There can be little doubt about the necessity of discouraging nations from using nuclear warheads in the defense of their country. Such a defense would surely bring about a retaliation in kind which would put the lives of many innocents to a purposeless end.

At one time nuclear power was something that we read about in scientific magazines and in science-fiction stories. Today, we are cognizant of the power that threatens the survival of mankind. When compared to the age of the earth, man’s occupation of our planet has been very short, indeed. And today, we are developing such destructive potentials that all of mankind could be eradicated from this planet in a comparatively short period of time. Man’s ability to alter his surroundings to a point of complete destruction has developed in the last several decades.

War is always a potential danger, but war with its most sophisticated weapons is doubly so.

Mr. Speaker, the preliminary Strategic Arms Limitation Talks should concern themselves with these matters of nuclear weapons. If we are to continue to use our technology to keep producing these weapons, we could lead the entire world into a more unstable situation rather than offering a reasonably peaceful outlet to some of these extremely advanced, potentially dangerous technologies.

As part of my remarks, Mr. Speaker, I would like to include an editorial taken from the November 17, 1969, issue of the Richmond Times Dispatch which is widely read in the Ninth Congressional District of New Jersey, the area which I have the honor to represent in Congress.

The editorial follows:

The North Atlantic Treaty Organization is moving toward greater reliance on nuclear weapons as the deterrent against Soviet aggression. It is a newspaper which is widely read in the Ninth Congressional District of New Jersey, the area which I have the honor to represent in Congress.

The political and economic pressure has been on all the NATO powers to cut back nonnuclear defense forces, and that pressure has led the nuclear planning group, which has been meeting outside Washington, D.C., to plan reliance on nuclear weapons in the event of war in Europe.

The danger is clear. If the Soviet Union should invade an allied nation, say Greece, with the only response of NATO were resort to the use of atom bombs, then the President of the United States would be in an awkward fix.

The use of nuclear bombs, even the ones that are genially described as tactical, would create a grave danger of a Soviet answer in kind, and we’d be off on a war that could depopulate developed sections of the world, to phrase the horror as fastidiously as possible.

The question faced by the President, who must make the decision since the United States would supply the nuclear arms, would be whether the invaded nation, Greece in our example, was worth the risk of general nuclear war.

It is, of course, an indication of the backwardness of all nations, including our own, that such a dilemma is imaginable. There has to be a better technique of international relations than this; but the fact is we haven’t found one that can be relied on.

And there also has to be a better response to our investment in more than nuclear bombs. Reliance on the total weapon, to be sure, poses an awful threat against an aggressor. But the aggressor just might calculate that in view of the risks the total weapon would not be used.

Costly as conventional arms may be and much as the people of the world are weary of paying for them when there is so much more useful work that ought to be done, they should be maintained until the world finds more civilised ways of resolving disputes. Nuclear bombs or nothing is altogether too risky a gamble to get into.

CRISIS IN AMERICA

HON. OTTO E. PASSMAN
OF LOUISIANA
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 1969

Mr. PASSMAN. Mr. Speaker, under leave to extend my remarks in the Record, I include the following:

CRISES IN AMERICA

Our hearts bleed to see this great nation, this land of ours, locked in the throes of civil disorder and racial strife, where nobody wants, and weakened by moral vassalries.

Long shadows lie across the land, tarnishing, nay, obliterating the brilliance of her hope, her opportunities for freedom and liberty. She battles for her life, locked in mortal combat, not with foreign enemies, but with her own self—her people. This proud, wonderful, bountiful land writhes in torture like a human whose own body vainly fights for its life against the onslaught of cells gone wild. We suffer a "cancer" of the body politic just as surely as some people now suffer that dread malady cancer.

This cancer eats at the heart and soul of America. And, more and more, this land of ours reveals the ravages of this affliction.

Where is the heart and destiny who stood her in such good stand in years past? Where are her daughters who strode across this land side by side with their frontier mates to women's the worthiness a living (and a dying) and gave birth to staiwart new generations, (and a new, brighter land, in the process)?

For too many latter day Americans occupy themselves in a chase after the dollar and a brighter day. They do not appreciate the value of what they already have. They let slide civic duty; they seek a popular equality with their equals and their peers. Too many of us quail before the prospect of expressing righteous indignation. Affluence makes us squirm with guilt that we "have" and "they" don't. No one ever "gave" a person a handout that could not be returned with a sense of pride, plus the realization that you must work for what you get. Why then have we a generation of people who would not give the same "ner-do-well" whines about what we, the majority, "owe" them?

America suffers from a body politic emasculated by guilt and mesmerized by an insane desire to flee from reality into the morass of pleasure seeking.

This country, we need a "good 5c elixir." It needs a new generation of people with guts to stand up and fight for principles, not to trample on the weak, the suffering, whining, threatening dissidents and spineless apologists; to rise up in righteous indignation and proclaim the land lost to this America, this wonderful God-blessed bastion of liberty.
ENROLLED BILLS SIGNED

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

H.R. 11612. An act making appropriations for the Department of Agriculture and related agencies for the fiscal year ending June 30, 1970, and for other purposes; and

H.R. 12829. An act to provide an extension of the election equalization tax, and for other purposes.

THE JOURNAL

Mr. MANSFIELD. Mr. President, as in legislative session, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, November 20, 1969, be dispensed with.

The message further announced that the following proceedings, up to the conclusion of morning business, were held as in pro tempore. Without objection, it is so ordered.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

Mr. MANSFIELD. The understanding is that the morning business will be concluded not later than 11:30 a.m.

(Unless otherwise indicated the following proceedings, up to the conclusion of morning business, were held as in legislative session.)

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, as in legislative session, I ask unanimous consent that all committees be authorized to meet during the session of the Senate as may be expedient.

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, as in legislative session, I ask unanimous consent that the Senate proceed to the consideration of Calendars Nos. 543 and 544.

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

AMENDMENT OF THE DISTRICT OF COLUMBIA LEGAL AID ACT

The bill (S. 1421) to amend the District of Columbia Legal Aid Act was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1421

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the District of Columbia Legal Aid Act (D.C. Code, sec. 2-2206) is amended by deleting the following: "shall receive compensation of $16,000 per annum, and"

Sec. 2, Section 7 of the District of Columbia Legal Aid Act (D.C. Code, Sec. 2-2206) is amended but retaining the following: "except the Director."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 91-547), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF THE BILL

The purpose of S. 1421 is to amend the District of Columbia Legal Aid Act to delete the ceiling of $16,000 annual salary on the position of Director of the Legal Aid Agency.

The District of Columbia Legal Aid Agency was created in 1960 by the 86th Congress to provide legal representation of indigents in judicial proceedings in the District of Columbia. The purpose of the Trustees of the Agency should appoint a Director of the Agency who would receive an annual compensation of $16,000. The amendment further authorized the Director to employ professional and office staff at salaries following the scale for employees of similar qualifications and seniority in the Federal courts.

Without objection, it is so ordered.

THE DISTRICT OF COLUMBIA PUBLIC DEFENDER ACT OF 1969

The Senate proceeded to consider the bill (S. 2602), the District of Columbia Public Defender Act of 1969, which had been referred to the Committee on the District of Columbia with amendments, on page 2, at the beginning of line 16, strike out "Representations may be furnished at the conclusion of a proceeding, including appellate, ancillary and collateral proceedings," and, in lieu thereof, insert, "Such representation shall be furnished at every stage of a proceeding—including ancillary, trial, appellate, and collateral proceedings—where the person to be represented has a right to counsel under the then prevailing law of the District of Columbia, and where such representation for such person is not otherwise provided."

On page 3, after line 22, strike out:

(b) Each trustee shall serve a three-year term of office. Upon the resignation or death of a trustee or the expiration of a term of office, the remaining trustees shall recommend the appointment of the successor of the District of Columbia the names of persons qualified to fill the vacancy. Taking into consideration the qualification of the person appointed to fill vacancies on the Board. Any person appointed to fill an unexpired term shall serve for the remainder of the term.

The bill (S. 2602), as amended, was passed and referred to the Committee on the District of Columbia, and of the District of Columbia courts and is ineligible to serve as trustees.

And, in lieu thereof, insert:

(b) Each trustee shall be appointed for a full term of three years or for the balance of an unexpired term, by a panel consisting of the chief judges of the United States Court of Appeals for the District of Columbia Circuit, the United States District Court for the District of Columbia, the District of Columbia Court of Appeals, and the Superior Court of the District of Columbia, and of the Commissioner of the District of Columbia. Said panel shall then select one of them to serve by the Commissioner of the District of Columbia.

On page 4, line 19, after the word "trustee," insert "Each appointee shall hold office, however, until his successor is selected and qualified.

S. 2602, as amended (D.C. Code, Sec. 2-2206) is amended by deleting the following:

purposes of the bill.

The bill was ordered to be reported by the Committee on the District of Columbia Public Defender Service, with amendments, as follows:

(1) The public defender service is authorized to accept public grants and private contributions in the furtherance of its lawful objectives and purposes; so as to make the bill read:

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 District of Columbia Public Defender Act of 1969.

Sec. 2. The Legal Aid Agency for the District of Columbia is redesignated the District of Columbia Public Defender Service (hereinafter called the Service).

Sec. 3. (a) The Service is authorized to represent persons in the District of Columbia who are financially unable to obtain adequate representation in each of the following categories:

(1) persons charged with an offense punishable by imprisonment for a term of six months, or more;

(2) persons charged with violating a condition of probation or parole;

(3) persons subject to proceedings pursuant to chapter 5 of title 21 of the District of Columbia Code (Hospitalization of the Mentally Ill); and

(4) persons for whom civil commitment is sought pursuant to title III of the Narcotic Addict Rehabilitation Act of 1966, 80 Stat. 1444 (42 U.S.C. sec. 3411, et seq.) or the provisions of the Hospitalization of the Mentally Ill Act of the District of Columbia (67 Stat. 77), as amended (D.C. Code, sec. 24-601); and

(5) juveniles alleged to be delinquent or in need of supervision.

Such representation shall be furnished at every stage of a proceeding—including ancillary, trial, appellate, and collateral proceedings—where the person to be represented has a right to counsel under the then prevailing law of the District of Columbia, and where representation for such person is not otherwise provided. The public defender shall be financially unable to obtain adequate representation in the above categories may be provided by the Service, but the Service may furnish technical and other assistance.
The proposed legislation authorizes the Public Defender Service to represent up to 60 percent of all eligible adult and juvenile defendants, and (2) a role in developing a system of deferred representation for the remaining 40 percent.

**NEED FOR THE LEGISLATION**

This bill is part of the President's program to reduce crime in the National Capital. In recommending this legislation on January 31 in his message on crime in the District of Columbia the President said:

"The recent bail reform hearings before the Commission recommended that (1) Constitutional Rights have emphasized the important contributions skilled defense counsel can make in reducing criminal trials. Too often, inexperienced lawyers who are appointed to represent indigent defendants have been unable to provide adequate representation due to their unfamiliarity with the law and criminal practice. Experience has shown that professional public defenders, on the other hand, not only better safeguard the rights of defendants, but also speed the process of justice."

The U.S. Constitution guarantees representation by competent counsel to all defendants in serious criminal cases. Where a defendant cannot afford such counsel, it must be provided to him by the District of Columbia Legal Aid Agency, a public agency or the private bar. Experience in the District of Columbia indicates that the private bar alone cannot meet this need, and that the existing public agency, the District of Columbia Legal Aid Agency, must also be expanded to meet the growing criminal justice crisis.

The Legal Aid Agency was created by Congress in 1960. It was a small organization with a very limited number of attorneys. Essentially, it was an experiment—the only Federal public defender office in the United States.

In 1950, the organization had four lawyers, two investigators, and an appropriation of $100,000. Now it has 22 lawyers, six investigators, and a budget of about $250,000.

This increase in size, however, has been inadequate to meet the National Capital City's needs. The number of criminal cases involving indigents has increased, and about 10 percent of the indigent defendants in serious criminal cases are financially unable to obtain adequate counsel. Experience has shown that the private bar alone cannot meet this need, and that the District of Columbia Legal Aid Agency must also be expanded to meet the growing criminal justice crisis.

The nearly total reliance on private practitioners to represent indigent defendants in the Nation's capital is illegally depriving them of the fundamental right to counsel. The public defender system in the District of Columbia now has expanded to meet the growing criminal justice crisis. The developing complexity in the criminal law requires that services be expanded to meet the growing need.

The District of Columbia Crime Commission, in its report on crime in the District of Columbia in 1960, recommended that services be expanded to meet the growing criminal justice crisis. The growing complexity in the criminal law requires that services be expanded to meet the growing need for legal representation. Experience has shown that the private bar alone cannot meet this need, and that the existing public agency, the District of Columbia Legal Aid Agency, must also be expanded to meet the growing criminal justice crisis.

The purpose of this legislation is to convert the existing pilot project Legal Aid Agency in the District of Columbia into a full-scale public defender program. The Public Defender Service established by this bill would help provide legal representation to defendants, in criminal cases who are financially unable to obtain adequate counsel; would expedite criminal trials by providing experienced counsel in such cases, and would reduce the private bar and aid the courts in establishing an adequate system for the appointment of private counsel in appropriate cases.
obtain adequate representation. Such persons cannot obtain such representation, in one of the following five classes of cases:

1. Criminal cases where the offense is punished by at least 6 months imprisonment.

Presently, Legal Aid represents only if the sons must be involved, however, in one of the

2. Cases in which civil commitment is sought pursuant to title III of the Narcotics Addict Rehabilitation Act. The Service should assume part of this representation as well as representation of suing, that the courts shall have final responsibility

3. Cases in which civil commitment of a narcotic addict is sought. Under title III of the Narcotics Addict Rehabilitation Act suspected addicts are entitled to the assistance of counsel when charged with such violations. The Service should assume part of this representation as well as representation of suspected addicts charged with violation of the Narcotics Addict Rehabilitation Act under the analogous provisions of the District of Columbia Code.

4. Cases in which civil commitment of a juvenile in need of supervision is alleged. This allows the Service to represent juveniles charged with law violations as well as those who are charged with a criminal act, face the possibility of a penality disposition.

The Public Defender Service Act specifically authorizes the Service to assist the private bar in representing the remaining 40 percent of the cases whose the defendant is unable to obtain adequate representation. As in the past, this means supplying the private bar with research memoranda, information on recent developments, assistance in investigations, and so forth.

Further, the Service is directed to cooperate with the court in establishing an adequate system for appointment of private counsel. This provision will permit the Service to participate in a rather austere bill. The Conference fully developed the inadequacies of a present private appointment system and the need for a new method of appointment which would include coordination by a unit like the Defender Service. This section is specific in its provision that the courts shall have final responsibility for the appointment of counsel.

The Public Defender Service Act places general police supervision of the Service in a board of trustees. This is similar to the existing method of supervising the Legal Aid Agency.

Daily supervision of the Service and all matters relating to the handling of specific cases lies with the Director of the Service. The proposed legislation increases salary for the Director to a GS-18 level (eliminating the present GS-17, $16,000) and makes staff salaries comparable to salaries of assistant U.S. attorneys.

Costs

In its fiscal year 1970 budget, the Legal Aid Agency is requesting an appropriation of $770,000. The Department of Justice estimates that, once in full operation, the Public Defender Service authorized by this bill will require appropriations annually at $1,250,000.

SIXTH ANNIVERSARY OF THE DEATH OF PRESIDENT JOHN F. KENNEDY

Mr. MANSFIELD. Mr. President, 6 years ago to this day, in the State of the United States was assassinated. I refer to the late John F. Kennedy—a colleague of ours in this body and also a colleague of some of us in the House of Representatives.

I did not want this occasion to pass without expressing my continuing sorrow that this tragedy struck this young man at a time when he was on the verge of greatness. His death has been most seriously felt not only by his family and by Congress. It has been felt and felt deeply by the Nation as a whole.

So I rise at this time to pay tribute to the man who was assassinated. This man marked his all too brief term in office. I rise as well to renew my personal dedication: a dedication to the ideals for which John Kennedy stood and to the goals that he sought.

We still miss John F. Kennedy. We shall go on missing him because what he did and the way he did it, what he stood for and the way he sought it—all will remain as giant monuments to his tenure in office as the 35th President of the United States and an inspiration to the generations to come.

Mr. SCOTT. Mr. President, when one is struck down in virtual youth, as was our late colleague John F. Kennedy, the tragedy implicit in that circumstance can only by American people but by the people of all the world as well.

In my travels in Europe, Asia, and Africa, I found that the man in the street, across the deferral of property. I am pleased to recall that the Marine Corps had requested authority to acquire a small amount of real estate in the southeast section of the city adjacent to the Marine barracks to permit them to expand the barracks. Although the Senate committee is well aware of the need to expand the barracks, the request was deferred, primarily because if approved, it would result in the displacing of several families now residing in homes on the property. I am pleased to state that the Senate position prevailed and the House conferees agreed to the deferral of this proposal until the fiscal year 1971 authorization bill to afford the proper officials of the Department of the Navy the work with the local authorities and the community in finding housing for those persons who will be displaced. I might add that I have already called this matter to the attention of the Secretary of Defense.

