectively.

Greater Wilmington's League is the largest, with 280 members. It was founded on March 24, 1953, with Mrs. Samuel Lord presiding. She was second state president, later ran for office in Wilmington, and became state senator. She ran for mayor of Wilmington but lost. She is now administrative assistant to the county executive in Jefferson County, Ky.

The State League was formed in March, 1958, after all three counties had Leagues.

One of Wilmington's early studies was conducted in the field of housing, mainly urban renewal, better known as slum clearance in 1954. When the city tore down 22 blocks east of Market Street as part of slum clearance, the League helped relocate some of the people.

From 1958–1960 the League worked toward the adoption of a merit system for New Castle County which finally became law in 1966 with the Reorganization Act. The League favored the merit system to rid the county government of patronage and a changing of hands after each election.

Sometimes League activities take on a festive air such as the fall cruise this year down the Chesapeake and Delaware Canal sponsored by the water committee. This committee has been studying the Corps of Engineers' plans for recreation along the canal. The purpose of the trip was to learn more about the canal, to see canal developments and changes proposed by the Corps of Engineers, to hear of plans for recreation along the canal, to understand interrelationships between water quality, navigation, economic demands and recreational needs. The committee was particularly interested in the modernization of the canal, which has been a waterway of economic importance since 1829. This modernization has been accomplished through the widening and straightening of the canal.

Wilmington's present activities follow the same pattern—the League in tackling any problem, works for a more responsible, more responsive and more effective citizenry. It does this in a variety of ways.

Activities or committees of the League include: voters service, speakers bureau, publications, water resources, representative government, Delaware State Constitution education, election systems in Delaware, transportation, comprehensive planning, human resources and community involvement project.

The League of Women Voters needs the help of various segements of the community to help carry out these and other programs not touched upon. "Its leadership is directing a special appeal to the business community. The business institution has become increasingly responsive to the concept that it must assume new and unaccustomed social responsibilities as a normal part of its function. The desirability of a government-business partnership in attacking urban ills is today commonly accepted as a sound springboard for progress. It is still a dilemma to many in business to determine where this kind of responsibility begins and ends.

"The League has established and tested procedures for bringing about social changes which have won praise from officials on all levels of government as well as from the business and academic communities. It does not seem inappropriate . . . to regard the League as an effective ally which can assist business in furthering some of its policies of social involvement." (From A Report to the Nation by the League of Women Voters of the United States.)

THE APPROPRIATIONS PROCEDURE

Mr. MANSFIELD. Mr. President, the distinguished Senator from Delaware had some questions to raise about bringing up the pending business.

Mr. WILLIAMS of Delaware. Is the Senator referring to the appropriation bill?

Mr. MANSFIELD. Yes.

Mr. WILLIAMS of Delaware. I have no objection. As the distinguished majority leader knows, under the present rules of the Senate, as amended several years ago, an appropriation bill is in order the day following the day it is reported. There is no question about that; unanimous consent is not required.

I wish to point out what I think is a questionable procedure in the Senate with respect to holding appropriation bills in committee until the last minute. Here we are in November and appropriation bills should have been acted upon by July.

These bills are reported around midnight, and the Senate is expected to pass them the next day.

In this bill we have an appropriation for $2.25 billion. The bill only came back from the printer at about 10 minutes of 11 today. Yet, the bill is to be laid before the Senate and made the pending business today. The old Senate rule was that, except by unanimous consent, appropriation bills had to lay over for 3 days. Not many Members insisted on the 3 days, but they did lay over so that Members could become familiar with the bills.

However, we are in a position now, under the rules we have today in connection with appropriation bills—and the appropriation could be for $2.25 billion or could be the $80 billion defense bill—that if a bill is reported by midnight it is eligible to be the pending business the next day. If the Senate were to come in early we could be asked to act on an $80 billion bill before it is back from the printer.

I appeal again to the Senate to recognize the mistake it made when it changed the rules a couple of years ago. I think our rules should be corrected so that there will be some assurance that Senators will have an opportunity at least to read these appropriation bills before being required to vote. Above all, I would like to see the leadership exercise some of its great powers, which I respect, to see that the Appropriations Committees get on the job and get these bills before the Senate so we can dispose of this unfinished business.

Appropriations bills are scheduled to be acted upon before July 1 of each year, and it is now November 4 with nearly all of the major bills awaiting congressional action.

I was interested in the remarks of my good friend the Senator from Washington (Mr. MAGNUSON) in connection with his proposal to change the fiscal year to January 1 rather than July 1. Presumably in that way we would pick up 6 months.

That reminds me of the story of the engineer who damaged the caboose whenever he backed up the train. He said, "I will take the rear car off the train and then I will not have trouble."

I think this proposed solution is somewhat the same. If the fiscal year is extended by 6 months and if these com-

mittees continue to be as dilatory as they have been this year, we shall be in the same situation as the engineer in taking the rear car off the train. It is not going to solve the problem.

I think we need to emphasize to the membership of the committees that they are being paid. This is their job, and while it is nice to go abroad on a junket, they should stay here and get these bills reported. Let us get this business done. Then we can take our vacations.

Mr. President, I want to cooperate with the leader; however, I think we must get these appropriation bills reported and acted upon. I think it is highly irresponsible to try to operate the executive branch by these continuing resolutions. I think something should be done. It needs to be done right here in Congress. It is my responsibility. It is the responsibility of every Member of the Senate. All I am appealing for is that we get down to business and get the work done.

Mr. MANSFIELD. I agree completely with the distinguished Senator from Delaware.

Mr. ALLOTT. I have been a member of the Appropriations Committee for 10 years. I do not want to prolong this colloquy because we want to get down to the business at hand. However, I cannot acquiesce in all that my very good friend from Delaware has said. I am not sure, although I have not yet looked at it, that the resolution introduced by the Senator from Washington is the answer, either. I want to set one thing straight. It is not the Appropriations Committee of the Senate which is holding up the legislative process. What is holding it up are the legislative committees of Congress who do not get the authorizations out in time.

I have just been informed by the distinguished senior Senator from Maine, for example, that just today, the 4th day of November, the conference committee met and decided upon an authorization for NASA. Here we are, on the 4th day of November, and the Subcommittee on Independent Offices of the Appropriations Committee has been ready to mark up the bill since before the recess in August. In fact, if it had had the authorizations, the Senate could have passed the bill before or by the 1st of August. So the real problem is being overlooked. The real problem is to get the legislative committees in action so that we can get the authorizations.

Mr. President, I have not seen any lack of diligence on the part of any Appropriations Subcommittee. There have been times, I must say, when the chairmen of those committees have been completely wound up and absorbed in other duties. The big delay—and this can be documented, and I am willing to defend it—has been in the authorizations area.

Mr. WILLIAMS of Delaware. I realize that in many instances it is the lack of authorizations, but again it is Members of Congress who approve authorizations for fiscal 1970 as well as appropriations that should have been acted upon. I say that what we need is a little more action to get the job done. Here we are in November, and we have only two or three appropriations bills cleared. Certainly, something is wrong. I think that the Senator from Colorado would agree with me that under existing rules, where we consider appropriation bills now as normal bills, the day after they are reported, is a rather loose arrangement. The rule should be changed.

Mr. ALLOTT. If the Senator will let me interject there, let me say that I want to agree with him on both counts. I certainly agree that we should have the normal length of time on the floor for the consideration of appropriation bills; but it is the responsibility of all of us who are members of legislative committees to get the authorizations completed.

Mr. WILLIAMS of Delaware. I agree with that. As I said, I want to make it clear that the majority leader said if any of us objected, he would carry the bill over today. I do not want the record to show that the majority leader was trying to ram this down our throats. The point I am making is that under the rules of the Senate, conceivably a motion can be motioned up with or without objection under the existing rules and made the pending business.

We might not always have a majority leader who will be as considerate as the one we have today. I am looking to the time when this question could be raised in the future and we would have someone acting as a majority leader, or another majority leader, who would want to take advantage of it. Thus, I think we should change the rules of the Senate and put them back as they were before we got this cockeyed ruling about 2 years ago, when the ruling was made for the convenience of the day, but has put the Senate subsequently in a straitjacket.

VIETNAM—PRESIDENT NIXON'S ADDRESS TO THE NATION LAST NIGHT

Mr. BAKER. Mr. President, there will be a lot of talk in the next few days and weeks about the President's speech last night.

I am sure there will be great defenses of what the President said and I am also sure that there will be great anguish and wailing because the President did not unveil the magic plan for peace now.

But as we listen to the piteous cries and the gnashing of teeth, I think we should remind ourselves of what the President told us last night.

We have, in fact, in the last 9 months, unveiled every plan available for peace now except "leave Vietnam and overthrow the South Vietnamese government on the way out."

That is the only magic plan for "peace now" that the North Vietnamese will accept.

Surely no reasonable American will accept that proposal.

Certainly any reasonable person anywhere in the world who really wanted peace would be willing at least to negotiate on the peace proposals that the President has advanced.

But not the North Vietnamese.

They have refused even to discuss our proposals. They have, the President tells us, agreed on only one thing—the shape of the bargaining table.

Mr. President, it is time those who clamor for peace now quit clamoring at the President and aim their slings and arrows at the real target—Hanoi.

It is time they quit blaming Lyndon Johnson and Dick Nixon and began placing the blame where it belongs—on Ho Chi Minh and his successors. It is time they began letting the President try to work out a peace that is something less than peace at any price, without forever lending aid and comfort to Hanoi by presenting the United States as the un-tied states.