Another matter of considerable interest in which the Senate position pre-
vailed was the deletion of section 708 of the House-passed bill which sought to prohibit interfering with, obstructing, or impeding military and Defense affairs by picketing or parading in the vicinity of the Pentagon. The Senate conference had considerable doubt as to the constitutionality and the desirability of the proposed provision. The conference did agree, however, that there is a requirement for a full report to the Congress with respect to the adequacy of laws which seek to prevent the unlawful interruption of the decisionmaking process in national security affairs or other vital areas of our national defense. The Secretary of Defense and the Attorney General are being called upon to report to the Congress in this regard.

Finally, I should like to mention another matter I consider to be of considerable importance which was the Senate committee's efforts to perfect legislation designed to reduce overruns in the military and Defense departments. The conference did agree to a reduction of about 2 percent in the Departments through better management to provide better cost estimates and reduce the cost of design, inspection and overhead. I think I can state with considerable assurance that we have every reason to believe that we have every share our views in this regard and readily accepted sections 703 and 704 of the bill as it passed the Senate which were designed to produce the results indicated.

Mr. THURMOND. Mr. President, as the ranking Senate Republican on the fiscal year 1970 military construction bill, I am pleased to report that the decisions of the Senate-House conference should serve well the Nation's defense structure.

The conference met and elected the distinguished Senator from Washington (Mr. Jackson) as chairman. He provided able leadership in presenting the Senate position before the conference.

In my opinion the conference reached sound and acceptable decisions. The expression of my views has produced enough rugged dissent in the last week to wear out a whole covey of commentators and columnists.

One critic charged that the speech was "diagnostic, ignorant, and base," that it "failed to invoke the reality of the most fearsome suppression and intimidation." One national commentator, whose name is known to everyone in this room, said "I hesitate to get into the gutter with this guy." Another commentator charged that it was "one of the most sinister speeches I have ever heard made by a public official." The President of one network said it was an "unprecedented and provocative" issuance of a new medium which depends for its existence upon government licenses. The President of another charged me with "an appeal to prejudice," and another said it was evident that I would prefer the kind of television "that would be subservient to whatever political party should happen to be in authority at the time."

And they say I have a thin skin.

Here are ole Dead End Street reactions. These attacks do not address themselves to the questions I have raised. In fairness, others—the majority of critics and commentators—did take up the main thrust of my address. And if the debate they have engaged in continues, our goal will surely be reached; but that is the Vice President's goal, not mine. It is the networks of their own policies—and perhaps prejudices. That was my objective then; it is my objective now.

VICE PRESIDENT AGNEW AND THE NEWS MEDIA

Mr. DOLE. Mr. President, I listened with great interest last evening to the thoughtful address of Vice President Spiro Agnew in Montgomery, Ala.

He repeated his opposition to censorship in any form and indicated we have censorship now, imposed by a little free press cult to be made more legitimate by the network's social and political views. As I read and later listened to his speech, I concluded the Vice President was again alienating the American people to weigh carefully the words of those who for too long have attempted to mold public opinion their way.

Strong, independent voices have been stifled in this country and, therefore, it is related that the President is speaking out. It seems strange that those who so sharply criticize his right to dissent are generally those who publicly espouse it, and, in some cases, promote it.

The majority of Americans will be forever grateful to the Vice President because he is in earnest; he will not equivocate, he will not excuse, he will not retreat, and he will be heard.

I ask unanimous consent to insert the Vice President's speech in the Record at this point.

There being no objection, the speech was ordered to be printed in the Record, as follows:

ADDRESS BY THE VICE PRESIDENT

One week ago tonight I flew out to Des Moines, Iowa, and exercised my right to dissent. There had been some criticism of what I had to say out there.

Let me Sampling.

One Congressman charged me with, and I quote, "A creeping socialistic scheme against the American people." That is not true. That is the first time in my memory anybody ever accused Ted Agnew of entertaining socialist ideas.

On Monday, largely because of this address, Mr. Humphrey charged the Nixon Administration with a "calculated attack" on the rights of dissent and on the media today. Yet, it is widely known that Mr. Humphrey himself believes deeply that unfair coverage of the Nixon Administration by the media, contributed to his defeat in November. Now, his wounds are apparently healed, and he casts his lot with those who were questioning his own political courage a year ago. But let us leave Mr. Humphrey to his own conscience. America already has too many politicians who would rather switch than fight.

Others charged that my purpose was to stir up the people. But it is I who am the one who has been pilloried in the Chicago papers, by the same media, contributed to his defeat in November. Now, his wounds are apparently healed, and he casts his lot with those who were questioning his own political courage a year ago. But let us leave Mr. Humphrey to his own conscience. America already has too many politicians who would rather switch than fight.

Mr. President, all of the conferees exhibited a spirit of cooperation and willingness to meet each other halfway in settling the differences between the two bills and I am pleased to give my support to the conference report.

Mr. JACKSON. Mr. President, I move that the conference report be agreed to.

The motion was agreed to.
next morning it is apparently not considered

news fit to print.

Just this Tuesday, when the Pope, the

Spiritual Head of the Catholic Church, pro­

claimed that war is against the teaching of

Catholicism, the New York Times published

a full page editorial calling war a "necessary evil".

George Kennan has devoted a brief, cogent

commentary that "the cultural and political

ideologies perpetrated with impunity in this

crimson age have gone clearly beyond the

borders of what is acceptable for any so­

ciety, however liberal it may be con­

structed).

I remain silent while what these

heroes have done is vilified by some as "a

dirty and immoral war" and criticized by

others as no more than a war brought on by

that am

mobilizing people for a war which I believe. How can you ask the man in

the street in this country to stand up for

their right. And so it is my right, and my duty, to

challenge the President's policy in Vietnam. And that was

what he believes if his own elected leaders

asseverate to be a war brought on by the

cultural and political ideologies of the

Underwood's Chamber.

The proceeding generation had its own

criticism. That is the lot of the man in

the street. I do not seek to intimidate the press, the

networks or anyone else from speaking out. But the time for blind acceptance of their

opinions is past. And the time for naive be­

lief in their neutrality is gone.

Once again there is sure to be an out­

cry that the Vice President is attempting to

curb the freedom of the press, to In­

timidate the press.

The Vice President is really attempting to do is to curb the excesses and abuses that have been perpetrated in the

name of freedom of the press.

The Vice President is dead right when he says that it makes no difference whether censorship is imposed by Gov­

ernment or whether it results from manage­

ment in the choice and presentation of the news by a little fraternity having similar social and political views.

The power of the press in a free

society is awesome.

A byline in the New York Times, for

element, can be infinitely more impor­
tant in form of symbols and influencing Government policy than a dozen speeches on the floor of the U.S.

Senate.

In more than one situation this power has been used by the New York Times, in particular, to help overthrow friendly governments or to help promote the emergence of governments unfriendly to American interests.

I intend to speak at greater length on this subject in the Senate next week.

But, meanwhile, I hope that the Vice

President's speech will be widely read and

will not confine the discussion on the power of the press and the abuses made possible by this vast

concentration of power.

Mr. President, in the case of television and the networks or anyone else from speaking out. But the time for blind acceptance of their opinions is past. And the time for naive belief in their neutrality is gone.

But, as to the future, all of us could do

worse than take as our own the motto of William Lloyd Garrison who said: "I am not

earnest. I will not equivocate. I will not excuse. I will not retreat a single inch. And I will be heard."
of the news, and coloration of the news is widespread in some of the very newspapers and magazines that piously pretend to be fair and impartial. I think that it is high time we look at the ethics of the press.

Mr. President, I ask unanimous consent to have printed in the Record the speech which the Nixon Administration with a "calculated attack" on the right of dissent and on the media today. Yet, it is my judgment that Mr. Humphrey himself belies deeply that unfair coverage of the Democratic Convention in Chicago, by the same media, contributed to his defeat in November. Those are apparently unwashed, and he casts his lot with those who were questioning his own political courage a year ago. But let us leave Mr. Humphrey to his own conscience. America already has too many politicians who would rather switch than stand.

Others charged that my purpose was to stifle dissent in this country. Nonsense. The expression of my views has produced enough rugged dissent in the last week to wear out the editorial pages. And the American people brought forward. It was the young men of my generation who went ashore at Normandy under Eisenhower and who marched into the Philippines. Yes, my generation is the one that made its own share of mistakes and blunders. Among other things, we probably did in fact call on the President to resign and not enough in Winston Churchill.

But whatever freedom exists today in Western Europe, in Japan, and in the rest of the free world is because hundreds of thousands of young men in my generation are lying in graves in North Vietnam, South Vietnam and Laos. It is the young generation that has the right to confront the one that has the power.

Now, let me talk briefly about this younger generation. I have not and do not condemn this generation of young Americans. Like Edmund Burke, I would not know how to draw up an indictment against a whole people. They are our sons and daughters. We are not responsible for the actions of our children. And the American youth today are far more imbued with idealism, a sense of service to their country and the world, and a willingness to die in those service, when it is clear to all perceptive observers that a real representative government has been brought forward.

Yes, my generation is the one that made its own share of mistakes and blunders. Among other things, we probably did in fact call on the President to resign and not enough in Winston Churchill.

But whatever freedom exists today in Western Europe, in Japan, and in the rest of the free world is because hundreds of thousands of young men in my generation are lying in graves in North Vietnam, South Vietnam and Laos. It is the young generation that has the right to confront the one that has the power.
our "radical students...find it possible to be genuinely heart-sick at the injustice and brutalities of American society, while bland-expounders of inanities and brutality committed in the name of "the revolution." These are not names drawn at random from the Selective Service System of an Agnew-for-Vice-President Committee.

These are men more eloquent and erudite than any other group taxpayers; they raise very tough questions that I have tried to raise.

For among this generation of Americans there are the people who have been burned by the draft cards and scores who have deserted to Canada and Sweden to sit out the war. To some Americans, a small minority, these are the true young men of conscience in the coming generation. Voices are and will be raised in the Congress and beyond asking that amnesty should be provided for "these young and misguided American boys." And they will be coming home one day from Sweden and Canada, and from a small minority they will get a heroes' welcome.

They are not our heroes. Many of our heroes will come home; some are coming back in hospital ships, without limbs or eyes, with scars they shall carry the rest of their lives.

Have we witnessed firsthand the quiet courage of wives and parents receiving posthumously for their heroes Congressional Medals of Honor? I do not believe the people say, "Stop speaking out, Mr. Agnew, stop raising your voice." Should we remain silent while what these heroes have done is vilified by some as "dirty or immoral about that?"

I do not feel as keenly as the Vice President does about the various elements which comprise the fourth estate because I believe that they, as much as he, have the right to their views and opinions, that they are supposed to set forth their own perceptions, that is where editors and others of like caliber are to express our views in and out of this body.

In politics, we have to anticipate a certain amount of criticism. It is my belief that there are newspapers and magazines, TV and radio programs, which could be found on the opposite side of the road already mentioned.

Mr. President, newspapers, news magazines, radio and television stations have, on the whole, I believe, done a very competent and fair job in informing the American people of the issues of the day.

Insofar as the editorial pages are concerned, it is my understanding that that is where editors and others of like caliber are supposed to set forth their own personal opinions, and that is so recognized.

I like to recall, also, that there is in the Bill of Rights the first amendment to the Constitution, to the effect that not only shall there be freedom of speech and freedom to assemble peacefully, but also that there shall be free speech and a free press.

I can say that in all my years of public office I have never been quoted incorrectly. I have been misrepresented, according to my lights, at times; and I think perhaps the reason for that is I am not saying anything that is not plain as it should have.

But I do want to say that I hope we do not make a mountain out of this molehill which seems to be developing, and that we recognize that the Vice President has the right to make the statements he does, I hope we recognize as well that the press, the TV, the radio, and the

## APPRAVAL OF CHANGES IN THE SELECTIVE SERVICE SYSTEM

Mr. BYRD of Virginia. Mr. President, I have some figures I think are not appropriate to be included in the Selective Service System recommended by President Nixon.

I think it is very important that the long period of uncertainty to which all young men have been subjected be removed. There is no reason why the young men of today should be subjected to 1 years of uncertainty.

When the Selective Service System is madeoperative, it will mean that each young man, as he becomes 19 years of age, will be exposed to the possibility of being drafted to serve his Nation during that 1 year, and if during that year he has not been selected, then he will not then be called—except in an emergency.

Mr. President, I think it is appropriate and I think it would be a very much better system if we had a system operating under in recent years. I think, too, it is desirable to try the random selection system which is provided for by the legislation enacted this week.

The Senate acted very quickly once this matter was brought from the House of Representatives to this body, and I think it will be in the national interest.

Mr. President, I have some figures I should like to have printed in the Record, but first let me say that during each of the past 4 years, 1 million young men of this Nation have been inducted into the Armed Services. Some have been voluntary enlistments and some have been inducted but, in any case, the total has been large.

For example, during the past 4 years, in 1966, there were 1,200,000 men inducted into the military services; in 1967, 1 million men; in 1968, 1 million men; and in 1969, 1 million men.

In the past, the Senate has not been present to have printed in the Record the figures going back to 1960 on total military strength, and the initial entries into military service as inductees or enlistees.

There being no objection, the figures were ordered to be printed in the Record, as follows.

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<tr>
<th>Year</th>
<th>Total military strength</th>
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<tr>
<td>1960</td>
<td>2,500,000</td>
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<td>1961</td>
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magnets do operate under the protection of the first amendment, as does every individual Senator and every individual citizen, and, of course, I would include the Vice President within the confines of the first amendment as well. Rather than create a situation which would tend to divide us more, I wish that the voices would be lowered, that we would seek to bring all our people together and that we would face up to our common problems not on the basis of political feelings, not on the basis of personal dislike for what has been done, but on the basis of understanding that a democracy is a risky business which could well be one of its strengths. Indeed, a democracy comprises all kinds of opinions and if we are going to survive with the type of institutions with which we have been accustomed, we should recognize that the times are here to bring us all together, and to remember that above our personal feelings, or feelings of any party, is the welfare and security of the Republic which must at all times come first and foremost.

Accordingly, I would conclude, Mr. President, by expressing the hope again that you will allow the advice of the President in his inaugural address, to lower our voices, get together, and try to work for the common good of this great Republic. The first amendment to the Constitution must not be suspended, the rights under it must not be diminished or those exercising these rights must not be intimidated. As I said, democracy is a risky business—and the first amendment illustrates that risk as well as its truest meaning and strength.

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

THEREFORE RESOLVED, That the chair of the PRESIDING OFFICER. The clerk will call the roll.

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

THEREFORE RESOLVED, That the PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE COMMUNICATIONS, ETC.

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

REPORT OF COMPTROLLER GENERAL
A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the efficiency and administrative economy of the consolidated employment program under title II of the Economic Opportunity Act of 1964, St. Louis, Mo., December 20, 1969 (with accompanying report); to the Committee on Government Operations.

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

THEREFORE RESOLVED, By the ACTING PRESIDENT pro tempore:
A petition, signed by Clifford Luckey, and sundry other citizens of the State of California, praying for the enactment of tax reform legislation; ordered to lie on the table.

REPORT OF A COMMITTEE
The following report of a committee was submitted:

By Mr. LONG, from the Committee on Finance, with an amendment:
H.R. 11312, to implement the income tax laws (Rept. No. 91–552). (The remarks of Mr. Long when he submitted the above bills later in the Record under the appropriate heading.)

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

By Mr. SCOTT:
S. 3165. A bill for the relief of Giuseppe Zito; and
S. 3167. A bill for the relief of Kimoko Ann Duke; to the Committee on the Judiciary.

(For the remarks of Mr. Scott when he introduced the above bills appear later in the Record under the appropriate heading.)

By Mr. BROOKE:
S. 3169. A bill for the relief of Daniel H. Robbins; to the Committee on the Judiciary.

By Mr. PASTORE:
S. 3169. A bill to amend the Atomic Energy Code, and for other purposes; to the Joint Committee on Atomic Energy.

By Mr. TDYNDS:
S. 3170. A bill to amend section 8340 of title 5, United States Code, to provide a 5-percent increase in certain annuities; and
S. 3166 AND S. 3167—INTRODUCTION OF BILLS FOR THE RELIEF OF GIUSEPPE ZITO AND KIMOKO ANN DUKE

Mr. SCOTT. Mr. President, I introduce two private bills. This is not ordinarily the subject of a statement, as under our present rules these are to be introduced only by Members of the Senate. But I introduce two private bills, one for the relief of Giuseppe Zito and another for the relief of Kimoko Ann Duke.

I introduce them publicly because I hope that my own examination of the merits of this matter, and I am satisfied that they are meritorious, and I introduce them for appropriate reference.

The PRESIDING OFFICER. The bills will be received and appropriately referred.

The bills (S. 3166) for the relief of Giuseppe Zito and (S. 3167) for the relief of Kimoko Ann Duke, introduced by Mr. Scott, were received, read twice by their titles, and referred to the Committee on the Judiciary.

S. 3170—INTRODUCTION OF A BILL TO AMEND SECTION 8340 OF TITLE 5, UNITED STATES CODE, RELATING TO CERTAIN ANNUITIES

Mr. TDYNDS. Mr. President, it is obvious that the Department of Defense will be announcing numerous reduction in force statements for the balance of this fiscal year. It is imperative that we take every possible step to cushion the actions and reduce the hardships caused by such reductions. It is to that end I introduce the bill to amend section 8340(b), of title 5 to extend the 5 percent cost-of-living adjustment which was available for a 2-day period and expired October 31, for a period of 60 days after the enactment of legislation I have proposed. I understand the proposal is consistent with recommendations by the Department of Defense and the Bureau of the Budget. Two days is certainly not an adequate period of time to make a decision involving a retirement after a lifetime of service. This was the situation facing prospective retirees on October 29, 1969. It would seem that if we wish career service employees to take an opportunity of early retirement and thus ease the strain of hardship by defense amateurs, we should afford these prospective retirees a minimum of 60 days to make the decision.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 3170) to amend section 8340 of title 5, United States Code, to provide a 5-percent increase in certain
annually, introduced by Mr. Tydings, was received, read twice by its title, and referred to the Committee on Post Office and Civil Service.

S. 3171—INTRODUCTION OF A BILL TO AMEND THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

Mr. HARTKE, Mr. President. I am today introducing for myself and Senators Bayh, Bible, Cannon, Eagleton, McCarthy, Tydings, Williams of New Jersey, and Yarborough a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968.

On September 23 of this year, the Federal Bureau of Investigation issued its latest crime statistics for the period January to June 1969. These statistics carry the same frightening message carried by other FBI reports in recent years, which is that violent crime and offenses against property continue to increase at an unprecedented rate in the cities, in the suburbs, and in the rural areas of our country. As a group, violent crimes increased 13 percent during this 6-month period when compared to the same period in 1968. Felony murder was up 7 percent, forcible rape 15 percent, aggravated assault 10 percent, and murder 8 percent. Crimes against property rose 8 percent as a group. Taken individually, larceny involving theft of $50 or more increased 17 percent, auto theft was up 9 percent, and burglary 3 percent.

This country is, in fact, fighting two wars today, the one in Southeast Asia and the other right here in this country. This latter conflict is the much talked about, but little acted upon, war on crime. Last year more than 12,000,000 persons lost their lives as a direct result of this war, a number which is in many ways more brutal and more bloody than the one in Vietnam. In 1968 this war, which day by day increases in its intensity, hospitalized 200,000 and produced property losses in excess of $1 billion.

Unlike Vietnam, where there is some hope that an honorable peace may be forthcoming via negotiations, here the war appears increasingly desperate. The forces of crime appear to be alarmingly close to victory over the forces of peace. If positive action is not taken—and taken soon—a crime crisis of unprecedented proportions will soon surely envelop this Nation.

Happily, we have the tools already at hand to meet effectively the forces of crime. Prior to the Omnibus Crime Control and Safe Streets Act of 1968 declared that the policy of the Congress is "to assist State and local governments in strengthening the force of law enforcement at every level by national assistance." Such assistance is in the form of planning and action grants to be distributed to the States by the Law Enforcement Assistance Administration, within the Department of Justice. If intelligently utilized, these grants can serve as an invaluable instrument in the fight against crime.

As originally conceived, these grants were to be distributed directly to those localities whose law enforcement efforts were already at its highest. The local nature of the law enforcement effort was highlighted by President Johnson's Commission on Law Enforcement and Administration of Justice which, in its investigations of the crime problem ever undertaken. In their report of February 1967, entitled "The Challenge of Crime in a Free Society," the commission stressed the importance of local police and local authority in the fight against crime.

The House, however, fearful that this direct grant approach would eventually lead to a federally controlled police force, voted for an amendment to title I, which created a block, rather than categorical approach, to grant distribution. By virtue of the House amendment, 85 percent of all available Federal funds would be distributed to the States and then to the localities.

Here in the Senate, the Judiciary Committee, despite the House amendment, maintained the categorical approach to the spending of the funds. This approach was again challenged and ultimately defeated. By a vote of 48 to 29—Congressional Record, volume 114, page 11, page 14 of the Senate, the Senate adopted an amendment which paralleled the House amendment by its impact, with the exception of a provision in the Senate version which required that a certain percentage of the funds be distributed automatically by State governments to local governments. This change was viewed as necessary at the time in order to gain the support of those Senators who favored the categorical approach and who feared that the cities would be slighted if an automatic pass-through provision were not provided. This formula, as developed in the Senate and inserted into the bill, provides that 40 percent of the funds allotted to the States for planning grants and 75 percent of the funds for action grants be funneled directly to units of local government that the Department of Justice believes to be representative of the needs and requests of the units of local government in the States.

The Law Enforcement Assistant Administration—LEAA—in the Department of Justice has the responsibility of distributing the grant money authorized by Congress. Under the act each State, in order to be eligible for Federal funds, had to establish a State planning agency under the authority of the Governor. A provision for direct grants to localities was put in the act in case any State failed to set up a State planning agency. All grants, irrespective of whether the funds and established planning agencies, thereby preventing local governments from invoking that option. As provided for in the act, 85 percent of the available funds have been allocated directly to the States according to their population, with the remaining 15 percent allocated by the LEAA, at its discretion.

To ensure that this money would be made available to local governments without long and harmful delays, title I provides that States must apply for planning grants within 90 days of enactment of the statute. If the States must then file a comprehensive law enforcement improvement plan within 6 months after approval of their planning grant. Every State jurisdiction was able to meet these deadlines, but not, as we shall see, without some serious damage to the integrity of the program which was generally devised. The first phase of the program, the planning phase, received $19 million during fiscal year 1969. Another $29 million was appropriated for action grants for violence called for in the initial planning stage.

Several provisions in the act were designed to insure that local governments would be overruled by the categorical process of planning and funding. In this regard, title I requires that State planning agencies "shall be representative of law enforcement agencies of the State and of the units of general local government within the State." It has been widely assumed that this provision would result in the appointment of public officials who would review the actions of the States, establish the planning agencies to specifically direct the States to take into account the needs and requests of the units of local governments and to "ensure the local integrity of the program," as pointed out later, the majority of State planning agencies have not done this.

Also, the unfortunate slovenliness of some States in developing plans for distribution of funds to local governments presents a serious problem to these governments. For it is quite possible that if local governments do not receive planning funds in sufficient time to develop their plans or elements of the State plan, their needs may not be recognized in future action grants, since only the needs covered in the comprehensive State plan will be eligible for action grant assistance.

Moreover, the requirement that the States submit their individual plans within 6 months of their applications for funds has resulted in the formulation of plans, which, in many cases, have little more than "shopping lists," rather than cohesive, long-range plans. For this reason, it is impossible to tell from the majority of the states whether the action programs which will proceed from these plans will further the purposes of the Safe Streets Act.

CRITICISM OF THE SAFE STREETS ACT

What I have said already indicates my belief that all is not well with title I of the Safe Streets Act. Defects in the planning process would appear to threaten seriously the future administration of the action grant program which was formally inaugurated with the start of the fiscal year. Certainly the ultimate success of title I is dependent upon the effectiveness of the action grants.

These doubts that I voice about the future of the program are shared by a number of organizations which have an immediate interest in the legislation. They are: The National League of Cities, NACO—the National Speakers of Mayors—USM—the Urban Coalition and Urban America Inc.; the National Association of Counties—NACO—and the National Governors Conference—GC.
critique of the block grant features of the LEAA program. The study included: First, a comprehensive analysis of 31 State planning grant applications selected at random; second, extensive comments from State municipal leagues and individual cities; and third, several detailed interviews with the State planning agency directors. This study concluded that:

The Safe Streets Act as currently administered and interpreted by most of the states will fail to achieve Congress’ primary goal of controlling crime in the streets of urban centers by the end of the 3-year period. Instead, dollars being directed into the critical problems of crime in the streets, local planning funds are being squandered primarily on the original in-bureaucracy as a matter of state administrative convenience. Though the original intention of Congress in accepting the approach of block grants to the states was to prevent federal bureaucratic control of local law enforcement activities and to encourage local planning and innovation, state administrative practices would appear to thwart this objective.

The NLC study also notes that the first distribution of planning funds provided that each State, the District of Columbia, and for territories were to receive $100,000 for planning with additional planning funds to be distributed on the basis of need. As a result, planning funds for American Samoa amounted to $3.45 per capita, as compared to only $0.07 each for citizens of California and New York. While allowing that such allocations for planning dollars can perhaps be justified on the theory that there is a certain level of support below which a successful planning operation cannot be maintained, the NLC study went on to note the disparity between funds made available for planning and action grants:

Although Alaska and Vermont, for example, will receive $18,000 and $128,000 respectively for planning and $60,000 and $128,000 respectively for action grants, they will receive only $33,278 and $118,000 respectively for planning, they will receive only $33,278 and $118,000 respectively for planning, and $100,000 and $128,000 respectively for action grants. Such limited funding for post-planning action makes the NLC’s statement that planning agencies and the LEAA are required to go into considerable detail in law enforcement plans and action-oriented planning nay be justified on the theory that such allocations for planning may retard implementation of an active crime prevention and action grants:

It would appear that those elements of law enforcement which best lend themselves to a regional planning approach are, in fact, planning agencies, communications, laboratory systems, and so forth, which are supportive of enforcement activities rather than directly involved in the effort to control crime in the cities. Unfortunately the research of the NLC indicates that regional planning agencies are reluctant to emphasize such supportive programs to the detriment of action-oriented planning funds. Although the NLC states that the LEAA approach is preferable method of Federal aid to the States, many of the LEAA planning agencies and the LEAA grant program as a whole have been dealt a very serious blow.

While undoubtedly, the most complete and contemporary study of title I has been done by Dr. B. Douglas Harman, assistant professor, Urban Affairs Program, School of Government and Public Administration, American University. Published in the September 1969 issue of Urban Data Service, Professor Harman’s article is titled “The Safe Streets Act: The Cities Evaluation.” His article states that in many instances the block grant programs have failed to achieve the goals of the LEAA program as an integrated whole. So far, the Justice Department has been able to offer little guidance or other assistance in the areas which the problems are intended to confront. In this void, many states are turning to outside consultants, some of whom are related to the local governments.

In conclusion, the Urban Coalition and Urban America, Inc., report urged the LEAA to require “the States in their plans to go into considerable detail in describing proposed action projects.” It states that this is one of the few ways of determining whether the deficiencies in planning which this report has noted are being overcome.

Additional doubts about the implementation of title I have been expressed by the National Association of Counties. Based on a questionnaire sent to the chief elected officials of every county, a population of about 5,000, the NACO study criticizes the LEAA program for not involving more policymaking officials at the State level and suggests that membership of State bodies be expanded to include such officials.

Interestingly enough, criticism of the program has also been issued from the National Governors Conference. Although one of the foremost advocates of the block grant approach to Federal assistance, the NGC has been quick to criticize what it considers defects in the program. In its December 17, 1968, letter to NGC, it noted:

Novenber 21, 1969

The letter went on to state:

It is essential for the success of the inter-governmental aspects of this new program, that local elected officials play a significant role in setting the policies of the State law enforcement plans. Local public officials who have been viewed as the elected official, the one concerned with the total role of government, with the budgetary requirements, and with long-range legislative and administrative goals are an important ingredient in any statewide law enforcement plan.

This very inceptive criticism of the planning process is instructive in view of the fact that the NGC has in the success of title I. If it fails, the whole concept of block grants to the States as a preferable method of Federal aid to the States will have been dealt a very serious blow.
act. One questionnaire was sent to the directors of all law enforcement planning agencies and the other to the chief administrative officers of those agencies. Of the 50, 29 replies were received, with a population of 25,000 or more. All 50 State agencies replied and 637 of the cities—72 percent—returned their questionnaires. In addition to analyzing these data, Professor Harman studied the administrative elements of the 50 State law enforcement plans.

What were his conclusions? Although it is still too early to reach hard and fast conclusions regarding the implementation of the grant program, Dr. Harman did state:

The administrative characteristics of this block grant program deserve closer analysis. Although it has been heralded as a reform measure designed to correct the problems found in categorical grant programs, the political and administrative complexities of the block grant as seen in the LEAA program were not fully anticipated by block grant proponents. The administrative goals of this form of grant-in-aid included comprehensive planning, uncomplicated intergovernmental relations, and federal, state, and local allocation of funds. While some of these goals have been partially achieved, the block grant approach has created considerable intergovernmental competition and has generated significant political cross-pressures from important groups.

Harman goes on to comment that "despite the substitutability of powers from the National Government to the States, the block grant has not brought about 'uncomplicated intergovernmental relations' or eliminated 'Federal controls.' The presence of block grant designations in the LEAA program is complex because all of the governmental units involved in it want to maximize their powers.

In support of his findings, Dr. Harman draws upon the wealth of statistical information provided by his questionnaires. Harman notes that the traditional conflict between Federal and local government is not always apparent. Much of the data is borne out by statistics which show that 60 percent of the officials from cities with populations of 100,000 or more hold a negative opinion of State government's approach to urban problems. Specifically, such officials feel that State governments are seldom, or only occasionally, sympathetic or helpful in coping with urban problems. It is not surprising, then, that the block grant system of title I has apparently done nothing to lessen this feeling on the part of larger cities. The comment of the former mayor of Minneapolis, Arthur Naftalin, is typical of sentiments expressed by most big city mayors. Naftalin claimed that State control of the program would "inevitably dilute" authority which should be given to the cities. He also commented that "States are simply not equipped to respond to the needs of the cities." The mayor of a large eastern city asserted that the program had meant "nothing but a small tricking down of the big cities."

Reinforcing the criticism of the Urban Coalition and Urban America, Inc., are figures from the Harman study which indicate that although citizens make up 22 percent of the total State planning agency membership, "few of these individuals have central city backgrounds or come from minority groups." Moreover, Harman states that the assertion that professional law enforcement officials dominate the planning process has "some validity." In support of this claim, he notes that on five State planning boards the percentage of public safety representation is between 47 and 34 percent, while 10 and 5 percent are made up of State and Federal officials. Several ranking LEAA officials, Harman notes, take the position that "professional competence" is the principal goal and that every citizen participation in law enforcement planning is largely unnecessary.

Harman concludes his balanced study by remarking:

If all state governments were progressive and had innovative leadership, there might not be so much concern. The viability of the block grant approach will be seriously tested in the program, and strong sensitive state leadership, as well as competent technical support, will be required in order for states to assume their full responsibilities.

This statement, Mr. President, very successfully summarizes in the words that I have about this program's future success and the doubts which have been expressed by the organizations I have mentioned.

Simply stated, it appears that title I of the Safe Streets Act is presently structured, has not had, and will not have, the effect of reducing the high incidence of crime currently plaguing this country.

Interestingly, similar doubts about title I's future have been expressed by officials in the Justice Department itself. In an address before the Federal Bar Association on March 10, 1969, Attorney General Mitchell urged the States to "marshal their resources to concentrate on their urban centers." He continued:

Today, '70 percent of our nation's population live in cities and the high concentration of money and people has led to a concentration of social and economic problems.

The Attorney General then said:

There are, according to the Bureau of Census, about 15,000 urban areas. Almost all of them are starved for money and other aids, some of which could be supplied by the state governments.

All too often, needed cooperation and help has stumbled on political rivalries and bureaucratic parochialism which divide the urban centers and the state governments. While I understand the basis for much city-state government rivalry, political parochialism must be put aside in the name of our citizens who live in our cities.

In a speech delivered on October 20, 1969, to the Western Attorney General's Conference, the director of the Law Enforcement Planning Program, Mr. Daniel L. Skoler, admitted that although the new program under title I promises to absorb billions in tax money in the coming decade, it is "preparing anything in either improved law enforcement or crime control beyond paper plans and fund transfers."

While praising the accomplishments of the State Planning agencies during the first year of existence, such as the creation of 50-State planning agencies and the submission of 50 "comprehensive" plans under which Federal funding will be granted, Skoler also admitted the program has a number of problems. These problems as enumerated by Mr. Skoler are as follows:

1. Turnover and quality presents a constant threat to the quality of the Crime Control Act program as administered through the Safe Streets Act.

2. Although there are 50 State plans, these are rudimentary, (there are) exhibits gaps in the planning process, with very little impa­ cise about implementation, and have yet to incorporate serious, long-term or multi-year components.

3. States have shown a weak initial commitment for the fields of court, prosecution and corrections.

4. States remain to demonstrate a clear commitment to the problems of the large cities which account for the bulk of crime incidence.

5. In many States, it is not clear that local government needs and priorities will be fully reflected in the planning process or fully represented in the State planning agency supervisory boards.