It is time they made it possible for the President to negotiate less with Averell Harriman and more with the North Vietnamese.

It is time, indeed, that they came to grips with reality.

Mr. President, I venture to say that many of those who will talk and write critically in the next few days have reread the President's speech for only one reason—not to see what it offers, but to see where it can be used against him.

Their purpose is to divide our Nation, not to unify it. Their purpose is to rule the President or ruin the President.

Mr. President, I am ashamed for those who would destroy and not build in the name of peace. I am sorry for those who are taken in and who believe we can have peace at any price.

The President of the United States last night dealt honestly and candidly with the American people.

He told us where we have been, where we are, and where we are going. Perhaps the road behind is one we should not have traveled. Perhaps the road we are on is rough. But what is important today is the road ahead. It can be the road to humiliation for us as a people and a nation, or it can be the road we have always traveled, the road with the beacon light of freedom and justice and peace at its end.

Mr. President, it is up to us which road we will take.

Mr. JAVITS. Mr. President, I have heard a good deal of discussion on the floor of the Senate, and in other places, with regard to the President's speech of last evening. I see a very unfortunate tendency to erect strawmen and then to proceed to knock them down. These strawmen go with scare words such as "humiliation," "defeat," "betrayal," and "surrender," and the fact that someone has advised, even according to the President himself, "precipitate withdrawal."

Mr. President, I do not know of anyone in responsibility who advises precipitate withdrawal.

I do not know of anyone in responsibility who is counseling "defeat" or "surrender" on the part of the United States.

I hope very much that these strawmen, and other apparitions, will not be used to kill off the constitutional and, indeed, the natural right of every American, in complete patriotism, to advise the country on a course which that American, peaceably and in accordance with the Constitution, believes would be best for our Nation.

The President is too intelligent a man, himself, to assume that he is the sole repository of wisdom and that he can get no help from anybody else.

In addition, the whole argument is off on the wrong track, because it is not

what the President said—and he said some eloquent and moving things—it is what he did not say. I think the key to this whole debate is this one question, with which the President will ultimately have to deal because it will be demanded by the situation—not that there is a timetable, or that it is secret—but: "whose timetable is it?" Is it the timetable of the United States, according to the interests of the United States and its people, or is it the timetable of the government in Saigon? And is it possible to get from the government in Saigon the timetable which is the most suitable to—or even compatible with—our interests in the United States, unless they know they finally have to face the issue that we are going to disengage from combat and that it will be for them to take it over? Can they muster the valor or government organization or support of their people adequately to carry on the war for their own freedom unless and until they are faced with that alternative?

Nobody is talking about cutting off military aid or economic aid or even phasing out lock, stock, and barrel. Nobody is calling for precipitate withdrawal. We are not wild children running around hearing the sound of our own voices. But what I do say is that, having come to the aid of the South Vietnamese—we have not declared war; we have just come to their aid—there comes a time when it is necessary to look to our own interests and to say, "We have aided you as much as we humanly can. We have taken over the combat there. Now comes the time for you to do it. We have followed your national interest for 4 years. We have spent blood and treasure in unmeasured amount. Now it is time to follow our own national interest."

That is the real argument. That question has not been settled. The President did not even address himself to it last night. I hope the generalizations will yield to the specifics.

I will yield to no man in my respect for the President of the United States. I was deeply moved, as were many of my colleagues, I think, by some of the things he said last night. I think he made a splendid point in disclosing to the American people things which show America's good faith, which I do not doubt.

In my judgment, that is not the arguable question. What I think is the arguable question is the situation which we now face, which many of us feel has resulted from a built-in veto by the government in Saigon. How do you grasp that nettle? How do you deal with that issue?

I had no intention of speaking today on this matter, but I think it is necessary to have it in focus so that if we are going to debate it, at least we debate those matters which are in issue, rather than those matters which are not in issue and which have not been urged, as, for example, "precipitate withdrawal," to use the words of the President himself.

My own desire is to state the issue. For example, I think the resolution which the Senator from Kansas (Mr. DOLE) has proposed, with other Senators, in juxtaposition to the proposal of the Senator from New York (Mr. GOODELL), makes a tremendous contribution to the debate on Vietnam, precisely because it poses the issues very sharply, and in a very practical way. I feel the same way about the resolution proposed by the Senator from Rhode Island (Mr. PELL) and myself.

I hope Members of the Senate will not immediately jump to conclusions which are extreme in their nature about the President and confidence in the President. This President is too intelligent to expect anyone to follow him with his eyes shut. He himself is too cognizant of the responsibilities and duties of the Senate, let alone the people of the United States, to wish to put a damper on any creative thinking, even if it is in dissent.

The issue is, "Are we locked into this situation based upon Saigon's ability or willingness to measure up to the responsibility of taking up the combat herself"; or must the timetable for combat disengagement now be the interests of the United States? I submit that, if it is only the national interests of the United States and we are not locked into a Saigon timetable, our disengagement will move very fast.

Again, in justification of the President—because it is not an unmixed statement I am making—he started the policy of withdrawal. That is irreversible. What we are talking about now is the timing and the criteria for the timing rather than the path along which we are moving, which, in my judgment, is now irreversible.

Mr. ALLOTT. Mr. President, I had not intended to make any remarks on this matter again, but, in view of the statement of the Senator from New York, for whom I entertain great respect, I would suggest that he perhaps is guilty also of throwing up strawmen. He has thrown up two in his very brief argument, which I think ought to be answered and answered unequivocally. No one on this floor or in the United States is going to give up his right to express himself, even though that expression is a voice of dissent. We had dissent in the Revolutionary War. We had it in the War of 1812. We had it in the Mexican War. We had it in the Civil War. We had it in World War I. We had it in World War II. We had it in the Korean war. Now we have it in this one. So the question of whether people have a right to express themselves or not is not the issue. It was not raised by the President. It is not in issue now. No one denies that right. What the President has called for is an act of unity by the United States to terminate the war along the lines he has laid out.

Second, although the distinguished Senator from New York has many contacts and is well informed, I can tell him something, as a member of the Defense Subcommittee of the Committee on Appropriations, which perhaps he does not know. That is that within the 5 years prior to this administration we had been trying to get answers out of former Secretary of Defense McNamara, as well as his successor, Mr. Clifford, as to what they were doing to get the Vietnamese to move on their own. I heard Members on both sides question him as to why we could not get along faster and why they could not get them to take over the war. In all of those 5 years I never heard one answer—I repeat, one answer—which even tended to make us believe they were taking any effective steps.

So if nothing else has been done since the first of the year—January 20, to be explicit—this much has been done: The war has been turned around in an effort to get the Vietnamese to assume their responsibility for the defense of their country.

Having said that for history, I will say this for the future. I am not privy to the President's inside thoughts, but I am sure we are not moving at the complete will or whim of the Vietnamese. I am sure the President is much too intelligent a man, and much too shrewd a man, to let the policies of this country be determined by the whims of anybody in any government, whether it be Vietnam, or Israel, or Venezuela, or Chile, or Ecuador, or Bolivia, or wherever it may be.

What we are doing is trying to establish a concrete pattern of moving forward. I believe the President is doing that. In his report to the people last night, the President set forth not only the good things, but also the cold-hearted facts. A full disclosure of the situation is what the American people have wanted for a long time. I think the response in the next few weeks will reflect this fact, because far too long during the past several years there has been a credibility gap between what emanated from the White House and what was actually happening.

So I think, Mr. President, that we have demolished these issues. We are not on Vietnam's time schedule. We are on our own.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1970

The Senate resumed the consideration of the bill, H.R. 12964, making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1970, and for other purposes.

Mr. McCLELLAN. Mr. President, my remarks regarding the pending bill providing appropriations for the Departments of State, Justice, Commerce, the judiciary, and 14 related agencies will be rather brief. In my judgment it is a fairly good bill. It is not the best bill possible, nor is it all that I would desire. But the amounts included for the various activities should be ample to meet their necessary obligations this fiscal year. As Senators know, the departments and agencies have been operating under the continuing resolution for the past 4 months, and I am glad that we are finally able to get this bill to the floor for Senate action.

I noted what the distinguished Senator from Delaware said a little while ago regarding these continuing resolutions, that this is not the best way for Congress to function with respect to appropriations. I wholeheartedly agree with him. But many circumstances have de-

veloped—some of which the Senator referred to—which hinder the expedition of appropriation bills.

For a number of years I have sponsored, and the Senate has I believe four or five times passed, a joint resolution that would establish a Joint Committee on the Budget, to give the Senate and the House of Representatives a staff of experts to help both Houses prepare for committee hearings on appropriations, and be able to intelligently and appropriately challenge and question the executive agencies when they come before Congress seeking their appropriations. Today, it is almost an ex parte proceeding, and we are not, I am sure, achieving efficiency nor receiving, in many areas, value received for the dollars we appropriate; and I do not think we ever will until Congress equips itself with the personnel and the expertise that is necessary in dealing with a $200 billion budget with 2 or 3 million employees.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield to the Senator from Delaware.

Mr. WILLIAMS of Delaware. The Senator from Arkansas is correct, and I think the proposals he has made on various occasions, and that we have passed through the Senate many times but have not been able to get through the House of Representatives, would go a long way toward correcting some of the problems we are confronted with each year. As one who has supported those proposals, I hope that some day we will devise a better procedure than that under which we are now operating. It is long overdue, and I believe the Senator's proposal is sound. I know his efforts have been very diligent in that area.

Mr. McCLELLAN. I thank the Senator. I hope that, if the other body has a better suggestion, it will come forward with it, because there is urgent need for some change and some improvement in our present procedures.

As the report indicates, the recommended allowance is $315,276,800 above the total sum appropriated for the activities in fiscal 1969, and is a net increase of $34,315,500 above the total sum allowed in the House bill. However, the bill as recommended by the Senate committee is $105,754,900 under the revised budget.

For the State Department the committee has added $3,051,500. This increase includes $32,000 for the salary and related costs of two positions—an attorney and an engineer, to enable the American Section of the International Joint Commission to have continuity of employment and to better cope with the workload. Also recommended was $19,500 to cover the U.S. membership fees in two items under the appropriation for the International Fisheries Commissions, namely $10,000 for the International Council for Exploration of the Seas, and $9,500 for the International Commission for Conservation of the Atlantic Tuna. For the exchange program, $1.5 million was added to permit increased activity in the exchange of persons programs, including the Hays-Fulbright program.

For construction, by the United States section, of the International Boundary and Water Commission, the committee has added $1.5 million. This amount will provide the Commission with needed funds to continue repairs and improvements on the lower Rio Grande Valley, a joint venture project developed with Mexico following the Beulah flood in 1967.

For the Justice Department the committee has added $25,861,000 to the House recommendations. Of this sum, $25.5 million was added for the law enforcement assistance program to provide $275.5 million to carry out the administration's responsibilities authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968.

The budget figure for this item, as submitted by the President, was $296,570,000. The House of Representatives cut it down to $250 million. The administration asked for a restoration of $45.5 million. We have restored $25.5 million of that request.

Mr. President, this is one area where I would have been glad—for I think the need exists, and I think it is wholly justified—to approve the full amount of the budget request, and even more.

We have, however, taken into consideration, since we are now operating under a continuing resolution, the fact that by the time the money can possibly be made available for expenditure, 4 or more months of the current fiscal year will have expired.

We believe that this amount, in view of that situation, is ample and that to give any greater amount would possibly be appropriating more than it would be possible to expend judiciously.

This is a new program. It is still in an experimental stage. Although it is a program that is vital to the needs of our Nation and our national security, it is urgently needed and as quickly as the Department can develop and demonstrate its ability to administer the program effectively and efficiently, I for one Senator will be more than happy and anxious to vote for a very substantial increase in the fund.

I anticipate, and I believe that we can expect, that this item will increase each year for the next 2 years and perhaps for the foreseeable future as we undertake to strengthen the arm of law enforcement and combat more effectively the crime wave that is sweeping the Nation.

Specifically, the allowance we have made available would provide $21 million for planning grants; $215 million for action grants; $20 million for academic assistance; $14 million for the national institute programs which includes $1.5 million for the National Criminal Justice Information and Statistics Service; $1.2 million for technical assistance, and $4.3 million for general administration expenses.

An additional $361,000 was allowed for the salaries and expenses appropriation of the Bureau of Prisons to permit an increase of $200,000 for the medical program; $149,000 for three more halfway treatment centers and $12,000 more for civilian help needed in handling medical records at various institutions.

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

Mr. McCLELLAN. I yield.

Mr. FULBRIGHT. Mr. President, I was unfortunately engaged in a conversation when the Senator dealt with the items for the State Department.

I point out with reference to the education exchange program that I appeared before the committee at the time testimony was taken on that matter.

I thank the Senator from Arkansas, the chairman of the subcommittee, for restoring the $1.5 million for that appropriation and also, and especially, for changing the $8.5 million requirement on excess currencies to $4.5 million.

That was a very deceptive figure. $8.5 million could not be efficiently used. If it were used, it would distort the program out of all reason. So the changing of that figure and the restoration of the $1.5 million will, I think, enable the program to survive during this very critical period when the demands of the war are so great.

I point out to the chairman of the subcommittee that I think this is a very good investment. As the Senator knows, I recommended that it be increased at least to the budget estimate. However, I understand what the House has done and the pressures under which they operate.

I hope very much that the Senate will retain this very modest amount of $1.5 million which the committee has recommended.

This is not very much in view of the fact that some 47 countries, I believe, are participating in the program, and a great many of them, particularly the western European countries, have now begun to pay a share of the costs. In some cases, the countries have begun to pay their full share, that is 50 percent, of the cost of the educational program. I refer to some of the wealthier States. The program has become in some cases a fully mutual program and not a one-sided one.

I am very much appreciative of the Senator's enabling this program to survive. I was afraid that if we had not made some gesture of this kind, these countries would simply give up any hope that the program would ever be continued; that it would be discontinued and never revived. So I thank the Senator very much for his help.

Mr. McCLELLAN. I thank my distinguished colleague from Arkansas. Possibly we could have given more. The Senate committee might have allowed more. But we are under some stress to hold down expenditures.

I may say, about the whole bill, that in many areas the chairman simply went about as far as the Scotch strain in him would permit, taking into account the fiscal problems that confront our Nation. We may have some trouble in conference. I do not know whether the House will be adamant about the amount, or possibly be more adamant with respect to the change of language concerning foreign funds than with respect to the amount of the hard money increase. I do not know. Anyway, it would be my

hope that my colleague from Arkansas will be a member of the committee of conference. If we are unable to hold the item in conference, he will be present and will know the reason why. I shall do my very best, but we shall need the Senator's help.

Mr. FULBRIGHT. I thank the Senator. I shall do my best. I think, in view of the budget estimate and the cost, that we ought to be able to hold it. But I realize the difficulty, because I have been a member of conferences in the past.

Mr. McCLELLAN. For the Department of Commerce, the committee has added $28,179,000 to the recommendations of the House. Of that amount, $8,231,000 was added for the Economic Development Administration development facilities. I take full responsibility for this increase. It is one of our current programs. It is a modern program of Federal aid in which I strongly believe, because I know from observation of the experience of my State that when these dollars are expended, there is something tangible to show for them. The recipient gets something of value, something that he can look at, see, appraise, and evaluate. It is not intangible; it is there. It increases; it enhances the economy and the physical facilities for which the contribution is made. And I am hopeful that this amount will finally be approved.

As I stated, the sum of $8,231,000 was added for the Economic Development Administration, development facilities, to provide the full budget request of $178,231,000 for grants and loans authorized by the Public Works and Economic Development Act of 1965, as amended. We did not go beyond the budget, but we went to the full budget request.

There was $829,000 added to restore the 1969 base level of expenditures in the Operations and Administration account, and thus avoid a reduction in personnel strength needed to cope with the workload; $1,366,000 for the international activities program; $350,000 for expenses incident to demolition of the New York World's Fair pavilion; $1,385,000 for the Environmental Science Services Administration to provide $700,000 for air pollution forecasts, aviation weather forecasts and basic weather network expansion, also $685,000 more for the research and development programs; also allowed was $100,000 of the $344,000 request for the fire research and safety program, under the National Bureau of Standards. The additional $100,000 added to the $326,000 in the House bill will provide a total of $426,000 for this program in fiscal 1970. For ship construction, the committee has allowed the budget estimate of $15,918,000. This sum added to the carryover balance of about $102 million will make available in fiscal 1970 over $117 million. The committee recognized the fact that recent authorization for the item was $145 million and as such would be receptive to a supplemental request at an early date.

In other words, we did not undertake at this time to make an appropriation of the total authorization of $145 million. We had had no testimony with respect to it due to late passage of the authorization bill. It was the feeling of the chairman and other members of the committee—at least, some of them—that a supplemental request be submitted to Congress and be considered after appropriate hearings and after due deliberation with respect to the merits of the additional request for funding.

For the related agencies, the committee recommends a net reduction from the House allowance for this group of activities, distributed as follows: A reduction of $25 million in the Small Business appropriation for Business Loan and Investment fund, as testimony indicated it was not needed until 1971. So we struck that amount from the bill. But there are increases in the House allowances for the following activities: for the Foreign Claims Settlement Commission, $331,000; for the National Commission on Reform of Federal Criminal Laws, $50,000; for the office of Special Representative for Trade Negotiations, $77,000; for necessary expenses of the U.S. Information Agency, $1,500,000; this sum is one-half of the request to help fund the costs of overseas missions, media service, and administrative expenses, and for additional fairs and exhibitions behind the Iron Curtain that had been programed by the U.S. Information Agency, $266,000.

Mr. President, I realize that this is a brief outline of the bill and of the committee's recommendations, but I believe it is adequate to form a basis of discussion and to acquaint the Members generally with what the committee has recommended.

Mr. President, I yield to the distinguished Senator from Maine.

Mrs. SMITH of Maine. Mr. President, I believe that the committee has done a good job on this bill. In the first place, it has cut the proposed budget by nearly $106 million. In doing so, we were trying to do our part to make a meaningful contribution to the fight against inflation.

But we may not have done enough. I do hope that the full membership of the Senate will carry on the theme and momentum of the challenge to the Defense procurement authorization bill and scrutinize this appropriation bill to find places where other members feel that cuts can be made that the committee did not make.

I do hope that this bill will not go through unchallenged and without changes being made on the floor of the Senate. For otherwise there will be an indication that the full Senate really is not doing its job in seriously studying this bill but instead merely leaving the bill up completely to the committee.

We of the committee may be the experts because we have spent the time and the effort to study this bill in depth, to hold lengthy hearings, and to deliberate at length in the markup on the bill.