6. (There is an uncertain commitment of States to matching requirement of Act. In this regard, Skoler questioned the ability—

he might also have questioned their willingness—five State to provide matching funds required under the Act.

7. (There is an uncertain responsiveness of Federal officials to citizen and community needs and values.)

8. The danger (exists) of inadequate qualification of planners, and implementation of improvement goals.

A quick reading of this list, Mr. President, discloses that these are not minor defects which Mr. Skoler has disclosed. Rather, they are deficiencies which go to the heart of the title I States, in their block grant approach to the problem of crime areas, we will have lost more ground than we gained. On the other hand, if we utilize the Act to foster that cooperation, we may multiply its value . . . If your State Law Enforcement Planning Committee does not now include black people—and in some States, it is missing Spanish-speaking citizens—perhaps those from these groups should be sought out and induced to participate wherever possible. If it is true that spokesmen so selected have the confidence of the rank and file of the population groups for which they speak.

Despite Mr. Kleindienst's pleadings, however, the studies by the Urban Coalition and Dr. Harman indicate representatives of the poor or minority groups and officials of agencies in such fields as welfare, health and manpower are concentrated by the absence on State planning agencies.

On April 5, 1969, a Justice Department memorandum to State planning agency officials stated that "regional combina-
This necessarily lengthy narrative of Title I's history and its implementation by LEAA and the States since the passage of the Safe Streets Act has been offered by way of introduction to proposals which I believe will cure the chief deficiencies in the legislation as it is now written. The board-based criticism which has been leveled against title I by responsible critics in and out of Congress, and by the Department, I believe, worthy of our most serious consideration. If nothing else, it should be clear that all is not well with the administration of this program. Certainly the increased funds are not being channeled to the localities which have the highest incidence of crime. Rather, funds are generally being diluted by dispersion across the States to regional planning boards which have shown very limited sensitivity to the problems of local governments. Although it is admitted by virtually everyone that this is not the way to do this or any program, it is essential that the war against crime is essentially, and most seriously, a disease of the cities, there is no indication that LEAA funds are being concentrated in urban areas. I must emphasize that although rural crime is on the increase, and must not be ignored, it still represents only one-twelfth of the overall incidence of crime in this country. In this time of severe strain on the Federal budget, it is essential that every dollar spent for crime prevention be spent wisely. Currently, this is not being done.

I propose, therefore, that section 306 of title I be amended to read that 50 percent of the funds appropriated under this title shall be allocated to the States, rather than the 85 percent currently provided, will be allocated as block grants to the States. This amendment has attached to it the proviso that a State's block grant allocation will be increased by 20 percent from funds allocated at the discretion of LEAA, where the LEAA finds that the comprehensive State plan required under the act adequately deals with the special problems and particular needs of the major urban areas and other areas of high crime incidence within the State. Presently such a finding is not required of the LEAA.

My bill further provides that a State's block grant shall be increased by an additional 20 percent from funds allocated at the discretion of LEAA, where the State contributes at least 50 percent of the non-Federal share of costs for programs of local governments funded in accordance with the comprehensive State plan. It is the purpose of this proviso to better insure that the States will meet their fair share of the non-Federal costs of this program. Both the NLC and Har-
the following: "$800,000,000 for the fiscal year ending June 30, 1971, $81,000,000,000 for the fiscal year ending June 30, 1972, and $1.2 billion for the fiscal year ending June 30, 1973."

S. 3173—INTRODUCTION OF A BILL TO EXTEND THE TIME WITHIN WHICH CLAIMS MAY BE FILED FOR CREDIT WITH RESPECT TO GASOLINE USED ON FARMS

Mr. McGovern. Mr. President, I introduce today a bill to extend the time within which claims may be filed for credit with respect to gasoline used on farms.

Present law provides that farmers may receive a tax credit for taxes which they have paid on gasoline which is used in farm machinery. This is, of course, quite equitable since the gasoline tax is essentially a road tax and farm machinery operates primarily off of Federal highways.

As the Internal Revenue Code now reads, the farmer must claim this credit at the time of filing his income tax that year. The bill I am proposing will permit the farmer to file for this credit any time within which claims may be filed for a credit or refund of an overpayment of income tax.

This brings the gasoline tax credit provision into line with income tax refund provisions and permits farmers to file for their credit later if they are unable to meet the existing deadline.

The PRESIDING OFFICER. The bill (S. 3173) to extend the time within which claims may be filed for credit with respect to gasoline used on farms, introduced by Mr. McGovern, was received, read twice by its title, and referred to the Committee on Finance.

S. 3174—INTRODUCTION OF A BILL RELATING TO DISPOSITION OF FUNDS TO PAY JUDGMENTS IN FAVOR OF CERTAIN INDIANS

Mr. McGovern. Mr. President, I introduce for appropriate reference, a bill to provide for the disposition of funds appropriated to pay judgments in favor of the Mississippian Indians in Indian Claims Commission dockets Nos. 142, 359-363, and for other purposes.

The Mississippi Sioux Indians have received, and will continue to receive, the Indian Claims Commission. This bill would provide the necessary authority for the distribution and use of the funds already appropriated to satisfy the judgment, I wish to make it clear that I reserve judgment on the provisions of the bill and that I am introducing it at the request of the Sisseton-Wahpeton Sioux Tribe in South Dakota, in which the hearings may be held and all the facts brought to light concerning the manner in which the funds should be divided and utilized.

Mr. President, I ask that a letter from Mr. Chris R. Johnson, Secretary of the Sisseton-Wahpeton Sioux Tribe, requesting additional information be printed in the Record, together with the language of the proposed bill.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill and letter will be printed in the Record.

The bill (S. 3174) to provide for the disposition of funds appropriated to pay judgments in favor of the Sisseton-Wahpeton Sioux Indians in Indian Claims Commission dockets numbered 142, 359-363, and for other purposes; introduced by Mr. McGovern, by request, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the Record, as follows:

S. 3174

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the funds appropriated by an Act of June 19, 1966 (82 Stat. 339), to pay compromise judgments to the Sisseton and Wahpeton Tribes of the Sisseton-Wahpakoota Tribe of the Sisseton and Wahpeton Sioux Indians in Indian Claims Commission dockets numbered 142, 359-363, and for other purposes; as provided in the language of the proposed bill, be restored to the credit of the Sisseton-Wahpeton Sioux Tribe, the Santee Sioux Tribe of the Upper Minnesota, the Lower Sioux Indian Community in Minnesota, and the Assiniboin and Sioux Tribes of the Fort Peck Indian Reservation, and the Upper Sioux Indian Community in Minnesota shall be placed on deposit in the United States Treasury to the credit of the respective tribes and 60 percent of such funds shall be distributed per capita to those tribal members listed on the rolls prepared pursuant to Section 2 of this Act, and the remainder may be advanced, deposited, expended, invested, or reinvested for any purposes designated by the respective tribal governing bodies and approved by the Secretary of the Interior; provided, however, That none of the funds may be paid per capita to any person other than persons whose names appear on the rolls prepared pursuant to Section 2 of this Act. The shares of enrollees who are members of a tribal group with whom the Secretary of the Interior determines appropriate to the proportionate shares of those persons who are members of the Devils Lake Sioux Tribe, Fort Totten, North Dakota, the Sisseton and Wahpeton Sioux Tribe of South Dakota, the Assiniboin and Sioux Tribes of the Fort Peck Indian Reservation, Montana, and the Upper Sioux Indian Community of Minnesota, shall be placed on deposit in the United States Treasury to the credit of the respective tribes and 60 percent of such funds shall be distributed per capita to those tribal members listed on the rolls prepared pursuant to Section 2 of this Act. An amount equivalent to the proportionate shares of those persons who are members of the Lower Sioux Indian Community, in Minnesota, and the Assiniboin and Sioux Tribes of the Fort Peck Indian Reservation, Montana, the Upper Sioux Indian Community of Minnesota, and the Assiniboin and Sioux Tribes of South Dakota, the Assiniboin and Sioux Tribes of the Fort Peck Indian Reservation, Montana, and the Upper Sioux Indian Community of Minnesota, shall be placed on deposit in the United States Treasury to the credit of the respective tribes and 60 percent of such funds shall be distributed per capita to those tribal members listed on the rolls prepared pursuant to Section 2 of this Act, and the remainder may be advanced, deposited, expended, invested, or reinvested for any purposes designated by the respective tribal governing bodies and approved by the Secretary of the Interior; Provided, however, that none of these funds may be paid per capita to any person other than persons whose names appear on the roll prepared pursuant to Section 3 of this Act, the shares of enrollees who are members of the Devils Lake Sioux Tribe, Fort Totten, North Dakota, the Sisseton and Wahpeton Sioux Tribe of South Dakota, the Assiniboin and Sioux Tribes of the Fort Peck Indian Reservation, Montana, and the Upper Sioux Indian Community of Minnesota, shall be placed on deposit in the United States Treasury to the credit of the respective tribes and 60 percent of such funds shall be distributed per capita to those tribal members listed on the rolls prepared pursuant to Section 2 of this Act. An amount equivalent to the proportionate shares of those persons who are members of the Lower Sioux Indian Community, in Minnesota, and the Assiniboin and Sioux Tribes of the Fort Peck Indian Reservation, Montana, the Upper Sioux Indian Community of Minnesota, and the Assiniboin and Sioux Tribes of South Dakota, the Assiniboin and Sioux Tribes of the Fort Peck

SEC. 4. Any person qualifying for enrollment under this Act shall not be subject to Federal or State income tax and shall not be subject to any lien for alienation of property or any debt owed by the tribes to the United States.
or owed by individual Indians to the tribes, or the United States.

Sec. 9. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act, including the establishment of deadlines.

The letter, presented by Mr. McGovern, is as follows:

Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation,


Senator George McGovern,
U.S. Senate,
Washington, D.C.

Dear Senator George McGovern: We wish to submit on behalf of the Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation this amendment to the disposition Act which would provide for the disposition of funds appropriated to pay judgments in favor of the Mississipi Sioux Indian in Indian Claims Commission dockets numbered 142, 389-386.

This proposed Act is a result of many meetings and discussions held by the individual bands concerned and finally by the different bands in two separate combined meetings. They unanimously agree to this bill introduced and passed as this claim has been pending for approximately twenty years. Any assistance your good office can provide on this matter will be greatly appreciated.

With every good wish,
Sincerely,
Chris R. Johnson,
Secretary.

ADDITIONAL COSPONSOR OF A BILL
S. 2847

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Washington, Mr. Nelson, I ask unanimous consent that, at the next printing, the name of the Senator from Texas (Mr. Yarbrough) be added as a cosponsor of S. 2847, to amend the Foreign Assistance Act, as amended, to authorize the Secretary of State to participate in the development of a large prototype desalting plant in Israel, and for other purposes.

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

ADDITIONAL COSPONSOR OF A RESOLUTION
S. 2848

Mr. PROXMIRE. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Hawaii (Mr. Inouye) be added as a cosponsor of Senate Resolution 285, authorizing the Foreign Relations Committee to study international cooperation in space.

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

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATION BILL, 1970—ANOTHER VERSION
AMENDMENTS NO. 288 AND 289

Mr. McGOVERN. Mr. President, I am submitting for appropriate reference two amendments to the Labor and Health, Education, and Welfare and related agencies appropriations bill—H.R. 13111.

They provide for increased appropriations for elementary and secondary education programs and for higher education programs. The amounts requested are minimal. We have been asked to spend many times this amount on less important projects—unneeded aircraft, useless missiles, and dangerously provocative weapons systems. I simply ask that we make a small investment in the future of our children and the future of our Nation.

The first amendment—No. 288—has two major features. It asks a total funding increase of $504,761,300 for fiscal 1970 over H.R. 13111 as it presently stands, and also provides for year-ahead funding of a number of programs. The amounts to be appropriated for fiscal 1971 represent a 19-percent increase over the fiscal 1970 amounts which I am proposing for the affected programs. This advanced funding is needed if schools are to have funds available at the beginning of the school year.

I will not at this time attempt to give an extensive analysis of the amendment, but I will briefly mention the functions of the programs affected and the amount of H.R. 13111 for fiscal 1970 along with the total amount for 1971.

Title I of the Elementary and Secondary Education Act which provides funds to assist in the education of children from deprived backgrounds: an increase of $103,839,300 and an appropriation of $175,000,000 for 1971.

Title II of the same Act which provides supplementary grants to the States for the purchase of textbooks and other instructional materials: an increase of $50 million, and appropriation of $125,000,000 for 1971.

Title III which creates grants that establish and carry on supplementary education centers and services which provide educational experiences that are frequently not available in the existing public schools: an increase of $8,124,000, and an appropriation of $23,350,000 in 1971.

Title V of the National Defense Education Act which grants funds to schools systems to strengthen their guidance and counseling services: an increase of $5 million, and an appropriation of $60 million in 1971.

The amendment also provides additional funds to strengthen college libraries by funding otherwise inoperative features that make part student grants to the college and develop regional special libraries for an increase of $18,337,000.

Finally, the amendment appropriates funds for three programs which have never before been funded: clinical training for law students, $3 million; assistance to public interest education, $3 million; and the International Education Act, $3 million.

The PRESIDING OFFICER. The
amendment will be received, printed, and appropriately referred.

The amendment (No. 289) was referred to the Committee on Appropriations.

JOB OPPORTUNITY

Mr. SCOTT. Mr. President, one of the greatest tasks which face our Nation today is that of assuring that every American can work and can advance to the greatest tasks which face our Nation to-day.

As you know, the Equal Employment Opportunity Commission was established by Congress under Title VII of the Civil Rights Act of 1964, to end job discrimination by private industry and labor unions in our Country.

Since 1964, the Commission has heard over 40,000 cases and has found discrimination in 60 percent of the cases. The average finding figure which can only lead to one conclusion—that job discrimination is widespread and deeply entrenched in our society. These figures do not represent a few malcontents and troublemakers who file charges on a lark and then never come back to try to bring about conciliation. They represent the frustrations and despair of members of minority groups, and women, who are capable workers, but who see their best efforts constantly shortened.

Discrimination in employment is perhaps more often an unconscious and unintentional pattern than it is a deliberate scheme. Regardless of the cause, the effect is the same—the exclusion of capable and qualified workers for reasons other than those related to their ability to do the job.

The chains of discrimination in employment are just as real a form of slavery and tyranny as the chains that once bound men as serfs. There is no denying that a man's humanity, they deny him a chance in the arena of life to earn a decent livelihood and to make something of himself. They turn the American dream into an American nightmare. And just as the chains of slavery had to be broken to set men free, so the shackles of employment discrimination must be loosened today.

The Equal Employment Opportunity Commission was established by Congress to break down and eliminate job discrimination wherever it is found.

In the past five years, since the Commission started holding investigatory hearing cases, and collecting figures, we have confirmed what many had suspected. Job discrimination knows no boundaries of geographical region, class, or profession. While it is widespread and open in the South, it is well-honed and subtle in other areas. You will find it in the board room as well as in the boiler room. It exists in industry, labor, education, journalism, and medicine. There is no part of the country where attention has been given until now to its debilitating effects. It was the kind of illness which most people considered a temporary emergency. There were no running sores, and usually it was accompanied by a low-grade fever. But when it was infected did not know that they were in poor condition.

Even today, too many of them do not know that remedies are available to them.

Congress distilled the remedies in the 1964 Civil Rights Act, when it created the EEOC, and it left out one of the vital ingredients at the time, enforcement power. One of the remedies is the compliance process. This involves the receipt and investigation of job discrimination complaints filed by Negroes and other minority group members, who do get hired or promoted have good reason to do so.

During fiscal year 1969, the Commission looked into over 10,000 cases of job discrimination; this figure rose to 11,720 during the past year. When we find that a complaint is valid, we go to the parties involved and try to eliminate the unlawful practice through a process of negotiation which we call conciliation. If a conciliatory settlement is in order, the industry will be notified that the case to the Attorney General of the United States for prosecution.

The Department of Justice is then brought into the arena? Give equal employment opportunity a try on a full-scale basis, and work with labor and business to break down the chains of job discrimination. The industry will find it welling to the surface by employees who previously found little time for concern with problems of discrimination. The current Administration is solidly committed to providing EEOC with enforcement powers, and legislation is now moving through Congress. I believe that this Congress will give EEOC the power it must have to deal effectively with illegal job discrimination. I believe that when the Commission has the power to compel compliance with the Act, it will find employers who are not willing to bring about conciliation. In cases where an employer has been deliberately practicing discrimination, good will does not exist in large quantities.

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Take another example. If you walked through some of your firms and saw the Negro employees, you might really become convinced of the importance of affirmative action. If you apply for a "visible" position usually need not bother unless he or she looks like a black pest. You are not interested in "standardized English". However, you might note that his white supervisor has skin blemishes and scar tissue. However, you might note that his white supervisor has skin blemishes and scar tissue.

Second, review existing personnel placement and use in your ? As the first large-scale gathering of business and government representatives for the purpose of exploring the problem of job discrimination in both the public and private sectors, this conference does indeed promote cooperation—not confrontation. You have recognized that all of us must work together for the common purpose that all Americans have equal job opportunities based on their abilities, and that these abilities are fully and profitably used.

The President's Council of Economic Advisers has estimated that discrimination in employment costs the economy at least $30 billion annually. The further costs in human dignity and damage to the social fabric of our national life cannot be calculated. It is the goal of this Administration to insure equal employment opportunity for every citizen. To this end, we have urged the Congress to provide enforcement power to the Equal Employment Opportunity Commission. I hope that it will not be necessary to exercise that power often.

It is this where the business and industries of our country can play a vital part. By taking the lead in promoting equal employment opportunity and making it a matter of concern in their own actions, you can deal affirmatively and constructively with the problems we face. And you can be certain that every race, every color, every creed, and every American—while teaching others that discrimination is not only a violation of the law, but a violation of the spirit and tenets on which this nation was founded. May your deliberations be rewarding for your participants, and for the nation you serve with such distinction.

Sincerely,

RICHARD NIXON.

CONFERENCE PARTICIPANTS

Aerospace Industries Association of America, Inc.
American Bakers Association
American Chemical Society
American Meat Institute
American Road Builders' Association
Association of American Railroads
Edison Electric Institute
Institute of Technical Assistance
Institute of Technical Assistance
International Sanitary Supply Association
National Association of Broadcasters
National Association of Manufacturers
The National Federation of Business and Professional Women's Clubs, Inc.
National Agricultural Association
National Association of Manufacturers
National Airport Association
National Bankers Association
National Chamber of Commerce
National Education Association
National Farmers' Union
National Pharmaceutical Manufacturers Association
National Petroleum Council
National Rifle Association
National Seafood Council
National Tool, Die and Precision Machine Tool Builders' Association
National Urban League
National Women's Party
National Wildlife Federation
National Western Stock Show


HON. WILLIAM H. BROWN III,
Chairman, Equal Employment Opportunity Commission.

DEAR BILL: It is a pleasure to greet the representatives of America's leading trade associations and civic organizations who attend this Conference on Equal Employment Opportunity.

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RICHARD NIXON.
DEATH OF JOHN E. DURISOE, SENATE DOORKEEPER

Mr. BYRD of Virginia. Mr. President, on November 15, John E. Durisoe, of Falls Church, Va., died at the Fairfax Hospital. Mr. Durisoe had served the Senate with courtesy, efficiency, and good humor as a Doorkeeper for nearly 10 years at the time of his death.

I take this occasion to express my sympathy for Mr. Durisoe’s family and to say that he will be missed in the Senate.

I ask unanimous consent that the notice of death be printed in the Record.

Mr. President, there being no objection, the notice was ordered to be printed in the Record as follows:

JOHN E. DURISOE

Suddenly on Saturday, November 15, 1969 at the age of 64. Mr. John E. Durisoe of 2863 Rosemary Lane, Falls Church, Va., beloved husband of Mrs. Mary K. Durisoe, and father of Susan Durisoe. He is also survived by his mother, Mrs. Doris L. Durisoe of Falls Church, Va., a sister, Mrs. Hugh Mary F., and Lela R. Durisoe of Washington, D.C. Friends may call at Hysongs Funeral Home, 2924 N St. NW., on Monday, November 17 between 2 and 9 p.m. Services and Internment will be held in Grayson, Ky.

PORNOGRAPHY CONTROL LAWS

Mr. GOLDBURG. Mr. President, it is very encouraging to me to see that legislation against pornography has been put high on the list of measures which the distinguished majority leader and minority leader have announced must be considered by the Senate prior to adjournment in December.

The momentum during serious Senate consideration of bills pending in this field is one in which I have joined since early in the spring. I regret to say that it was an embarrassing discovery for me to find out that the only thing a Senator could do if he wished to testify about pornography was to cross the Hill and speak before members of a House committee.

Two different committees of the House have been holding open hearings on the obscenity problem all year long, but there has not been 1 day of hearings on the Senate side. I think that the whole Nation is hoping the decision by the leadership will put a spur under the Senate so that we can get rolling on this.

There is no question that most Americans are deeply irritated by the outpouring of filth which bombards their homes.

Who among us has not received numerous letters from residents of his State pleading that we take new initiatives to control the distribution of indecent materials? My mail has reached as high as six letters in a single morning from citizens who criticize the ineffectiveness of existing pornography laws.

No one has compiled a total of just how much mail is sent to Members of Congress by persons who demand the enactment of new laws against smut, but it must be gigantic.

Another indication of the enormity of the problem is reflected in the fact that well over one-half million persons have filed complaints with the Post Office Department in the last 3 fiscal years specifically objecting to obscene mailings.

These protests have recently jumped to a projected rate of nearly a quarter million complaints annually. This is the highest number ever received by the postal service since it began keeping data on such complaints. The fact that hundreds of thousands of citizens are sufficiently aroused to register their outrage against smut mail in this way is clearly deserving of our special attention.

The actual number of Americans who want protection against the unsought and unwelcome intrusions caused by the smut peddlers can only be estimated. But, the results of a recent Gallup poll on this subject may be of help. The poll revealed that 85 out of every 100 adults interviewed said that they favor stricter laws dealing with obscenity in the mails. Translated into population statistics, this means that up to 100 million persons dissatisfied with the existing postal obscenity laws.

Why is this so? Why is it that the present laws have failed to prove equal to the task? What solutions exist by which we can put a halt to the menace which is threatening the sanctity of American homes?

Mr. President, these are the kinds of questions which I have been examining for the past several months. I have reached certain conclusions about the problem and I would like to share them with you.

First, the major source of outrage among our citizens is the unsolicited, sexually oriented literature that is being delivered to the doorstep and mailbox of millions of American homes.

It is not so much the new wave of movies and avant guard plays that are presented in the downtown theater that people object to. It is not so much the movies that are sold at the corner newsstand that create the public’s alarm.

These things are offensive to many people. But, the primary target of anger and outrage is the direct mail. The mailboxes are flooded with brochures and paperback books that are sold at the corner newsstand that create the public’s alarm.

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been used as weapons against some sex­ually offensive advertisements and pub­lications, is there a need for additional laws?"

The paradox will appear even more confusing when I mention that there has been a vigorous prosecution of obscenity cases by the Justice Department in the last few months which have resulted in Federal indictments being returned against 17 of the approximately 20 major pornography dealers. In addition, the Chief Postal Inspector has prepared evi­dence relating to the mailing activities of at least 14 smaller distributors that should mature into prosecutions shortly.

And, to take developments a step fur­ther, I am delighted to report that the Nixon administration has made a visible demonstration of its intent to give top priority status to the prosecution of ob­scenity cases by concentrating all the re­sponsibilities for handling this job into one section at the Justice Department. This step is one which I and several other Senators urged upon the White House early this year and I am greatly pleased that the President and the At­torney General have put the idea into being.

While there has been real progress in the record of indictments in the last few months, however, it is also the unfortu­nate truth that the same people who are under indictment continue to grind out their unwholesome product and are able to carry on with business as usual. It is my hope that a string of four or five convictions in these cases would throw a sufficient scare into this group of pornographers and it is high time that prosecution and its consequences be foretold in the minds of those who continue to exploit by unfair and illegal means.

The prevalent view held by these per­sons has been succinctly expressed by Dr. Donald Hammersley, chief of the professional services wing of the Amer­i­can Psychiatric Association, who kindly prepared a bibliography at my request covering some studies in the obscenity field.

Dr. Hammersley commented on this research material as follows:

I don't believe any of these references offer positive proof that pornography has a negative influence on the child. These articles refer, of course, to current battles and the skeptics can point to any empirical evidence that would prove the opposite.

Mr. President, I wish to emphasize one point about my suggestion. I do not feel that Congress should send the job around alone in order to act on legislation to protect children.

Whether or not we decide that pornog­raphy is inimical to children, there is a second concept which I believe offers a strong basis for enacting a special law with respect to minors. I am speaking, of course, about the power of Congress to protect the constitutional guarantee of freedom of privacy.

To me privacy deserves one of the highest spots on the list of individual freedoms. It embodies the essence of the idea that each person's life to be protected from prying eyes and ears and the right to enjoy the privacies of his life. In short, it stands as the bulwark of a man's right to be let alone.

The right of privacy has been distin­guished as a distinct and separate right in American law for the past 80 years and is regularly winning expanded inter­pretations.

The reason for this is easy to see. As rapid improvements in the means of communications and transportation have continued to bring people closer and closer together, these same developments have made it increasingly simple for each person's life to be invaded by others who seek to exploit by unfair means.

Thus it is that the courts now rec­ognize the authority of the State to pro­tect a man's feelings as well as his limbs. The exercise of this power is particu­larly strong when the threat to privacy involves an invasion of a man's home.

There is a Supreme Court decision close at hand. In Breard v. Alexandria, 341 U.S. 622 (1951), the Court considered the validity of a municipal ordinance
Forbidding persons from going upon private residences, without prior invitation to solicit orders for the sale of magazines containing obscenity as a proper means to protect householders against “uninvited intrusions into the privacy of their homes.”

A major principle announced by the Court is that when the substantive right of free speech collides with the personal right of privacy, there has to be an adjustment of both rights. In the words of the majority: “It is impossible to engage in interstate commerce or free speech cannot be permitted to crush the living rights of others to privacy and repossession.”

The most recent enunciation of the rule was made by a three-Judge Federal court convened in California to consider section 4009 of title 39, the pandering advertisement law. In upholding the power of Congress to secure the right of privacy by restricting mailings of objectionable pandering advertisements, the court said:

To require a commercial enterprise to strike a name from a mailing list seems little burdensome in the light of the intrusion of privacy to an individual, otherwise helpless in his home, to “turn off” pandering mailings which may be erotically arousing or sexually provocative to him and his family.

In my opinion, these decisions—backed up by related cases such as Griswold v. Connecticut, 381 U.S. 479 (1965)—make it crystal clear that the right of privacy is included among the fundamental personal rights reserved to the people by the Constitution.

In applying this doctrine to the proposals for adopting stringent new regulations over the delivery of smut materials to young persons, I am convinced that the right of privacy will be held to encompass the right of parents to raise their children in their own way.

The indiscriminate distribution of smut to minors is undermining the ability of parents to educate their children in a decent way as to the purpose and meaning of sex. For this reason, the vast majority of parents seek our assistance in shielding their families against the massive promotion techniques used by multimillion-dollar operators.

It increases my belief that Congress may enact legislation that will give parents additional requirements that will have the inside track on the Senate’s legislative program. Therefore, I suggest for consideration is a law that will protect the fundamental personal rights reserved to the people by the Constitution.

Fortunately, the provision set out in clause (d) of subsection (a) omits certain essential elements that have been traditionally required by the courts as a test of obscenity.

For example, the statute would allow the material under question to be considered obscene if it is “taken as a whole” in the context of the article or story which it belongs, it may seem proper. For this reason, I am afraid that unless the bill is changed it will be applicable on its face to many legitimate magazines, newspapers, and books that no one wanted to cover.

An even greater oversight than this has been made, for whoever put the definition language together has left out what has been the truly basic standard and applied in each court decision on obscenity. I refer to the absence of any requirement that objectionable material must appeal to the prurient interest of the community.

Consequently, I suggest that the Senate adopt an amendment that will make the bill conform to the standards set forth by the New York court.

In my view this one change is absolutely crucial to the validity of the entire law. I urge my colleagues to read the case of Interstate Circuit v. Dallas, 390 U.S. 679 (1968) if there are any lingering doubts about tampering with the constitutional definition of obscene matter.

In this case the Court held that an ordinance of the city of Dallas was invalid because the standards used to define impermissible matter were not definitely and narrowly drawn. The Court decided that this was so even though the law had been adopted for the purpose of protecting children.

The Court drew a comparison between the New York statute and the Dallas one, noting that the New York statute had been drawn “in accordance with tests which the Court has set forth for judging obscenity.”

That this approach will be effective is proven by the fact that the conviction of the defendant in the case of Ginsberg involved the sale of four "girlie" magazines. The only question is whether this is willing to find that pictorial magazines is harmful to minors, I am certain it will find that the utter garbage which is infesting the mails is likewise obscene when sent to minors.

In view of this signal by the Court, it is essential that the New York type of definition is the one we should use.

To this end, I suggest the proposed law be amended to hit at persons who distribute illicit products for compensation or other commercial ends. This would be similar to a requirement in the New York statute and would meet the suggested form included in the model penal code, which has been drafted by the American Law Institute.

The third change which I hope the Senate will consider is whether the criminal sanctions of the bill should be expanded to make the laws applicable to anyone who uses the mails and interstate commerce without any purpose of material gain.

To close this loose provision, I recommend the proposed law be amended to hit at persons who distribute illicit products for compensation or other commercial ends. This would be similar to a requirement in the New York statute and would meet the suggested form included in the model penal code, which has been drafted by the American Law Institute.

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independent distributor to handle the actual printing, mailing, or shipping of his product. 

There is a major smut mill in Phoenix that performs just this kind of service on behalf of publishers in many different States, and I think the law should spell it out to force it to reach its kind of operations. I am referring to the Valley Paperback Manufacturers, Inc., which is engaged in a $4 million business printing X-rated books for the company, bragged to an Arizona Republic section (b) to make it a crime to print material will be deposited in the mail or transported in commerce in violation of the statute.

The next amendment I wish to bring before the Senate also involves the inherent constitutional validity of the proposed statute. In my opinion subsection (c) of the bill is incapable of passing muster in the courts.

This provision says that indecent matter which is sent to a household where a child resides shall be considered as having been intended for delivery to a minor. An exception is granted only when the material is sent in an envelope or package which forssels the name of the addressee, and that the contents is "precisely" addressed to an adult. "Precisely" means that every smut dealer will be given a ready-made defense whenever a minor fills out a coupon on which he lists his own age for the smut peddlers themselves. For example, the Senate might consider imposing a requirement on the dealer to compile and use a professionally designed mailing list that gives a high degree of certainty that it contains the names of adults only.

Practically every one of the dealers causing the present trouble already possess automated equipment which they use in making their deliveries. Therefore, a requirement of this kind would be entirely reasonable.

Mr. President, the state of art in the list preparation field is at a point of extraordinary sophistication. The accomplishments of reputable firms in the direct advertising trade prove that the technology is at hand to put together lists that will meet my proposal.

For example, R. L. Folk & Co., of Detroit, has compiled a list which contains names for 60 percent of all families in the United States. Labeled the "Household Census List," this amazing creation tells a sub-

Null January 21, 1969

CONGRESSIONAL RECORD — SENATE

60
scriber the names of the heads of households in 30 million American families, the names of their wives, the number of children, the ages of all the members of the family, and many other precision factors on a household-by-household basis.

Polk certainly is not inclined to deal with anyone in the pornography business. As a matter of fact, Polk carefully investigates the integrity of each of its customers before renting one of its lists. But the fact that human ingenuity can develop such a remarkable list as the one Polk has produced should be reason enough for the Congress to investigate fully the question whether it would be reasonable to require pornographers to acquire the names of their wives, the number of children, and many other precision factors on a household-by-household basis.

There are known ways by which these lists can be kept fresh so that they maintain an accuracy factor of better than 90 percent. While this might not be foolproof, it would provide a much greater assurance than present practices do, that smut garbage will not be addressed to a child.

The specific amendment that I wish to propose is the inclusion of a provision which preserves concurrent jurisdiction for the States in the obscenity field. The question of whether Congress intends to preempt the States in the obscenity field or to leave it in the States has been settled, to the extent of State and local laws should not be left for the courts to interpret. Congress has chosen a standard of nondeprecatory feature for those State criminal statutes and the Federal criminal statutes it has enacted during the past 5 years, and I propose that similar language be put in the pending legislation.

Mr. President, I ask unanimous consent that a list identifying these 15 criminal statutes be printed at the end of my statement.

Mr. President, in closing I want to express the hope that all Members will be sufficiently interested in finding an effective way to control this menace that it will even pass the scrutiny of a permissive Supreme Court. Let us learn very late in the game that our natural surroundings do not have an endless capacity to absorb our abuse: that this generation or the next will even pass the scrutiny of a permissive Supreme Court. Let us learn very late in the game that our natural surroundings do not have an endless capacity to absorb our abuse: that this generation or the next will become the only or even the principal basis for decision making. We must never accept the idea that we will not plant a tree, create a park, or clean a stream unless we can first prove that it is economically advantageous to do so.

He suggested broader bases for our resources decisions, and also called for their application to determine where we should carry out the enhancement of the environment.

Although we agree that water supply, recreational and environmental needs of the country's most congested areas must be supplied, we contend that aggressive, soundly conceived, Federally assisted programs that provide and will promote development and conservation opportunity in other areas of the country, and hence diminish future population pressures on the valleys of the Hudson and the Mississippi, of the Great Lakes and Southern California, are urgently needed, even if we lack the techniques for calculating the political, social and economic benefits, say, to Philadelphia, of programs that keep people in the Dakotas.