But surely we do not possess such omniscience, to the exclusion of all other Members of the Senate, that our judgment is infallible and to be accepted without question.

For example, upon my recommendation the subcommittee, with subsequent approval by the full committee, increased the amount for the mutual educational and cultural exchange program $1,500,000 over the house allowance and lowered the limitation in the bill for this program as passed by the House from $8,500,000 down to $4,500,000.

I recommended this change because it will allow the Department the use of more hard dollars to carry out its program and, more importantly, allow the Department to place its programs in countries where in its judgment they will do the best job rather than put programs into countries because foreign currencies are available.

I was greatly persuaded to make this recommendation because of the very eloquent appeal of the junior Senator from Arkansas (Mr. FULBRIGHT) and by great respect for his expertise as chairman of the Foreign Relations Committee.

Yet, I must recognize that he and I may not be right about this. If we are wrong, then I surely hope that someone in the Senate will point out where we are wrong and challenge this change.

Let not the spirit of reappraisal—whether it be agonizing or gratifying—that so brilliantly flamed on the defense procurement authorization die out or even dim the slightest. Instead, let it prevail.

Let it prevail on this bill. Let it prevail when we bring back the conference report on the defense procurement authorization bill.

Yes, let it prevail as we seriously scrutinize our foreign commitments and involvements when the foreign aid authorization bill comes to the floor for debate and later when the foreign aid appropriation bill is debated.

Let it prevail as it did on the Kennedy Center bill in the debate that aired the shocking state of affairs on that project.

We have tried to cut the fat out of this bill—but I am sure that there must be items in the bill where there is fat that can be cut out but which, in our own lack of knowledge, we failed to detect and on which specific items some Senators, not on the committee, have inside knowledge as to fat than can be cut out.

I urge Senators with such inside knowledge to point out the fat and offer amendments to cut that fat. Do not let this bill be passed perfunctorily without any challenge or attempted change.

Mr. President, I would like at this time to commend the distinguished chairman, the Senator from Arkansas (Mr. McCLELLAN), for the very thorough job he has done and the staff, Mr. Merrick, Mr. Kennedy, and Mr. McDonnell, for the fine job they did in assisting and bringing to the floor what I consider to be a very good bill.

Mr. McCLELLAN. Mr. President, I thank the distinguished Senator from Maine, the ranking minority member on the subcommittee. I have been very fortunate in the years I have served as chairman to have her valuable assistance and cooperation.

I can say truthfully that when we undertake to process this bill each year I cannot recall any partisanship. We go after this measure and give it the attention and study we think is required to provide those funds, the minimum funds, that are essential to the efficient and effective operation of the Government.

It is a very pleasant task for the chairman to have the cooperation he has had not only from members of the minority

and the ranking member of the minority on the subcommittee, but also the cooperation of his colleagues on the Democratic side.

As I recall nearly every item—I believe every item—was reported unanimously by the subcommittee and by the full committee. That does not mean there was complete unanimity of agreement. There is always some give and take. That is the only way we can arrive at these things. But it was an effort, a successful effort, to reach an understanding and report the measure. That kind of environment and atmosphere of cooperation and dedication is certainly a great pleasure to the chairman.

Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc, and that the bill as thus amended be regarded as original text for the purpose of amendment, provided that no point of order shall be considered to have been waived by reason thereof.

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

The amendments agreed to en bloc are as follows:

On page 8, line 13, after "1944", strike out "$400,000" and insert "$1,900,000".

On page 9, line 9, after the word "vehicles", strike out "$561,000" and insert "$593,000"; in line 14, after the word "of", where it appears the first time, strike out "two" and insert "the"; and, in line 16, after the word "President", strike out "(the other Commissioner to serve in that capacity without compensation therefor)".

On page 10, line 21, after the word "Congress", strike out "$2,335,000" and insert "$2,354,500".

On page 11, line 19, after "(31 U.S.C. 529)", strike out "$31,425,000" and insert "$32,925,000"; and, in line 20, after the word "than", strike out "$8,500,000" and insert "$4,500,000".

On page 19, line 7, after the word "Code", strike out "$74,179,000" and insert "$74,540,000".

On page 20, line 14, strike out "$250,000,000" and insert "$275,500,000".

On page 24, line 6, after "(79 Stat. 552; 81 Stat. 266)", strike out "$170,000,000" and insert "$178,231,000".

On page 24, line 23, after the word "for", strike out "$19,000,000" and insert "$19,829,000"; and, in the same line, after the word "than", strike out "$2,000,000" and insert "$1,200,000".

On page 25, line 19, after the word "abroad", strike out "$19,000,000" and insert "$20,366,000"; and, in line 20, after the word "which", strike out "$11,100,000" and insert "$12,466,000".

At the top of page 27, insert:

"PARTICIPATION IN U.S. EXPOSITIONS

"PARTICIPATION IN NEW YORK WORLD'S FAIR

"For an additional amount for 'Participation in New York World's Fair,' for the purposes of demolishing the U.S. Pavilion and restoration of the site at the former New York World's Fair, Flushing Meadows, New York, $350,000 to remain available until expended."

On page 28, at the beginning of line 13, strike out "$121,000,000" and insert "$121,700,000".

On page 29, line 2, after the word "instrumentation", strike out "$24,000,000" and insert "$24,685,000".

On page 30, line 14, after "(15 U.S.C. 278d)", strike out "$37,000,000" and insert "$37,100,000".

On page 31, after line 13, insert:

"SHIP CONSTRUCTION

"For construction-differential subsidy and cost of national-defense features incident to construction of ships for operation in foreign commerce (46 U.S.C. 1152, 1154); for construction-differential subsidy and cost of national-defense features incident to the reconstruction and reconditioning of ships under title V of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1154); and for acquisition of used ships pursuant to section 510 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1160); to remain available until expended, $15,918,000."

On page 42, after line 17, strike out:

"SEC. 404. None of the funds contained in this title shall be available for the salaries and or expenses of any deputy clerk in any District court clerk's office that does not accept applications for passports except in cities where the State Department presently operates passport offices."

On page 46, line 6, after the word "aliens", strike out "$450,000" and insert "$781,000".

On page 46, line 12, after the word "vehicles", strike out "$250,000" and insert "$300,000".

On page 48, after line 5, strike out:

"BUSINESS LOAN AND INVESTMENT FUND

"For additional capital for the Business Loan and Investment Fund, authorized by the Small Business Act, as amended, to remain available without fiscal year limitation, $25,000,000."

On page 48, at the beginning of line 16, strike out "$482,000" and insert "$559,000".

On page 51, line 25, after the word "organizations", strike out "$160,000,000" and insert "$161,500,000".

On page 53, line 16, after "(75 Stat. 527)", strike out "$2,500,000" and insert "$2,766,000".

On page 56, line 8, after the word "after", strike out "October 12, 1968" and insert "August 1, 1969".

AMENDMENT NO. 262

Mr. PASTORE. Mr. President, I call up my amendment No. 262 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Page 48, at the end of line 17 and before the period, insert the following: ": *Provided*, That all funds herein appropriated to the business loan and investment fund and all moneys hereinbefore or hereinafter appropriated to such fund, together with all moneys otherwise available to such fund, shall be available to meet guarantees bearing the full faith and credit of the United States of America heretofore or hereafter made by the Small Business Administration pursuant to section 303 (b) of the Small Business Investment Act of 1958, as amended."

Mr. PASTORE. Mr. President, I have in my hand a letter from the National Association of Small Business Investment Companies addressed to the Honorable JOHN A. MCCLELLAN, who is chairman of the subcommittee, on the particular bill we are discussing today. The letter reads as follows:

NATIONAL ASSOCIATION OF SMALL BUSINESS INVESTMENT COMPANIES,
Washington, D.C., October 21, 1969.

Hon. JOHN L. MCCLELLAN,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR MCCLELLAN: Two members of the National Association of Small Business Investment Companies from the State of Rhode Island met earlier today with Senator Pastore at the present time because of the inability of the Small Business Administration to make loans to SBICs.

The Johnson and the Nixon Administrations have cut off direct funding of the SBIC program as a part of their anti-inflation drives and have sought to replace it with a system under which SBICs would borrow money privately with the assistance of a guaranty issued by SBA. The managers of the sources of these borrowed funds, however, have raised the question whether SBA has the power to back up such a guaranty.

The Comptroller General has ruled that SBA has the authority to guarantee these borrowings in a letter written to SBA in 1968. On the other hand, the Attorney General has not issued a similar ruling and the private money market requires either such a ruling from the Attorney General or clear legislative direction on this point.

In order to expedite Congressional action in clarifying this uncertainty, our industry has explored several courses of action.

Senator Pastore has been a long-time supporter of the SBIC program and desires to add a sentence to the SBA Section of H.R. 12964, making appropriations for the Departments of State, Justice, and Commerce, and the Judiciary, and related agencies for the fiscal year ending June 30, 1970, and for other purposes. The brief sentence would clarify any possible questions about the propriety of the use of SBA appropriations to honor guarantees made pursuant to Section 303(b) of the Small Business Investment Act of 1958.

Senator Pastore asked me to inform you of his wish to assist the SBIC program through this action and to ask your indulgence in bringing the proposal before your Subcommittee.

Naturally, the officers and the staff of our Association stand ready to answer any questions you or your staff might have.

Thank you.

Sincerely,

WALTER B. STULTS,
Executive Director.

Mr. President, I raised this matter before the subcommittee and the chairman, the Senator from Arkansas (Mr. MCCLELLAN), suggested that I take up the matter before the full committee in marking up the bill, which I did. At that time the question arose that this was language on an appropriation bill and, rather than to act on it in committee, that it should be brought up on the floor of the Senate.

Referring now to the report on the bill, at page 33 the following language appears:

The 1970 budget contemplates the use of up to $40 million to guarantee loans to small business investment companies from the business loan and investment revolving fund, provisions governing which are contained in this bill. The committee unanimously authorized Senator John O. Pastore to offer the following amendment on the floor:

The amendment I am offering is exactly the same as has been spelled out in the committee report on page 33.

Not being satisfied with the letter I received from the National Association of Small Business Investment Companies I asked the Honorable Joseph T. McDonnell, who is one of our staff members, to pursue this matter. He furnished me with a memorandum, after consultation with the Small Business Administration, and the Small Business Administration is in complete accord with the amendment. The modified amendment

was drawn with their approval and at their suggestion.

Mr. President, I ask unanimous consent that the memorandum be placed in the RECORD, as an explanation of what this is all about.

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

MEMORANDUM TO SENATOR JOHN O. PASTORE, OCTOBER 30, 1969

From Joseph T. McDonnell.

Subject: Proposed Amendment to the State, Justice, Commerce, Judiciary, and Related Agencies Appropriation Bill clarifying the authority of the Administrator of SBA to guarantee loans made to Small Business Investment Companies.

Pursuant to your request, the following information is submitted regarding the need for your amendment to the Small Business Investment Act. In compiling this information, conferences were held with officials of SBA and the National Association of Small Business Investment Companies.

For the past 18 months, the SBICs have been unable to replenish their capital requirements by borrowing from private financial institutions, due to the fact that the authority of the Administrator of SBA to guarantee these loans has been in question. The Senate, on August 13, 1969, passed S. 2540 to amend the Small Business Investment Act in order to clarify the Administrator's authority. This bill is now pending before the House, but there is no indication as to when action will be taken.

On March 20, 1968, the Comptroller General, in a letter addressed to the Administrator (copy attached), ruled that under the 1967 amendment to Section 303(b) of the Small Business Investment Act, the Administrator did have such authority. Due to the fact that Congress, in passing the 1967 amendment, deleted wording in Section 303 (b), the question presented to the Comptroller General was whether deletion of the said wording was indicative of Congress' refusal to grant the Administrator authority to guarantee such loans. In essence, the Comptroller General ruled that even though the Congress had inserted specific authority in Section 303(b) and then had deleted the clarifying language in 1967, such would not divest the Administrator of his authority to guarantee loans. The ruling of the Comptroller General was predicated on the fact that there was no mention in the legislative history of the clarifying language, and it was therefore concluded that in the absence of any legislative history, the deletion was actually unintended.

Even with the ruling of the Comptroller General, private financial institutions, for the past 18 months, have taken the position that without a concurring opinion of the Attorney General, the authority of the SBA Administrator is still under a cloud.

The basic reason for your offering an amendment to this appropriation bill is to give the assurance required by the private financial institutions. Said amendment, even though such would be legislation in an appropriation bill, is believed to be germane for the reason that the appropriation for SBA is contained in this bill. Further, the original Johnson budget and the Nixon budget for FY 1970 contemplated the use of up to $40 million in the "business loan and investment fund" to guarantee loans from private sources to small business investment companies. (It should be noted that this $40 million is not a direct appropriation, but simply a limitation on the said revolving fund which is set forth in the budget.)

As indicated above, the small business investment companies have been unable to replenish their capital by borrowing from private financial institutions because of the cloud on the Administrator's guarantee authority. This has caused an undue hardship on small business companies which look to SBICs for equity and loan type financing. This hardship has been intensified by the high interest rates in effect at the present time.

The existing situation, which your amendment would correct, has also imposed a hardship on small business investment companies by reason of the fact that they have not been able to replenish their loan funds. It is alleged that even assuming that small business investment companies could have borrowed money during the last 18 months, they would have had to pay in excess of 15% without said guarantee. This is significant because the said SBICs are precluded by law from charging more than 15% to their borrowers. Therefore, the more that money costs them—assuming that such is available—the narrower their operating margin becomes.

In consultation with officials of the SBA, your proposed amendment has been revised so as to clarify the language therein. A copy of the revised amendment, together with suggested report language, is attached. It is suggested, if this amendment is inserted in the bill, that such be done on page 47 at the end of line 19, as a proviso.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., March 20, 1968.

Hon. ROBERT C. MOOT,
Administrator, Small Business Administration.

DEAR MR. MOOT: By letter of February 12, 1968, you stated that it is your desire, under authority of section 303(b) of the Small Business Investment Act of 1958, as amended, 15 U.S.C. 683(b), to increase participation of the private sector of the national economy in Small Business Administration lending programs by encouraging institutional lenders to finance small business investment companies, through guaranteeing such loans made by institutional lenders to SBIC's.

You point out that this would be similar to a liquidity guaranty program initiated by SBA in 1961 under which lenders could require SBA to purchase the outstanding balance of a loan at any time, but that the present proposal contemplates guaranty against default. You request that we confirm your authority to engage in the proposed program.

Section 303(b) of the act, prior to its amendment by section 205 of the Small Business Investment Act Amendments of 1967, Public Law 90–104, 81 Stat. 270, provided that:

"To encourage the formation and growth of small business investment companies, the Administration is authorized (but only to the extent that the necessary funds are not available to the company involved from private sources on reasonable terms) to lend funds to such companies either directly or by loans made or effected in cooperation with banks or other lending institutions *through agreements to participate on an immediate or deferred (standby) basis.* * * *." (Italics supplied.)

The underscored language was added by Public Law 88–273, approved February 28, 1964, 78 Stat. 146. By decision of September 4, 1962, B–149685, this Office had ruled that authority existed for the guaranty program initiated by SBA in 1961, despite the absence of specific authorization therefor. The underscored language was added in 1964 to make clear by specific statutory reference that the Congress concurred in the exercise of such authority. See our decision of March 15, 1965, B–149685, wherein we relied upon section 303(b) as quoted above together with its legislative history to support the conclusion that SBA was authorized to institute a program identical to the one which is now in question.

The reason for the question arising lies in the fact that the 1967 amendments rewrote section 303(b) to revise significantly the basic structure of SBA financing for SBIC's. In making this revision, the Congress deleted the words "or deferred (standby)" from the phrase underscored in the portion quoted above. Although the legislative record discloses in precise detail the reasons and purpose for rewriting section 303(b), we do not find any mention of intent related to deletion of the critical words which specifically authorize deferred participation loans. See House Report No. 660, September 25, 1967, at page 9; and Senate Report No. 368, June 27, 1967, at page 13.

In 1962 we held that bank disbursed programs under guaranty by SBA were authorized irrespective of the lack of specific statutory provision therefor, and it followed that insertion of the specific authority embodied in the underscored portion of the quote was, in a sense, superfluous. However, the specific clarifying language having been provided, can it be said that its deletion carries no legal significance?

Ordinarily, we would be required to give some meaning to the kind of change in statutory language in question. Nevertheless, in the instant case, we believe the only meaning we could ascribe—that deletion of the words involved was intended as a cancellation of the authority they covered—is so at variance with the prior history of the statute, that in the absence of any related explanatory material in the legislative history on such an important aspect, we are reluctant to conclude that the deletion was legislatively so intended. In other words, we believe that from the standpoint of the Congressional intent in rewriting section 303(b), omission of the words "or deferred (standby)" may well have been inadvertent.

Accordingly, you are advised that we will not object to your exercising authority to guarantee bank loans made by institutional lenders to SBIC's, provided that the Committees on Banking and Currency of both the Senate and the House of Representatives state their approval of the proposed plan.

A copy of this letter is being furnished to the Chairmen of the Senate and House Banking and Currency Committees.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

Mr. PASTORE. Mr. President, I might say at this juncture that I realize the desire of the committee that we not have recorded votes today. As far as I know there is no objection to the amendment. I have discussed the amendment with the Senator from Maine, the gracious lady, MARGARET CHASE SMITH. She is in accord with the amendment. I have been unanimously directed by the Committee on Appropriations to propose this amendment on the floor.

Therefore, I ask for the question on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. McCLELLAN. I wish to make this observation. Ordinarily, as chairman of the committee, I would not agree to this procedure because I think it is very, very bad practice, to legislate on appropriate bills, but we do have a situation which is clearly an emergency from my viewpoint, and that is we have funds appropriated that cannot be used until and unless legislation, so to speak, is enacted. If we do not enact it, we might as well not appropriate the funds. If we do not appropriate the funds, many small businesses in this country will suffer. That is the intention of the appropriation in this

program, to give assistance to small business by guaranteeing loans that they may secure from private vending agencies. I think it is a good program. I think it is a situation now which warrants this action. For that reason, I have gone along with the procedure.

However, I would not want anyone to regard this as a precedent, that any time legislation is needed they might offer it on this appropriation bill without finding some objection on the part of at least the chairman or other Members. But this is an unusual situation which warrants this procedure, and therefore I have no objection to it and I hope that the amendment will be agreed to.

Mr. PASTORE. I want to thank the Senator from Arkansas for his clarifying statement. I add only this to it, that we have already passed in the Senate the authorizing legislation which is identical in effect to the language I am proposing here today.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment was agreed to.