Mr. President, I ask unanimous consent that the statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

**STATEMENT OF THE MID-WEST ELECTRIC CONSUMERS ASSOCIATION FOR THE NATIONAL WATER COMMISSION**

**WASHINGTON, D.C., NOVEMBER 6-7, 1999**

While the Congress was considering the legislation that authorized the creation of this Commission, I had several opportunities to express my support for the authorizing legislation to members of Congress and the Congressional Committee. I supported the legislation because I was convinced that a review of major problem areas in the water resources field, together with an examination of established policies and procedures relating to Federal activity in water resources by a top-flight citizen's group was urgently needed and desirable.

Now that the legislation has been enacted, the members of the Commission selected, the

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**Deterioration of the Environment**

Mr. MCDOUGAL, Mr. President, it is increasingly difficult if not impossible, to discuss the accelerating deterioration of our environment in calm and moderate terms. The outlook is too alarming.

Some lakes are dead long before their time; others are dying at a vastly accelerated rate. Rivers and streams, because they are treated like sewers, are beginning to act like sewers. More and more our air is befouled by our annual offering of 133 million tons of refuse. We are less and less able to find space to store the 1,800 pounds of solid garbage that each American discards each year. We are learning very late in the game that our natural surroundings do not have an endless capacity to absorb our abuse: that this generation or the next will become the only or even the principal basis for decision making. We must never accept the idea that we will not plant a tree, create a park, or clean a stream unless we can first prove that it is economically advantageous to do so.

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Now that the legislation has been enacted, the members of the Commission selected, the
staff, organized, and the work begun, I am even more optimistic that your effort will identify policy changes and solutions that will contribute to wiser use and better management of our most important natural resource.

In the past, the Northwest Electric Consumers Association has been dedicated to the efficient use of the nation's most important natural resource. Mid-West Electric's members are the consumer-owned utilities in the Midwest. The Association exists because these utilities believe that joint action enhances their ability to provide reliable electric service at competitive costs. The Association's members consider these utilities in their states and their region of the country. As good citizens they support and promote wise resource management.

The ideas that we submit today for your consideration represent essentially the point of view that I have developed as a citizen who still insists that home is a farm in northern South Dakota. My farm experience has been supplemented by membership in the Missouri Basin Survey Commission, service in the South Dakota legislature, affiliation with a variety of cooperatives and conservation groups, involvement in developing water sources, etc. Obviously, Mid-West has reviewed this paper and supports the ideas presented.

Economics, too, remind us that because you have so much expertise available, we propose to limit our presentation to a few concepts that we consider of great importance to the nation's resources, and that have great importance to the upper Midwest. Specifically, we will give you our views on (1) the financial analysis of water resource projects, (2) the urgent need for the nation's decision makers to recognize that the completely different circumstances in the various regions require a variety of approaches and policies to fit these needs, (3) the almost limitless opportunities that exist to provide water resources for the present and future needs of the various regions of the country by developing the underutilized Missouri Basin.

August 14 we appeared before the Water Resources Council in Omaha, Nebraska, to present our comments on the Council's decision to raise discount rates used in evaluating water resources development projects. To save you time I will not repeat those comments, but I have attached copies of that statement to the submission made available to you today.

When you review that paper you will find us even more disturbed by the implication that this generation should not do anything to improve or protect the nation's resources unless we are sure that it will be economically profitable. In the discretion of the Congress, that benefit discounted to present net worth exceed costs then we are by changes in the discount rate and diluvial rivers, crooked hill sides, and gullied fields demonstrate that we have plenty of exploiters and despoilers without making exploitation a national policy.

An individual, a community, or a nation that makes an investment in its resources or environment only if, by so doing, it will be economically profitable, has adopted a policy of exploitation. We feel confident that your Commission will recognize our generation's obligation to so invest some of our earnings in the land that has treated us so generously, and will not yourselves, put on blinders that greatly limit your vision, as so many articulate and influential economists of our time have done. Let's not be fooled by fancy terms and phrases.

Economic analysis can be a useful tool to assist us in making decisions in the resource arena. It must never become the only or even the principal basis for decision making. We must never forget that we will not have a tree, create a park, or clean a stream unless we can first prove that it is economically advantageous to do so.

If we are unwilling to invest in our environment and our resources without first establishing that it will be profitable, then we will not achieve a rational rate of investment in the space program. With our growing population and all of our increasingly wonderful machines, a generation of waste and confusion appears. My farm in Mora appears attractive and pleasant sanctuaries for our children. American will have benefited a wonderful product under a more rational resources management.

Our concern for the proper understanding of benefit-costs and its application in planning and policy development is centered—Federal policy makers understand that Federal policy must be broad enough and sufficiently flexible to accommodate the differing problems and opportunities of our country's different regions.

We all understand that the economies of scale almost inevitably reduce the unit cost of the product as we are able to increase the size of the facility. Because this is true, facilities designed to serve the congested areas of the country are almost certain to produce the lowest unit costs and show the best in benefit-cost analysis unless we add completely new dimensions to our economic analysis.

Although we agree that water supply, recreational and environmental needs of the country's most congested areas must be supplied from relatively scarce, soundly conceived, Federally-assisted programs that provide and will promote development and economic opportunity in other areas of the country. The interference with population pressures on the valleys of the Hudson and the Delaware, the shores of the Great Lakes and the Great Salt Lake and the Great Salt Desert is needed, even if we lack the techniques for calculating the political, social, economic and environmental benefits of programs that keep people in the Dakotas.

Before discussing this matter directly however, I should like to discuss further water resource development in the region.

The reclamation program was initiated in 1902 because President Roosevelt and the Congress recognized that the 17 Western States could not develop and prosper without large-scale water resources development. Federally-assisted water resource development has stimulated agricultural production and economic growth in much of the West.

As a matter of fact, some of the nation's largest and fastest growing cities recognizes that their growth could not have occurred without the vast reclamation water. Many of the country's most productive agricultural counties would still be desolate areas. The Western States had not been a Federal reclamation program.

Inevitably, as the program has developed and Congress has provided the funds, decisions have had to be made as to the order in which projects were constructed. As a result many communities are now looking for second or third round projects to supply supplemental irrigation water or additional municipal and industrial supplies, while the whole area still needs its first significant reclamation projects.

Almost inevitably the economies of scale will produce excellent benefit-cost ratios for those second round projects. Supplementing the economies of scale factor, the economic growth stimulated by earlier development projects in the area and regional demands for water-associated recreation and more joint costs will justifiably be assigned to the new projects to enhance the total development. As a result, the second round project has an excellent benefit-cost ratio.

That being the case, is the reclamation facility will serve the national interest. However, it should not receive Federal assistance unless there is economic development has not occurred because the region is waiting for its "first round" Federally-assisted water projects. This is exactly what will occur if we overemphasize customary economic factors and benefit-cost ratios when allocating the dollars that are available.

By any standard of comparison you will find that the Federal Government has invested very little in facilities that will put Upper Missouri River Basin water to beneficial use in the States where that water is desperately needed. The National Water Commission has low levels of economic activity and several of the States are actually losing population.

Existing schools, roads, libraries, electric, water, sewage, and other public facilities—as well as private industrial, commercial, industrial facilities, and housing—are being destroyed or used inefficiently.

Much of the rest of the country, on the other hand is struggling with problems of congestion, including by overirrigation, overpopulated housing, overcrowded schools, mushrooming industrial development—air and water pollution and inadequate opportunities for wholesome outdoor recreation.

Many of these areas have grown to a size, and developed problems so that many of them residents would prefer that they grew no longer.

The water in the Missouri River system, might be utilized to meet the demands in the rivers in Montana, North and South Dakota providing flood control and navigational benefits to the down-stream states, and generating hydro-electric power efficiently in the region, could alter economic conditions if used to stabilize the agricultural economy of those states. The Dakotas could grow again as adequate supplies of good quality water for municipal and industrial use in the cities and for irrigating and for water related recreation within the region.

We believe that dollars invested in water and related land development in the Upper Midwest Basin, are frequently needed purposes simultaneously. First, by increasing the profitability of its agriculture, and also its contribution to recreational use. Water in drought years, and better controlled use of water in all years, which will induce industry to locate where adequate quality water is always available and enhance the region eminently.

Those dollars will reverse the population trends that have reduced our farm towns, empty farmsteads, and inefficient public services of all types in those high plains States.

Simultaneously, and perhaps even more important from the National point of view, stabilizing the agricultural economy of this area and providing more opportunities for industrial development in these underdeveloped States can contribute substantially to reducing the population pressures on the over congested areas of the country.

Although I have been unable to uncover any authoritative analysis, even a superficial look makes it obvious that both the initial investment in public services and the continuing cost of operating and maintaining these facilities ultimately increase greater family per capita income in our crowded metropolitan areas the sold as in rural America.

We have dedicated much time and effort to the development of economic analysis and benefit-cost ratios for water resource development. The reclamation program, and economic growth in much of the West.

...A CONGRESSIONAL RECORD—SENATE

November 21, 1969
What we have now is all we will ever have to keep us alive. Having already set foot on the moon, and sent men into space, our only creatures that are the only resources on our solar system. As lonely astronauts on our own planet, we will forever have as our basic equipment for survival?

Above us, a narrow band of usable atmosphere, no more than seven miles high, with no clear air available.

Beneath us, a thin crust of land, with only one-eighth of the surface fit for human life.

And between us, and beneath us, there is water that we must eternally cleanse and reuse.

These are the elements of man's physical environment. This is the "envelope" in which our planet is perpetually sealed.

Together, and left alone, land, air, and water work well as an "eco-system" to maintain the great chain of life, and the delicate balance of nature, from ocean depth to mountain top.

But man, since he first rose up on two legs, has been tampering with this system. He has been trying to "civilize" it.

Now, entering the last three decades of the 20th Century, we face the shocking realization that we have gone too far too heedlessly—and now we are forced to cope with some of the consequences of our "progress" as a species.

What do we do? How do we turn over the world scientists and statesmen and specialists in every field are coming to agree on the pressing problems of our modern age:

That, as societies grow richer, their environments grow poorer.

The more the area of objects expands, the vigor of life declines.

That, as we acquire more leisure to enjoy our surroundings, we find less around us to enjoy.

It is nobody's fault, and it is everybody's fault.

The real culprits are the three main currents of the 20th Century—Population, Industrialization, and Urbanization.

Together, these three swift and mighty currents of history have acted to foul the air, contaminate the land, pollute the water, and no longer guarantee the beauty of life, the quiet and privacy, the natural resources—both renewable and nonrenewable.

Industrialization has added its own burden to the population pressure. The more we produce and consume, the more waste products we discharge into the air and water and land around us, where they do not "disappear," but instead enter the food chain.

Our natural resources—both renewable and non-renewable—are taxed to the utmost by the "industrialization." The U.S. water supply, for instance, remains at the same fixed level, but we are using four times as much per person in 1990 as we used in 1900.

Yet, at the same time, the volume of waste water discharged into our lakes, rivers, and oceans has increased by a factor of 50 since the beginning of the 20th Century. Less than one-tenth of one percent of all the air available to us is clean.

What we do not know—or refuse to recognize—is that modern man has been altering his total environment so swiftly and suddenly that the chain of life on this planet is endangered.

All of us live on a tiny space-ship which is hurtling through space at a speed of 700,000 miles per hour. To maintain life, and to preserve that chain of life on this planet is endangered.

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solar radiation, and raise the temperature at the earth’s surface. Some predict that this could melt the polar ice cap, thus flooding the coastal cities of the world.

Moreover, these contaminants are global in their effects; as the Bible tersely reminds us, "The wind bloweth where it listeth."

From the plains in Russia to the mountains of Switzerland, from the blue waters of the Pacific to the smokestacks of Chicago, the air is hazier, the smog thicker, the sun dimmer. Throughout the world, cities are suffering the ills—"but the figures speak less vividly than the sad bewilderment of California school children who are told their playgrounds will be closed those days when the atmosphere chokes their lungs.

Industrialization plagues the land as well as the air and waters. Our rise in synthetic technology has given us innumerable conveniences—but the roadides are strewn with cans, bottles, and cartons, the dumps overflow, and in some cities it costs three times more to get rid of a ton of junk than to produce it.

Urbanization is perhaps the most menacing of the three converging trends that threaten our future.

In the U.S., land is being urbanized at the rate of 3,000 acres a day. One million Americans move into the rural-urban fringe. Seventy percent of all Americans now live on 10 percent of the land; by the year 2000, they will live in the cities. And the same is happening all over the world. By the end of this century, most human beings will find themselves trapped, alive, reproduce, and die within the confines of an urban setting.

Each time we build a new highway, build a new shopping center, or turn farmland into housing developments, we decrease the acreage that will grow food. Great portions of our farmland will become a parking lot, not a place to feed our growing world. A place to feed our growing world. The"ecology" of the era was devised exactly a hundred years ago—in 1869—to signify the study of the relationship between life systems and their environment. "Ecology" is what everybody on this planet must start thinking about—and quickly—if we are to stand a chance of saving ourselves within the closed system of our space-ship.

For everything around us is tied together in a web of interdependence. When the plants help renew our air; the air helps purify our water; the water irrigates the plants. It is all a part of nature. It is all "master" it; he must learn to work with it—and with his fellows everywhere—to ensure that we do not alter the environment so drastically that we perish before we can adjust to it.

Mankind as a species needs aesthetic as well as physical values—sweet rivers to walk by in solitude and serenity, and pleasant prospects even in the midst of industrial affluence. The constant din of urban life assails the ears relentlessly, and noise contributes its own ugly obligato to the disarray of our environment. "The world is too much with us, late and soon," as Wordsworth prophetically put it more than a century ago, "sighing and spending, we lay waste our powers."

We have laid waste our powers for too long, not merely by ignoring the warnings of developing nations, but also by periodically killing off our bravest and our best in senseless wars.

Now is the time for all good men to come to the aid of their planet; to do our part with the skill and resources we have available.

We have a common cause worth fighting for: a new kind of war to make the world safe for human beings to live on. We do have the tools that can enable us all to live together.

**TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT**

Mr. PELL. Mr. President, the report "Title I—ESEA—Is it Helping Poor Children?" has recently been issued by the Department of Health, Education, and Welfare. It is a product of the Southern Center for Studies in Public Policy in conjunction with the NAACP Legal Defense and Educational Fund, Inc.

The report in essence discusses the utilization of Title I ESEA in a manner which does not attain the goal envisioned by Congress upon original passage of ESEA—improvement of the quality of education received by the disadvantaged children of our Nation. An excerpt from the introduction of the report best discusses the reasons for the report itself and the reasons I ask unanimous consent that that portion be printed in the Record:

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

**EXCERPT FROM REPORT**

**INTRODUCTION**

In 1965 Congress passed the Elementary and Secondary Education Act (ESEA), the most far-reaching and complex legislation in the history of this country. For the first time the national government recognized the reality of providing Federal aid to elementary and secondary schools. For the first time, the special needs of poor children were acknowledged and effective remedial action promised through special assistance to school systems with high concentration of low-income children.

Our hopes that the Nation would finally begin to rectify the injustices and inequalities which poor children suffer from being deprived of educational opportunities have been sorely disappointed. Millions of dollars appropriated by the Congress to help educationally deprived children have been wasted, diverted or otherwise misused by authorities. The funds apparently appropriated to raise the educational levels of these children are such that many parents of poor children feel that Title I is only another promise unfulfilled, another law which is being violated daily in the most flagrant manner without fear of reprisal.

We have found that in school systems across the country Title I—

1. Has not reached eligible children in many instances.
2. Has not been concentrated on those most in need so that there is reasonable promise of success.
3. Has purchased hardware at the expense of instructional programs;
4. Has not been used to meet the most serious educational needs of school children; and
5. Has not been used in a manner that involves parents and communities in carrying out Title I projects.

This report examines what has happened to Title I in the four school years since ESEA was passed. This is not an evaluation of compensatory programs but a report on how Title I money has been spent and how Title I has been administered at the local, State, and Federal levels.

Since passage of ESEA, Congress has appropriated $43 billion for the benefit of educationally deprived poor children—black, brown, white, Indian, and American. Because most of these children attend inadequately financed and staffed schools, the windfall of Federal appropriations no doubt brings them much needed help. It has also brought about the realization that these children never had. To hear the educational profession and school administrators tell it, the "massive" infusion of Federal dollars has caused such a furor that ever happened to American school systems. Educational opportunities, services, and facilities have been created in many schools.

Some of these poor children are now well fed, taught by more teachers, in new buildings with all the latest equipment, materials, and supplies, yet it is only an illusion that have not been so optimistic. Some school systems report that despite the "massive" infusion of Federal dollars, disadvantaged children are not making academic gains beyond what is normally expected. Some report moderate academic gain in programs and some report real academic improvement.