Mr. McCLELLAN. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. PASTORE. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BYRD of Virginia. Mr. President, I send an amendment to the desk and asked that it be stated at this time, and then I wish to address a parliamentary inquiry to the Chair.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 13, after line 10, insert the following:

"SEC. 106. It is the sense of the Congress that the President shall not enter into any agreement or understanding, the effect of which would be to change the status of any territory referred to in Article 3 of the Treaty of Peace with Japan, without the advice and consent of the Senate."

Mr. BYRD of Virginia. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Virginia will state it.

Mr. BYRD of Virginia. I should like to ask the Chair whether the amendment which I have just submitted would be subject to a point of order.

The PRESIDING OFFICER. The Chair is informed by the parliamentarian that this is a sense resolution that does not involve legislation.

Mr. BYRD of Virginia. I thank the Chair. I interpret the Chair's ruling to mean that the amendment can be appropriately and properly presented to the pending legislation.

The PRESIDING OFFICER. The Senator from Virginia is correct.

Mr. BYRD of Virginia. Mr. President, I should like to address myself briefly to the amendment. I do not seek a vote this afternoon.

Mr. President, later this month, the Prime Minister of Japan, Mr. Sato, will come to the United States to discuss with the President the future status of the Ryukyu Islands, the principal one being Okinawa.

There will be a difference of views among Members of the Senate as to what the future role of Okinawa shall be. There will be some Members who will oppose any change in the present status, the present status being that the United States has sole and exclusive control over Okinawa.

There will be other Members of the Senate who will feel that there should be a change, and that Okinawa should revert to the administrative control of Japan.

Mr. President, my amendment does not suggest what the future status of Okinawa shall be. It does not in any way circumscribe the State Department or the President in negotiating with Prime Minister Sato, or other officials of the Japanese Government.

What the amendment provides is that it shall be the sense of Congress that whatever changes the administration concludes to make with the Japanese Government, affecting the treaty of peace with Japan, shall come to the Senate for ratification.

The treaty of peace with Japan was ratified by the Senate in 1952. It was under that treaty that the United States was given control over the Ryukyus which includes Okinawa.

Because the treaty governing control over the Ryukyus was ratified by the Senate, it is my view that any changes in the treaty should come to the Senate for approval or disapproval.

Mr. President, I do not argue whether it would be wise or unwise to change the treaty of peace with Japan. What I am suggesting to the Senate is that whatever changes are deemed desirable by the executive branch not become effective by unilateral action, but that they come before the Senate for its approval or disapproval.

It was only a few weeks ago—a few months ago, perhaps—that the Senate adopted, I believe unanimously, the national commitments resolution which was presented to the Senate by the distinguished Senator from Arkansas (Mr. FULBRIGHT), chairman of the Foreign Relations Committee. The purpose of that national commitments resolution was to attempt to restore to the Senate some of the constitutional prerogatives which are Senate's, but which, in my judgment, and apparently in the judgment of many Senators, have been taken over in recent years by the executive branch.

So this amendment, which will be presented tomorrow, is, in reality, the first opportunity that the Senate has had to pass on a specific issue coming before the Senate since the national commitments resolution was adopted by this body.

I want to emphasize again, Mr. President, that the amendment does not in any way circumscribe the State Department or the Chief Executive of our Nation in his negotiations with the government of Japan. But it does say, "Whatever decisions you make must then be submitted to the Senate of the United States for approval or disapproval." That, as I see it, is the constitutional process under which our Government is supposed to work.

I feel that in recent years the executive branch of the Government has assumed too much authority, and I think the Senate of the United States has helped the executive branch assume authority by refusing to demand that its own constitutional prerogatives be upheld. I feel that we have given away many of our responsibilities.

Here is an opportunity, on a vitally important issue, to decide whether there shall be a change in the control of the greatest military base complex that the United States has in the far Pacific—namely, Okinawa—by unilateral executive action, or whether such action taken by the President, to be effective, must be submitted to the Senate for its consideration, advice, and consent.

I shall not detain the Senate longer today. Tomorrow I would like to present a few additional facts in regard to the amendment and mention some other aspects of the problem of Okinawa which faces the United States.

I think it will be a very important mission which the premier of Japan will undertake on behalf of his government when he comes to the United States on the 18th of this month. I think it is very desirable at this time to focus on the question of Okinawa. I think the Japanese Government should understand that, while the negotiations properly will be carried out by the executive branch of the Government, the Senate of the United States will participate in the final decision by having the opportunity to accept or to reject whatever commitments are made to that government on behalf of the United States.

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

Mr. THURMOND. Mr. President, will the Senator withhold that request?

Mr. HOLLAND. Mr. President, I am glad to withdraw the suggestion of the absence of a quorum, if the Senator wishes me to.

Mr. THURMOND. Yes. Mr. President, will the Senator from Virginia yield?

Mr. BYRD of Virginia. I am glad to yield.

Mr. THURMOND. I would like to commend the able and distinguished Senator from Virginia for the fine presentation he has made on the Okinawa situation. I have been to Okinawa, and I have studied that section of the world considerably in connection with our responsibilities around the world.

It is my firm conviction that it is vital,

under present circumstances, that we retain Okinawa. It is the only part of the Far East we can hold on to. In my judgment, it would be a great mistake if we allowed Okinawa to go back to Japan in the next few years.

The time may come, in the years ahead, when we feel we can do it without jeopardy to the security of our country and our people. Under present circumstances, especially with a war going on in Vietnam, it seems to me it would be foolhardy to consider allowing Okinawa to go back at this time.

I want to request that I be associated with the remarks of the able Senator from Virginia.

Mr. BYRD of Virginia. I thank the distinguished Senator from South Carolina.

PRESIDENT NIXON'S SPEECH ON VIETNAM

Mr. THURMOND. Mr. President, last night the President of the United States called upon the Nation to support him in his efforts to conduct an orderly windup of the Vietnam war and thereby achieve a just and honorable peace.

In this endeavor, President Nixon has my support and I believe the support and prayers of the people of the Nation. This country wants no part of a precipitate withdrawal which would dishonor the over 40,000 American men who have already died in this conflict. Moreover, it is my view the people want a conclusion of this conflict which will help insure a lasting peace and prevent the dispatch of American boys to other foreign shores as the forces of world communism continue to press for world domination.

In his speech last evening President Nixon disclosed numerous efforts he has made since the mandate of leadership was placed on him by the American people last November. These efforts have borne little fruit, as was the case with those of the previous administration. Nevertheless, I commend the President for making them and hope he will continue to exercise every initiative for a just peace.

It is easy for some of the President's critics to rise here on the Senate floor and elsewhere to propose immediate withdrawals of U.S. troops and other moves. The words spoken here are like the fall leaves, blown about, and where they will land nobody knows—for the real responsibility of the actions taken in Vietnam will not rest upon any of us here, but upon the President of the United States. He is not moved when some say if immediate withdrawal is ordered the shame of surrender and the blood of the innocent will not be laid at his doorstep. He is taking the high road, the only course open to a nation such as ours.

In carrying forward an orderly disengagement, the President has told the North Vietnamese these withdrawals will be based partially on the current reduction of enemy infiltration and reduced U.S. casualties. We could not possibly hand total responsibility of the war over to our allies in the face of rising enemy attacks and accelerating U.S. casualties. To do so under such circumstances would amount to retreat and defeat on the battlefield and write off the lives of countless innocent men, women, and children. As the President so succinctly stated:

North Vietnam cannot defeat or humiliate the United States. Only Americans can do that.

The Nixon peace plan is new. Early reports of reaction to the President's speech indicate some think his remarks are nothing more than an extension of the Johnson policy. A study of the President's remarks will show otherwise. He is moving to Vietnamize the war—this was not the policy of the previous administration. They talked about it at times, but it was never supported with the wherewithal necessary for implementation. The South Vietnamese were given only castoff equipment, and not enough of that to be an effective fighting force. Just last year did we start giving M–16 rifles to the South Vietnamese forces. At the same time they faced well supplied enemy units of North Vietnam which were equipped with excellent Soviet weapons. No nation, no matter what its will, can succeed against well supplied invaders if they are outmanned and outgunned. This has been the case until recent concrete steps were taken by Secretary of Defense Melvin Laird to give our allies a chance to carry a fuller share of the load.

Mr. President, this speech last night was the most frank and candid statement the American people have ever heard on the actual circumstances involved in the Vietnam war. It represented an act of great courage, because the President of this country refused to buckle under to a shrill minority who is urging a sellout. This speech will mark a turning point away from piecemeal surrender. The President has offered a sound plan, an orderly plan. If he is supported by the American people, and I think he will be, he has raised the hopes of mankind for achieving a just peace in an exceedingly complex military involvement.

Finally, Mr. President, I ask unanimous consent that a press release I issued last night, November 3, in response to the President's address, be printed in the RECORD at the conclusion of these remarks.

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

STATEMENT BY SENATOR STROM THURMOND, REPUBLICAN OF SOUTH CAROLINA, IN REFERENCE TO PRESIDENT NIXON'S VIETNAM SPEECH

President Nixon has made it clear that a peace which results in a Communist victory is totally unacceptable. The President has called on all Americans to support his policy of bringing a just and lasting peace to Vietnam, and he deserves our support in this difficult task. The President's policy is geared toward turning over the fighting to a strengthened South Vietnam and subsequent withdrawal of American troops. Thousands of American men have given their lives in Vietnam, and their lives must not have been lost in vain.

It is time for the great "silent majority" of hard-working, tax-paying Americans to stand up for freedom or the vocal, militant minority will destroy the rights of all men to choose their own destiny.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1970

The Senate resumed the consideration of the bill (H.R. 12964) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1970, and for other purposes.

Mr. BYRD of Virginia. Mr. President, I call up my amendment which is now at the desk, and ask that it be stated and made the pending business.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

On page 13, after line 10, insert the following:

"SEC. 106. It is the sense of the Congress that the President shall not enter into any agreement or understanding, the effect of which would be to change the status of any territory referred to in Article 3 of the Treaty of Peace with Japan, without the advice and consent of the Senate."

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER FOR ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon tomorrow.

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

LIMITATION ON PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business tomorrow be limited to 30 minutes.

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

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1970

The Senate resumed the consideration of the bill (H.R. 12964) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1970, and for other purposes.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, following the conclusion of routine morning business tomorrow, debate on the pending

amendment offered by the Senator from Virginia (Mr. BYRD) be limited to 2 hours—as to that amendment and all amendments thereto.

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

Mr. BYRD of West Virginia. I ask unanimous consent that debate on all other amendments be limited to 1 hour.

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

Mr. BYRD of West Virginia. I ask unanimous consent that the time on each amendment be equally divided between the offerer of the amendment and the majority leader; or, if the majority leader favors the amendment, the minority leader; or, if he favors the amendment, any Senator whom he may designate.

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

Mr. BYRD of West Virginia. I ask unanimous consent that time on the bill tomorrow be limited to 1 hour, to be equally divided between the majority and minority leaders.

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

The unanimous-consent agreement was subsequently reduced to writing, as follows:

Ordered, That, effective on November 5, 1969, at the conclusion of routine morning business, during the further consideration of the bill (H.R. 12964) an Act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies, for the fiscal year ending June 30, 1970, and for other purposes, debate on any amendment (except the pending amendment offered by the Senator from Virginia, Mr. BYRD, on any amendment thereto, on which there shall be 2 hours) motion, or appeal, except a motion to lay on the table, shall be limited to 1 hour, to be equally divided and controlled by the mover of any such amendment or motion and the majority leader: *Provided*, That in the event the majority leader is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or some Senator designated by him: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the majority and minority leaders: *Provided*, That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion, or appeal.

Mr. BYRD of West Virginia. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PRESIDENT NIXON'S SPEECH ON VIETNAM

Mr. MILLER. Mr. President, last night the President of the United States again took the American people into his confidence and gave them a forthright picture of where we are in the Vietnam war and what we are trying to do.

The White House had taken pains to warn newsmen to not try to speculate on what the President would say and to avoid sensationalism which such speculation would invite. Nevertheless, because the President did not come out with some new, dramatic statement, certain members of the press were disappointed and critical. On the other hand, I would suggest that a great majority of the people of the country, who are not, perhaps, as familiar with affairs of state as are some of the members of the press, derived considerable benefit from President Nixon's statement. He included certain events which are well known to some, but to most are not well known and, in any event, bear repeating. An example would be his quotation from the late President Kennedy:

> We want to see a stable government there carrying on the struggle to maintain its national independence. We believe strongly in that. We're not going to withdraw from that effort. In my opinion for us to withdraw from that effort would mean a collapse not only of South Vietnam, but Southeast Asia, so we're going to stay there.

Another example would be the murder by the Communists in North Vietnam of 50,000 people following their takeover there 15 years ago. Another example would be the murder of 3,000 civilians during the brief period that North Vietnamese troops held the South Vietnamese city of Hue during the Tet offensive.

No, the President did not announce a new, dramatic call for a cease-fire. He merely repeated our offer to North Vietnam to have a cease-fire under international supervision. He did not announce a scheduled timetable for withdrawal of troops, as some have demanded, because—as he has previously stated—this action would remove any incentive for the enemy to negotiate an agreement—something that would seem to be rather obvious.

Because he did not do so, the so-called "critics" have responded by saying they will continue their negative criticism. These same individuals were told a long, long time ago by people who knew that open, public dissent would merely cause North Vietnam to harden its position and prolong the war. And, indeed, the war has been prolonged—with the added casualties such prolongation has meant. They apparently do not care that their continued criticism means further prolongation of the war—although, if they were among the fighting men in Vietnam who bear the real burden of the war, they might feel differently.

There would really be no point in the President's trying to satisfy these people by announcing new troop withdrawals. They would only respond by more negative criticism and say the President was not doing enough. And so the President, sustained by his own belief plus the recent Gallup poll showing 58 percent of the people support his efforts and only 32 percent disapprove, will persevere in his plan of orderly withdrawal consistent with an honorable end of the war.

I would hope that those who are inclined to assemble peaceably in the name of a moratorium would disown those radical leaders who could not care less about prolonging the agony of war and join together in a great show of unity in support of the President so that the Communist leaders of North Vietnam will understand that they have nothing to gain from persisting in depriving the people of South Vietnam of their right to self-determination by armed aggression. And I would hope that the handful of my colleagues who have been resorting to negative criticism of the President would do the same.

IN SUPPORT OF PRESIDENT NIXON'S SPEECH

Mr. DODD. President Nixon's report to the American people on television last night was a courageous and statesmanlike address. It was in the best tradition of the American Presidency.

The speech was addressed in the first place, as the President himself said, to the silent majority of the American people. I am confident that this silent majority will respond affirmatively to the President's forthright presentation of the facts and of the choices before him.

For the choice is brutally simple.

The choice is between purchasing peace through an unconditional surrender to Vietcong aggression, and seeking peace with freedom and honor through the graduated de-escalation of the conflict and the phased withdrawal of American forces.

It was a remarkably honest speech, devoid of the false optimism which fostered a serious credibility gap under previous administrations.

In setting forth the record of our numerous initiatives for peace, including the secret exchange of correspondence with Ho Chi Minh, President Nixon established a new relationship of trust between the administration and the American people.

Any fair-minded American who listened to the President's recitation of the numerous concessions we have made in the interest of peace, would have to conclude that the protesters have misaddressed their complaints, that, if they really want peace, they should be telling it to Hanoi rather than to Washington.

But while assuring the South Vietnamese people and the world that we intend to live up to our commitments, President Nixon made it emphatically clear that there will be a very substantial reduction of the American military presence in Vietnam over the coming period, as our South Vietnamese allies expand their armed forces and improve their quality.

According to the accounts of many observers, even critical observers, enormous progress has been made in this direction.

Needless to say, the President's speech will not satisfy many of those who have been involved in the demonstrations against the Vietnam war.

There are those who have been agitating for an immediate withdrawal of American forces from Vietnam because they are committed to the victory of our

enemies and to the destruction of our society. They have engaged in continuing communication with our enemies, and they have sought in every possible way to undermine the morale of our soldiers and the morale of the home front. Such elements play an altogether disproportionate role in the leadership of the forthcoming march on Washington.

Others who urge an immediate American withdrawal are at least frank enough to admit that such a withdrawal means accepting defeat. They even talk about trying to find havens for anti-Communist Vietnamese whose lives would be endangered by a Communist takeover. What they do not realize is that if it ever came to the calamity of a Communist victory in South Vietnam, the number of refugees would have to be measured not in the hundreds of thousands but in the millions.

Still others try to deceive themselves and deceive the American people by pretending that an immediate withdrawal would not necessarily be interpreted as an American defeat.

But let no one imagine that we can surrender "on the cheap" or that the Communists will oblige with some face-saving arrangement.

On the contrary, they will seek to humiliate us to the utmost, to defeat us "stinking," as a top European expert recently put it.

If we now surrender in Vietnam, American honor will be nonexistent.

Our credibility will be zero, with friends and foes alike.

The system of alliances we have so painfully constructed in Europe and Asia will crumble.

Our country will be a thousand times more divided and polarized than it is today.

On every front the Communists will be encouraged to go over to the offensive.

It is my earnest hope that Congress will give the President of the United States the support to which he is entitled in seeking peace with freedom and honor in Vietnam.

It is my hope that those Congressmen who have, out of understandable frustration, called for our immediate withdrawal from Vietnam will reconsider their position in the light of the President's appeal.

The situation is far from hopeless. There are solid reasons for optimism.

According to reports from a wide variety of sources, the Vietcong insurrection is going downhill, and the fighting in Vietnam has been waning because the Vietcong are suffering from loss of morale and a sharp reduction in popular support.

Only this morning, the press reported that Vietcong defections in the month of October hit the all-time record level of 5,615, bringing the total for the year thus far to more than 40,000.

The article quoted Maj. Rudolf Fromm, psychological operations officer in Binh Duong Province, as stating that Vietcong local force units are now more frequently defecting in small but complete units. He was quoted as saying:

For the first time since I have been here we have been finding in our interrogations that the feeling among these people is that they are not going to win the war.

There is very reason, therefore, why we should persevere and why the American people should heed the President's closing appeal. This is what he said:

Let us be united for peace. Let us also be united against defeat. Because let us understand—North Vietnam cannot defeat or humiliate the United States. Only Americans can do that.

VIETNAM POLICY—WHAT ROBERT KENNEDY SAID

Mr. HANSEN. Mr. President, at the heart of President Nixon's determination to reduce U.S. participation in the Vietnam war gradually rather than precipitately is his conviction that precipitate withdrawal would sabotage the long-term cause of peace.