Despite these reports, the almost universal assumption that Title I is providing great benefits to educationally disadvantaged children from low-income families. We find this optimistic assumption largely unsupported. In my report:

1. The intended beneficiaries of Title I—poor children, are being denied the benefits of Title I; they are living on the gains of improper and illegal use of Title I funds.
2. Many Title I programs are poorly planned and the educational needs of educationally deprived children are not met. In some instances there are no Title I programs to meet the needs of these children.
3. State departments of education, which have major responsibility for operating the program and approving Title I projects, have by and large neglected the Title I responsibilities. They have not lived up to their legal responsibility to administer the program in conformity with the law and the intent of Congress.
4. The United States Office of Education, which has overall responsibility for administering the Act, is reluctant and timid in its administration of Title I and abdicates to the States its responsibility for enforcing the law.

5. Poor people and representatives of community organizations do not get involved in the planning and design of Title I programs. In many poor communities, the parents of Title I children are not even aware of Title I. In some communities, school officials refuse to provide information about the Title I program to the parents of Title I children.

These practices should be corrected immediately. We recommend that:

1. The Department of Health, Education and Welfare (HEW) and the Department of Justice take immediate action against school systems where HEW audits have identified illegal uses of Title I funds, and where indicated, restitution of misused funds demanded.
2. HEW enforce the requirement for equalization of State and local resources between Title I and non-Title I in schools districts throughout the country. In Mississippi such action should be required by the 1970-71 school year as recommended by the Commissioner of Education.
3. HEW immediately institute an effective monitoring and evaluation system to insure proper use of Title I funds; the Title I office be given additional staff and status within the agency, and the head of the checking department should be appointed forthwith and made directly responsible to the Commissioner of Education.
4. An appropriate Committee of Congress immediately conduct an oversight hearing into the operation of the Title I program and report the manner in which Federal, State and local school officials are using Title I funds.
5. The appropriate policy participation under Title I be maintained and strengthened.
6. Alternative vehicles for operation of
Title I programs are provided where State and local officials are unable or unwilling to operate effective Title I programs. For example, private non-profit organizations are permitted to operate Title I programs for migrant children.

7. HEW enforce the law; States be required to approve only those projects which conform with the Title I Regulations and the Program Criteria.

8. Congress provide full funding under the Act in order to assure sufficient resources to help poor children.

9. All efforts to make Title I a "bloc grant" be rejected.

10. Further study be undertaken on issues raised in this report including:

   a. use of Title I to supplant other Federal funds
   b. equitable distribution of funds to predominately Mexican-American districts;
   c. Title I programs for migratory and Indian children; and
   d. relation between Title I and all other food service assistance programs.

11. Local school systems make greater effort to involve the community, including disclosure of information regarding Title I programs and expenditures.

12. Private citizens demand information and greater community participation in the auditing of Title I funds; and, where appropriate, disclosure of information regarding Title I funds and Federal, State and local officials; law suits filed and other appropriate actions be undertaken to assure that Title I programs actually meet the educational needs of all and illegal use of funds be challenged by complaints made to local, community groups and, where appropriate, disclosure of information regarding Title I Heritage of racial and ethnic groups.

13. States assure that Title I programs actually meet the educational needs of all poor children and recognize the cultural heritage of racial and ethnic groups.

The goal of Title I is simple. It is to help children of poor families get a better education. Accomplishing this goal, however, is not simple. Existing educational structures at the State and local levels are the institutions responsible for the administration of Title I, but often they are the institutions least able to respond to a new challenge or to respond to the needs of poor minorities. In order to accomplish the goal of Title I, many changes will be needed. But before we can understand the nature of the changes, we need to understand what the law provides and how in fact it is operating in school districts across the country. That is the substance of this report.

Why this review of title I

Reviews and evaluations of Federal grant-in-aid programs are usually made by "experts"; and by organizations interested in the rights of the poor. We make this review because we feel that the reviewed experts have failed to inform honestly the public about the faulty and sometimes misleading when we remember that in the past year we have seen these same words echoed in testimony and in the press were initially alleged. After investigation of a task force, and study of the Office of Education audit reports it was found that these allegations generally had a basis in fact. The bill ordered report to the Senate Labor and Public Welfare by the Subcommittee on Education contains language which attempts to deal with this misuse of Title I funds.

With the foregoing in mind, it was reported in the press that James E. Allen, Commissioner of Education, expressed dismay about the report and said that his agency is studying the problem, and in 8 months will take some action. I would have hoped for a more affirmative re-action—one which said, "Yes, there is a problem, one with which we shall deal."

The goal of Title I is simply to help the least able to respond to a new challenge or to respond to the needs of poor minorities. That is the goal of Title I, but by organizations interested in the rights of the poor. We make this review because we feel that the reviewed experts have failed to inform honestly the public about the faulty and sometimes misleading when we remember that in the past year we have seen these same words echoed in testimony and in the press.

PRAISE FOR THE CAPITOL POLICE

Mr. GOLDBRATER. Mr. President, it is my purpose to say a few words in tribute to the outstanding display of professionalism demonstrated by the Capitol Police Force during the events of the last week. The Capitol Police Force has done its job in a polite, competent way. It was not what we need. We need leadership and action.

ALLEGED WHOLESALE SLAUGHTERS OF VIETNAMESE VILLAGERS

Mr. McGovern. Mr. President, for the past several days the press has been carrying incredible reports about alleged wholesale slaughters of Vietnamese villagers by U.S. forces in Vietnam.

Yesterday's Washington Post quotes two Vietnam veterans, Stg. Michael Bernhardt and Michael Terry, now a college student in Utah, to the effect that most of the 60 to 70 men in the combat unit in which they served participated in shooting down two villages in a Vietnamese village on March 16, 1968. Estimates of the number killed range from 91 to 567. The report speaks of 20 to 30 villagers, mostly women and children, being machine- gunned down. It tells of huts being set on fire and the people being shot as they came out.

There is a description of people being gassed in groups and shot, and of a grenade launcher being fired into such group.

Only three weapons were found in the entire area; there was no resistance.

Mr. President, no one wants to believe this report. But what if it is true?

Surely it weakens the arguments of those who fear a bloodbath in the event of withdrawal of American forces from Vietnam. No bloodbath among the Vietnamese themselves could possibly compare with the death and suffering which has already occurred and which continues because the war continues.

The most shocking incidents gain our attention. Earlier it was the destruction of a city of 35,000 people "in order to save it. Now it is innocent Vietnamese being gunned down.

But thousands more have been killed and maimed a few at a time, many by accident, caught by our bombs or between conflicting forces. The civilian death rate was estimated at between 150,000 and 200,000 annually, even before the 1968 Tet offensive. And there are steps short of death. Four million South Vietnamese civilians or one third of racial population of this rural country have had to flee their homes and become refugees. Those who have returned to their villages after incorporation in the cities have probably found their fields mined, their fields mined, and their dwellings destroyed.

Is this how the "hearts and minds" of the Vietnamese are won? If this is what we contribute on behalf of a government whose anticommunism is its sole claim to our allegiance and which has no claim to the allegiance of its own people. This is the fate of the unwitting pawns in our messianic crusade against communism. We can only wonder how far down on their scale of priorities if it can be that their interest in being governed by our preferences in despots instead of those of someone else.

Yet many still wonder why we have not succeeded. Many still puzzle over the failure of these embattled people to rally to our cause. Many still wait for the miracle which will transform South Vietnam into a unified and dedicated bastion of freedom in Asia.

That miracle will never come.

If the report is true we should wonder as well what causes several score of American men to go berserk almost as a unit. If it had been only one a number of
branch of the national government. JNR operates 244 other lines throughout the country, 234 of which are losing money.

Officials said JNR’s overall operation was $712.8 million in the fiscal year that ended in March, 31, which was a slight improvement over the JNR’s $757.4 million in fiscal 1969.

We have been told that these losses are not expected to ease the burden. The bullet trains currently carry 12 coaches in one run, but details are planned as 16-coach service in 1970 when the World Exposition, EXPO 70, opens March 15 for six months.

Controls at both ends eliminate the necessity of a turn-around at terminal points. After reaching Osaka, the engineer walks to the rear car, the movable seats are switched to face the opposite direction and the train is ready for the return trip.

CONTROVERSIAL MOVIES

Mr. McCLELLAN. Mr. President, on September 22, I addressed the Senate concerning current trends in the motion picture industry and the possibility that films classified as unsuitable for viewing by a general audience may be performed on television. I received numerous letters from people expressing their concern that entertainment media is saturated with depravity because that is what the public desires, it is encouraging but not surprising, to receive this tangible indication that there continues to be substantial support for our traditional moral standards and values.

I do not wish to burden the Rec¬ord with too many letters, but I do desire to share with Senators some excerpts from a representative sampling of the mail which I have received.

A woman in Texas who said she is in her last pregnancy: ‘definitely be considered a swinger’ wrote: This is the first time I have ever written a letter on anything other than personal business. However, it was so gratifying to find someone in Congress who recognises the danger to our country that movies and television pose. We are told that much of the entertainment media is saturated with depravity because that is what the public desires, it is encouraging but not surprising, to receive this tangible indication that there continues to be substantial support for our traditional moral standards and values.

From a mother in California:

I want to thank you for being farsighted enough to begin now to take the necessary steps to protect American homes from the rash of racy movies and TV motion picture screens and the minds of many who go there.

A woman in Uniontown, Pa.:

As the mother of seven children, I heartily agree with your feelings on this subject.

There are some movies on t.v. that don’t belong there now.

A mother in Tulsa, Okla.:

I want to express my sincere thanks to you for your stand on the moral issues and things such as sex and violence on the screen and the effects these have on our youth and in the family, couples living together, outside of marriage, as if it were the accepted thing to do. Senator McClellan, please do all you can to condemn our theaters and homes of sin.

A mother in Decatur, Ga., with three children: Thank goodness for a few leaders in our country who will speak out and fight against moral decay that seems to be overtaking our country.

A mother in Louisville, Ky.:

Thanks, thanks, thanks from a grateful public for being brave enough to speak up so fearlessly for all of us long-suffering people.

We heartily agree with your sentiments regarding the filthy disgusting movies being pushed down our throats whenever we turn on.

A woman in Springfield, Mass.:

I am glad to see you stand up with your statement that the insidious influences are even more damaging to our young peoples’ sense of morality than is blatant sex or violence. Please count my comments in, and allow me to express my thanks to you for your efforts on behalf of decency. Let’s give our young people something more idealistic to reach for than that which is to be found only in the gutter.

A woman in upstate New York:

It is good to know there are those men like you in our government who are fighting the deluge of filth guise as entertainment which has engulfed our country in the past few years.

A young man in Brooklyn was now attending college in Oklahoma:

Knowing that we have a great man representing the state in the Senate, I have decided to contact you concerning a matter that bothers me. I am familiar with your moral beliefs, and I certainly appreciate your stands on such action in the past. I only ask that you consider the effects these movies have on our movie industry in order that the decency of America might be preserved. I know legislation such as this would take much courage on your part, but I know you initiate such action to preserve our country.

A gentle man in Ann Arbor, Mich., sent me a well-reasoned letter in which he observed:

It is not too often I can find something to agree with you on, but your statement resonates very strongly with my observations of the campus scene in the past few years. I have a very lonely position in this great country by proposing strong legislation against the movie industry in order that the decency of the film industry might be preserved. I know legislation such as this would take much courage on your part, but I agree that you initiate such action to preserve our country.

A California businessman:

Although I am not your constituent, I am particularly pleased to see that Congress is doing something about the quality of movies being shown on television. Investigation of the contracts associated with all movie films, regardless of how salacious their
content, will reveal that in each case, revenue is anticipated from television release. Having been involved in the film business, I certainly do not consider myself a prude in any sense of the word, but I do sincerely feel that films of the type presently being released, have attacked the home. Young children and teenagers, in my opinion, are not capable of coping with the explicit sexual portrayals that are presently exhibited in our theaters.

I am sure that most parents in the United States feel as we do, and I know that we are not alone in attacking their most sacred possession. For example, a mother in the Altar-Rosary Society of the Roman Catholic Church in Lakewood, New Jersey, sent me a letter, that it has come too late. For example, a mother in

The Front page of the October 29 issue of Variety reported that the CBS television network had recently made an offer to secure television rights to the controversial 1956 film, "Baby Doll," which raised certain questions. On the very day of my Senate speech, the Los Angeles Times carried an article about a film titled "The Virginian," which was not approved by the Legion of Decency. This film was shown on television.

Television is becoming more permissive all the time.

The subject matter of this film is morally repugnant both in theme and treatment. It dwells almost without variation or relief upon carnal suggestiveness in action, dialog and costuming. Its unmitigated emphasis on sex and the various scenes of cruelty are degrading and corruptive. As such, it is grievously offensive to Christian and traditional standards of morality.

In evaluating the possibility of objectionable movies being performed on television, it is useful to quote another paragraph from the Variety article:

Eye-popping aspect of the news, of course, is the apparent willingness of the nudes to pose in front of the television cameras. The recent placement of the nude in the context of three or four years hence—a risk taken during an era when the nudes have been defending themselves against Washington politicians and the leading independent evaluators of movies, said:

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The Reverend Patrick J. Sullivan, S.J., director of the National Catholic Office for Motion Pictures, has written me:

Quite obviously your comments on this subject are relevant to the question of permissiveness in current television drama and film content. They should also lead film producers to examine their future but I candidly wonder whether most of them will be concerned to do so. It is my experience that film producers are fully confident that they will eventually obtain a classification of their films (however “adult” they may be) either because they expect the motion picture industry’s current permissiveness to spread to television or because they will agree to allow television people to cut their films in order to make the films acceptable for telecasting.

Your speech stands in the way of any change to permissiveness in television practice. I trust that it may also influence film producers to realize that many of today’s films can hardly be made acceptable for telecasting by even radical reediting. In expressing this hope, however, I must also recognize that the future effect of this television on the moral and social quality of film production is yet to be evaluated.

I have also noted that Dr. Max Raferty, the California superintendent of public education, has commented in a recent article on trends in film making. He wrote:

Then there are the movie-makers. There are some healthy exceptions to the rule. The Disney people, for example. Yet the premise is universal enough to stand: “The movie-makers are systematically seducing your children to make a fast buck. Why has the whole film industry glamorized? You can see it in the movies. Like to have adultery portrayed as normal and acceptable, see it in the movies. Think lesbianism should be shown sympathetically? You can see it in the movies. So can your children. And you’d better believe it. I accuse the movie moguls of soullessly and cynically pandering to the basest instincts of the human race.

And I accuse the movie actors and actresses who starred in these ill-starred putrescences of debauching the great and ancient art of acting.

While the considered opinions of the theologians and educators deserve our careful consideration, perhaps of even greater value are the candid observations of artists who have expressed their revulsion at conditions in much of the film industry. The November 15 issue of Look magazine contains a feature article about the actress, Debbie Reynolds. She is quoted as stating:

Most of the motion-picture scripts I’ve read have been either so sick it was difficult for me to comprehend them, or just plain trash. I had worked many years to be good at my craft, and I didn’t want to be involved. I’d be ashamed to see myself in. I was raised in the motion-picture business, and I love it.

The November 11 column of Shellah Graham contains an interview of producers who recently reached an agreement in which it is reconfirmed that Mr. Allen will be making a western movie in Arkansas next year. Mr. Allen discussed current conditions in the film industry. He said:

It’s a terrible thing and is compounded by the distributors. They say we shouldn’t show this kind of pornography. Well, I want the government to step in.

Recently, I saw “Women in Love.” I was shocked. Two men wrestling naked on the screen. I remember when I was a film cutter and a kiss couldn’t run for more than a few seconds. It had to be cut. That’s a laug.

One issue that is discussed in a number of the letters which I have received from broadcasters is the possibility of making cuts in objectionable movies to make them acceptable for a general audience. I shall await the statements of the film producers before commenting in detail on this matter, but I do wish to make a few observations today. It is clear that when the subject matter of the film is the basis for a restricted classification, cuts—no matter how extensive—would not alter the status of the film. Moreover, whereas when the restricted classification is based on a few incidents in the film, which may occupy only a very short percentage of the total time of the observation. It is understood, by some that these objectionable sequences could be eliminated and that the film could then be sold to television and viewed by the general public. This raises the question as to why these objectionable sequences were included initially in the film. If their elimination does not destroy the artistic value of the film, why were they originally included? We are told by the film producers that objectionable sequences are necessary in the context of the entire film. If that is so, then it would seem that to show a film on television would be a fraud on the public. It appears the inclusion or excision of these sequences is motivated principally by commercial considerations, with artistic value quickly abandoned in the expedient. Certain film producers include provocative sequences in movies to promote controversy and not infrequently to conceal a poverty of artistic ability. Then imposing a ‘violent’ film, as if in their profits, they are prepared to delete such sequences in order to secure additional revenues from the lucrative television market.