Mr. President, few public figures have so persuasively argued the case for reducing the level of U.S participation that existed under the previous administration as did the late Senator Robert F. Kennedy. But he, too, recognized that this would have to be done in a way that did not betray our essential trust. As he put it in a book "To Seek a Newer World" published only a few months before his assassination:

Withdrawal is now impossible. The overwhelming fact of American intervention has created its own reality. All the years of war have profoundly affected our friends and our adversaries alike, in ways we cannot measure and perhaps cannot know. Moreover, tens of thousands of individual Vietnamese have staked their lives and fortunes on our presence and protection: civil guards, teachers, and doctors in the villages; mountain tribesmen in the high country; many who work for the present benefit of their people, who have not acceded to the Viet Cong even though they may not support the Saigon government. Many have once already fled the dictatorship of the North. These people, their old ways and strengths submerged by the American presence, cannot suddenly be abandoned to the forcible conquest of a minority.

Beyond this is the more general question of the American commitment, and the effect of withdrawal on our position around the world. Without doubt, the so-called "domino theory" is a vast oversimplificatin of international politics. In Asia itself, China is the biggest of all possible dominoes; yet its fall to the Communists in 1950 did not cause Communist takeovers in its neighbors (though it participated in the Korean war and aided the cause of the Viet Minh rebellion already underway). Burma, which refused military and economic assistance from the United States, repressed two Communist insurgencies without interference or disturbance by the Chinese. The Cuban domino did not lead, for all Castro's efforts, to Communist takeovers elsewhere in Latin America. Nor did the collapse of Communism in Indonesia in 1965 seem to weaken the Communist regime in North Vietnam. Moreover, North Vietnam and the Viet Cong draw their strength, not from the Communist theory but from their own dynamic of nationalist revolution, and from the unique weakness of the Saigon government. Vietnam's neighbors do not share this combination of government weakness and revolutionary strength; if they did, surely we could expect that they would long ago have erupted in insurgency, while the United States is so heavily engaged in Vietnam.

If the domino theory is an unsatisfactory metaphor, still it contains a grain of truth. World politics is composed of power and interest; it is also spirit and momentum. A great power does not cease to be that because it suffers a defeat peripheral to its central interests. The Soviet Union is still a great power notwithstanding the collapse of its Cuban adventure in 1962. But in some degree, the aftermath of Cuba was a perceptible lessening of Soviet prestige and ability to influence events in many parts of the world. I saw this to be especially true in Latin America when I visited there two years later. So I believe, would defeat or precipitous withdrawal in Vientam damage our position in the world. We would not suddenly collapse; Communist fleets would not appear in the harbors of Honolulu and San Francisco Bay. But there would be serious effects, especially in Southeast Asia itself. There, as Prince Norodom Sihanouk of Cambodia said in 1965, the result of intervention (which he opposed) and retreat would be that 'all the other Asian nations, one after another (beginning with the allies of the United States), will come to know, if not domination, at least a very strong Communist influence.' Prime Minister Lee Kuan Yew of Singapore, an independent leader often at odds with the United States, has stated similar views.

Beyond Asia, in other nations that have ordered their security in relation to American commitments, a sudden unilateral withdrawal would raise doubts about the reliability of the United States. Our investment in Vietnam, not only in lives and resources, but also in the public pledges of presidents and leaders, is immense. It may be, as some say, that the investment is grossly disproportionate to the area's strategic value, or to any ends it may conceivably accomplish. But it has been made. Simply to surrender it, to cancel the pledges and write off the lives, must raise serious questions about what other investments, pledges, and interests might be similarly written off in the face of danger or inconvenience. Of course, other nations will not cease to defend themselves, or surrender themselves to our adversaries, simply because they do not regard us a reliable protectors. But the relationships that they might develop with other countries might not be completely to our liking.

We cannot discount the likely effects on the morale of other nations, especially those now narrowly balanced between stable progress and revolutionary upheaval. Forces antagonistic to us within those countries would be strengthened—such as the Indian Communist Party—and these nations' ties to us weakened or strained.

EXPORT EXPANSION AND REGULATION ACT OF 1969

Mr. BYRD of West Virginia. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 4293.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill, H.R. 4293, to provide for continuation of authority for regulation of exports, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Maine (Mr. MUSKIE), I move that the Senate insist upon its amendment and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MUSKIE, Mr. WILLIAMS of New Jersey, Mr. MONDALE, Mr. HUGHES, Mr. TOWER, Mr. BENNETT, and Mr. BROOKE, conferees on the part of the Senate.

PRESIDENT NIXON'S ADDRESS ON VIETNAM

Mr. BYRD of West Virginia. Mr. President, there was little that was new in the President's speech on last evening. But in my judgment he took the only reasoned and logical position under the circumstances.

It is clear that the obstacle to ending the war is North Vietnam. For us to precipitously withdraw could bring about the massacre of thousands of South Vietnamese. It would cause our friends to lose confidence in us and, as the President stated, we would lose confidence in ourselves.

In view of the unwillingness of Hanoi to negotiate, the President clearly stated that he has adopted a plan for complete withdrawal of all United States ground combat forces "on an orderly scheduled timetable" conditioned on the growing ability of the South Vietnamese to defend themselves and on the reduced level of enemy activities. This will take time. It cannot be done overnight.

The President can get us out of the war sooner if he has the unity and support and understanding of the American people.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 3 o'clock and 56 minutes p.m.) the Senate adjourned until Wednesday, November 5, 1969, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES—*Tuesday, November 4, 1969*

The House met at 12 o'clock noon.

The Reverend John C. McCollister, Bethlehem Lutheran Church, Lansing, Mich., offered the following prayer:

Almighty God, our Heavenly Father, sometimes we are overwhelmed with the responsibilities with which we have been entrusted. Yet we are mindful that Thou hast promised Thy help to those who call upon Thee.

If our visions grow dim, guide us by Thy hand.

If we feel alone when our work is not welcomed by others, strengthen us with Thy presence.

We do not ask to escape our responsibilities; we ask only for help in doing Thy will.

God bless this Congress in all of its deliberations. God bless our President in his decisions. God bless our great Nation as together we strive for peace on earth, good will toward men.

Grant this through Jesus Christ, Thy Son, our Lord. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate disagrees to the amendments of the House to the bill (S. 2917) entitled "An act to improve the health and safety conditions of persons working in the coal mining industry of the United States," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. WILLIAMS of New Jersey, Mr. RANDOLPH, Mr. PELL, Mr. NELSON, Mr. MONDALE, Mr. EAGLETON, Mr. CRANSTON, Mr. JAVITS, Mr. PROUTY, Mr. SCHWEIKER, Mr. SAXBE, and Mr. SMITH of Illinois to be the conferees on the part of the Senate.

DR. JOHN C. McCOLLISTER

(Mr. CHAMBERLAIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHAMBERLAIN. Mr. Speaker, through the courtesy of our Chaplain, Dr. Edward Latch, it was a pleasure for me to invite Dr. John C. McCollister, pastor of Bethlehem Lutheran Church of Lansing, Mich., to offer the invocation today.

Dr. McCollister is a graduate of Capital University and Evangelical Lutheran Theological Seminary of Columbus, Ohio, and received his doctorate from Michigan State University this past summer. He served as pastor of the Zion Lutheran Church of Freeland, Mich., before coming to Bethlehem Church of Lansing.

It is interesting to note that in addition to his ministry at the church, Dr. McCollister also serves as a juvenile probation officer for Ingham County, Mich.

It is an honor to welcome Dr. and Mrs. McCollister to our Nation's Capital and, particularly, to the House of Representatives.

PERMISSION TO FILE CONFERENCE REPORT ON S. 2546

Mr. RIVERS. Mr. Speaker, I ask unanimous consent that the managers on the part of the House have until midnight tonight to file a conference report, on the bill, S. 2546, the military procurement authorization bill.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

RESOLUTION IN SUPPORT OF THE PRESIDENT FOR A JUST AND HONORABLE PEACE IN VIETNAM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WRIGHT. Mr. Speaker, upon the convening of the House today, a bipartisan group of 100 Members, including 50 Democrats and 50 Republicans, introduced a resolution expressing our essential support of the President in his efforts to negotiate a just and honorable peace in Vietnam.

The 100 initial cosponsors jointly represent perhaps 45 million Americans. They come from every section of the country. We believe that the resolution firmly expresses the feelings of the preponderant majority of the American people.

This resolution says to the world that this Nation is not about to tear itself apart upon the shoals of international dissension, but is fundamentally united in support of the basic principles of peace and self-determination enunciated by Presidents Kennedy, Johnson, and Nixon.

This resolution, if it is adopted by the House in an overwhelming vote, will illustrate quietly but clearly and effectively to North Vietnam that its leaders may not simply hold out, refuse to negotiate, and intransigently prolong the war in the expectation of our imminent internal collapse.

The thrust of the resolution, however, is clearly toward peace. It makes no threats. It rattles no sabres. It pledges us, as President Nixon has done, to abide by the result of free elections. It calls on Hanoi to make the same pledge.

I include the text of this resolution at this point in the RECORD:

H. RES. 612

Resolved, That the House of Representatives affirms its support for the President in his efforts to negotiate a just peace in Vietnam, expresses the earnest hope of the people of the United States for such a peace, calls attention to the numerous peaceful overtures which the United States has made in good faith toward the Government of North Vietnam, approves and supports the principles enunciated by the President that the people of South Vietnam are entitled to choose their own government by means of free elections open to all South Vietnamese and supervised by an impartial inter-