Much has been written by individuals who are generally described as “liberal” and advocates of free speech as to the pernicious impact of television violence upon young people. But many of these same people maintain that there is no need to be concerned about the debilitating effect of the movies which I have been discussing because there is no evidence of the lasting influence those who are exposed to them. I find it very difficult to follow this sophisticated reasoning.

I shall speak again on this subject next month. I trust that I shall by then have received the responses from the major film producers as to whether they intend to offer restricted movies for sale to television.

SHE GRADUATES AT 109

Mr. DOLE. Mr. President, I wish to take this moment to commend a remark- able young woman, Aunt Kittie—Aunt Kittie Mary Harvey—"Aunt Kittie"—of Minneapolis, Minn. On Friday, November 21, Aunt Kittie graduated from Western College for Women at the age of 109.

Aunt Kittie’s life is admirable and is well told in Forrest Hinz article which was published in the Wichita Eagle and Beacon of November 16. The article records Aunt Kittie’s own account of life...
as a frontier woman. Her memory is beauti­fulful and she describes stories and struggles of women confronted during the building of our Nation. Though Aunt Kittie thought her life "ordinary," it is now unique. I ask unanimous consent that the article be ordered to lie on the table.

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

COLLEGE HONORS AUNT KITTY, 109

Aunt Kitty will graduate Friday—91 years after Western Female Seminary in Oxford, Ohio.

"I never expected a thing like this to happen," Aunt Kitty wrote in her memoirs during her 110th birthday.

On Sept. 14, The Wichita Eagle carried a story on this remarkable woman. A copy was sent to Dr. William Spencer, president of the school that now is called Western College for Women.

As a result, Dr. Spencer began a search of the old school records. He discovered that in the spring of 1869, his junior year, Mary Bonham had left the school because of ill health.

"We were dumbfounded," Dr. Spencer said. "I have never heard of a thing like this happening anywhere, but Aunt Kitty is proof that it can.

"The story—especially her memories of the school—was read to all the students (approximately 500 girls) and the board of trustees authorized the issuance of a diploma.

"It is little enough to do for a former student who has played an active part in the building of this nation, and we like to think at least some measure of it is due to our school.

"Naturally, Aunt Kitty won't have to come back here to complete her studies. I suppose that it can.

"I remember how afraid I was of the men as I thought they killed folks. As I stood in the doorway, they were in the dining room, a tall man with a cap on and a knapsack on his shoulders saw me. He picked me up in his arms and wanted me to give him a kiss. He gave me a little girl at home just as big as I.

"I don't think I ever forget my feeling of fear, feeling I might be killed the next minute, but I gave him the kiss. I have often wondered if he got home to his little girl."

"Aunt Kitty's father died when she was about 1. Five years later, her mother married Rev. Horace Bushnell, always referred to with great affection by the "father."

In 1867, the family moved to Southport, Ind., six miles south of Indianapolis. There, Aunt Kitty became fast friends with Lida Howland—a friendship that lasted nearly 90 years.

"We young folks went to the Howland home quite often, and much fun was played at dances and such."

"We had to make our own amusements—no movies or shows—but we had lots of fun; it seems to me more than the young folks of today.

"In the winter, the boys would put a big wagon bed on runners with straw and blankets in it and away we would go, often ending the evening at the Howland's.

"It was there I learned to dance, but only the schottisch, waltz and polka."

"The story of today is how Aunt Kitty wrote it:

"My dresses were all made over. (My first marriage was with no improvements.) Father soon had a beautiful place; red and black raspberries, a large grape arbor, quince, apple, peach and plum trees and many flowers.

"We had a large asparagus bed, early onions, rhubarb, etc. Father told me if I would take rhubarb and onions to the store I could have the money. I made enough to buy a croquet set, a white dress and blue sash.

"We had no lawnmower, but the boys, with sickles and axes, kept the large grounds looking like moss.

"When I was about 4, someone gave me a gold dollar. Irowning. I said ‘thank you’ properly, but thought it was so much smaller than a penny it would not even buy a stick of chalk.

"Candy was not as plentiful in those days. A stick of candy was a great treat. We made numerous things with molasses.

"Medicine was different then, and doctors had to make their own medicine and it was small enough for a former student who had a boys' university between our school and Oxford. The boys were a big trial to Miss Peabody.

"We had a hedge between the front of our grounds and the boys would come and visit or pass notes across it, so the rule was changed and the girls could only go as far as a certain row of trees quite a way back from the hedge.

"We used to come over at night and the girls would let down strings to which the boys would tie boxes of candy. Once, they sent up a can of branched peaches and one girl got hilariously drunk.

"Even then, college girls were political activ­ists, although women would not be allowed to vote for another 44 years.

"In 1867 or thereabouts there was a presiden­tial election," the narrative continues. "It was very close. The Republican candidate was Hayes, but I have forgotten the name of the Democrat running. (He was Samuel J. Tilden.) It so happened that there were very few students on campus.

The first report in the morning was that Hayes was defeated, so we draped the front of the building with bunting and the students were formed in two long lines and marched to the front of the building and one student gave a speech and another, and then we drove from there. People rode out in wagons and rigs from Oxford to see it and it caused much amuse­ment.

"Before night the report was changed and we drew in the black and went down to supper all decked out with roses and streamers of gay tissue paper.

"In falling health, Aunt Kitty left the school in the spring of 1876 and came to Minneapolis, where she lived and wrote until her death.

"At that time there was no railroad to Minneapolis," she wrote. "Father met me at Solomon and we drove to the Union Pacific was then built on to Beileot.

"Aunt Kitty met Will Harvey in Minne­apolis. They were married in 1880. He was only 12 years her senior, yet he had served as a surgeon’s aide in the Civil War. They were married May 6, 1879.

"Early in July, the railroad from Solomon reached Minneapolis. There was a big cele­bration and a picnic held in Markley’s grove, with the girl students from Solomon, the Union Pacific was then built on to Minneapolis, where they lived and wrote until her death.

"Aunt Kitty went to visit an aunt by marriage, Mrs. Lucy Bonham, who had just settled on a home near Milan, with her young son, Arthur.

"It was years before I could eat anything with cinnamon in it.

"There was no question about his office was sanitary. My boyfriend hurt his finger and the tip had to be cut off. He said the doctor picked up the tip of his finger and put it into his pocket and cut off the end of his finger. Can you imagine a doctor doing a thing like that? And he was considered a good doctor.

"In 1871, Aunt Kitty enrolled in ‘Western Female Seminary’ and went on to Western College for Women, at Oxford, Ohio, to study music. She remembers the fun there, for she wrote:

"One of my teachers, a Miss Jessup, was crippled and went in a wheel chair and two of the girls had to take her meals to her.

"Miss Peabody, the president, always asked a blessing at the table and always ended it with ‘and may we all meet on Mount Zion.’

"One day, the door between the kitchen and dining room was not quite closed as the two girls were getting Miss Jessup’s tray ready. Just as Miss Peabody said, ‘May we all meet on Mount Zion,’ I put a little girl at home.

"You go right on and I’ll bring the teapot.

There was a roar from the 200 girls.

"It was a big trial to Miss Peabody.

"When I think of the years that I was there and the work those girls did..."
It was the Cherokee Strip he kept it. While the long to the barn roof playing in the yard, came running to the

"It was all done in a minute, and for that time there was a wall of fire higher than the house on every side of us. In the morning, all we could see in any direction was black烟."

The Harveys had two children, Fred, born in 1881, became a doctor and died in 1961. A daughter, born in 1883, died in infancy. Several years later, the Harveys moved to Oklahoma Territory.

"After we moved," Aunt Kitty wrote, "we had homesteaded a farm adjoining Oklahoma City." Aunt Kitty wrote, "He was elected senator and had to go to Washington and did not want to leave his office just yet."

"The sheriff got one of the men. When he caught up with him there were at least 100 men in the courtyard with a rope ready to hang the man then and there. The sheriff fired over their heads before he could get his prisoner in jail. The mob said they would get him that night."

"My friends did not think it safe for me to stay there alone. Fred was just a young boy. But I was afraid of their starting a fire or something worse."

"The mob was gathering downtown. About 12, we heard two shots and we supposed it was a signal, but deputy sheriff had a fracas with a man and shot and killed him. He was brought up and put in jail."

"The sheriff told the mob they had better stay out of the way for a while."

"I felt the safe would not be very safe. I took the money out of the safe. Bandits, and some deputy marshals, but stood in the door and watched as they came by, close to the windows."

"The sheriff was crossing the courtyard where a crowd was playing in the yard, came running to the

"We had a lamp in a kind of frame and I could heat a little water for coffee and cook some food if it was worth while."

"The bank they were going to rob was just a block from our house, courthouse and jail."

"A friend from the country came that first morning and brought some biscuits and hard-boiled eggs and another brought a small, boiled ham."

"We got along."

"The last time the storm, they saw our walls were standing and began bringing in hurt people. An old man with a broken leg was one. They were all firing up and down the street. A barber who kept crying for her mother. We found her father and mother were both killed."

"The colored folks had an Emancipation Day celebration one year," she wrote, "a man named Crenshaw was to be master of ceremonies, so Will and some of the others dropped in to hear.

"He was a lot of fun and I was able to get some information."

"In June, Fred came home from college at Norman," she wrote. "In a few days, he came down with typhoid fever. He was very low for eight weeks."

"Will lived only two weeks and died Sept. 5, 1900. I felt very much alone."
Fred returned to Concordia, and it was then that Hoover made the biggest mistake of his life.

"I wanted to sell my home," her narrative says. "I told him to sell it for $1,200 and that I would not let it go for less than $1,000.

He and his partner sent me a deed to sign for $1,000. They said all they could get. But in the paper I read the Harvey house was sold to a man named Sennett. That was not the name on the deed I had signed. I went down there.

"I went to Sennett and asked if he had a deed. I held it up to the light and found they had smeared it. I told him that my name was written in 'Sennett' and added $200. Then I was ready for my real estate man.

"I told him that the people were so enraged that Hoover and his partner had to leave town."

Aunt Kitty was not the type to be pushed around. Fred went on to medical school, and in 1905, began his practice in Minneapolis. Aunt Kitty made her home with his family until his death at 80.

Now, still alert and active after 100 years, she may meet his wish with Mrs. Bernard Clinton, a distant relative niece.

The broad, storm-lashed prairies Aunt Kitty knew well have been carved into farms and ranches and cattle have replaced the buffalo. Broad, paved highways have replaced the rutted trails and fine homes have been built where rough shacks once stood.

Women like Aunt Kitty made it possible.

**OUR INTERNATIONAL RESPONSIBILITY**

Mr. PROXMIRE. Mr. President, for the past few days I have been drawing excerpts from the Universal Declaration of Human Rights preamble, adopted by the United Nations General Assembly on December 10, 1948, to show the implications of this most important document in relation to the status of human rights in this country. Specifically, I attempted to relate the status of human rights in this Nation to the need for this Chamber to ratify the Human Rights Conventions on Political Rights for Women, on Forced Labor, and on Genocide.

Our international responsibility in this matter cannot be denied. It is for the purpose of clarifying our international responsibilities that the preamble of the Universal Declaration is stated in its entirety below:

> "Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world; Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which all beings enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people; Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to a return to barbarism, to the rule of force and of the will to power, to promote social progress and better standards of life all over the world. Whereas Member States have pledged themselves to achieve, in co-operation with the UN specialized agencies, the gradual realization of universal respect for and observance of human rights and fundamental freedoms; Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge."

"Now, Therefore, the General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction."

As the preamble states, each member state of the United Nations has "faith and its faith in fundamental human rights." This affirmation included "the equal rights of men and women."

Why, then, if we have attested to the equality of men and women, are we supposed to be paid out of toll revenues. Any surplus from toll revenues would be paid to the government. This is a sound and fair proposal. The alternatives are to leave the Seaway responsible for the debt which would increase to $601 million by the year 2009, when it is supposed to be paid off. Or tolls may be raised 30 to 60 per cent. Either alternative would result in a closing down of the Seaway.

The government must decide, then, if it wants the Seaway, or whether it must pay the debt. The year before the Seaway opened, less than 12 million tons of cargo moved on the Seaway. Last year, the volume was 48 million tons. These figures alone indicate a commercial advantage in the Seaway. If the debt was lifted and tolls could be lowered, the full trade potential of the Seaway might be realized.

**THE NEWSPAPER PRESERVATION ACT**

Mr. BAYH. Mr. President, I endorse and support the Newspaper Preservation Act. As one of the original sponsors who...
joined with Senator Carl Hayden in the last Congress in introducing S. 1312, the predecessor of S. 1520, I believed then as now that the bill would allow independent news voices at a premium.

We are all aware of the demise of many of our great metropolitan newspapers over the past several years. The unfortunate facts of newspaper economics are that no new papers have taken their places in these cities. Nor, to my knowledge, has there been a successful new newspaper in any major city in some 40 years.

We have seen chains of newspapers proliferate. It seems that whenever a newspaper is offered for sale, it is purchased by a chain. Even more often, cities which only recently boasted of two, three or more separate newspapers, frequently are reduced to only one paper, or to two papers with but one owner.

In short, there has been a continuing reduction in news and editorial competition, as well as a decline in the number of production employment opportunities in the industry. Newspapers no longer are immune to competition for advertising revenue or for the time of the reader/consumer. Magazines, television, radio, billboards and specialty advertisers have all cut into newspaper revenues. The crunch of economic losses, together with increasing costs of production, has resulted that the bill will preserve independent news and editorial voice. I have been advised that without the relief in the 22 cities with joint operating arrangements knew of the limitations which were so recently stated. All of these publishers assumed that they were acting lawfully, and for over 30 years these arrangements—though known to Congress and the Justice Department—were never questioned. I believe it would be unfair now to punish these publishers. Even more important, it would be ridiculous to punish the public by putting newspapers out of business. Congress should enact S. 1520 to do just what the title states—preserve newspapers.

CONFERENCE REPORT ON INTEREST EQUALIZATION TAX ACT WITH AMMUNITION AMENDMENT

Mr. DODD. Mr. President, I regret that I was unable to be in the Chamber yesterday when, by a voice vote, the Senate agreed to the conference report on the Interest Equalization Tax Extension Act containing an amendment deleting ammunition recordkeeping requirements from the bill. The Senate adopted this amendment over the objections of Congress. Let there be no mistake that this represents the first effort of the gun lobby to completely dismantle the Gun Control Act. This has been made clear by the gun lobby and their spokesmen in Congress.

On Wednesday of this week, during the consideration of that report in the Senate, I agreed to the conference report on the Interest Equalization Tax Extension Act containing an amendment deleting ammunition recordkeeping requirements from the bill. The Senate adopted this amendment over the objections of Congress. Let there be no mistake that this represents the first effort of the gun lobby to completely dismantle the Gun Control Act.

By today's action we are taking only one step. We should not lessen our efforts until last year's bill is repealed or rewritten in a more reasonable form.

The significance of our action is that the pace has been set to attempt to erase from the Federal statute books the first effective Federal gun control that this country has known. It represents an initial weakening of a law that was some 8 years in the making.

The Gun Control Act of 1968 was endorsed by virtually every respected and responsible law enforcement official in the land. It was endorsed by the American Bar Association. It was enacted with bipartisan support in this body and in the other body.

However, it no sooner became law in December of 1968 than the empassioned teachings of the gun lobby began to be heard. And today the results of their pressure tactics are apparent in the softening of the provisions of the Gun Control Act.

It was only 4 days ago that I made known to the Members of the Juvenile Delinquency Subcommittee's investigation inquiring into the background of ammunition purchasers.

I cited the results of our effort to substantiate my view that recordkeeping serves as an aid to law enforcement and shall repeat them again at this juncture.

Of the 177 persons whose names, addresses, and other information was submitted to the Federal Bureau of Investigation, 66, or 37 percent, had criminal arrest records.

Included in these records were 203 convictions. This is a minimal figure as some cases are current and still before the courts, and in other cases, no disposition was recorded.

Seventeen arrests involved firearms. Our study revealed that ammunition was sold to persons convicted for murder, armed robbery, assault, assault with dangerous weapons, rape, grand larceny, and a variety of firearms charges.

A summary of the major charges against these ammunition buyers includes: two murders; 38 assaults, including 14 assaults with dangerous weapons involving five gunshots; 20 rapes; eight "carrying dangerous weapons"; seven robberies, including two armed robberies; one sale of marihuana; seven housebreakings; two "fugitive from justice" charges; eight auto thefts; and eight carrying dangerous weapon charges, including at least two guns.

A closer look at the records of some of these "hunters" and "sportsmen" reveals a pattern that should shock those who advocate free access to ammunition. I will briefly describe the more flagrant cases of the sales of bullets and firearms to convicted murderers, armed robbers, and other criminals.

A fugitive from justice, fleeing his parole in April of this year, bought ammunition in March. His record includes convictions for crimes of violence and for possession of a gun after being convicted of violent crimes in the District of Columbia. Since his purchase in May, this ex-con has been arrested for breaking and entering and in October, just last month, he was arrested for armed robbery.

An ex-con with arrests for assault and robbery, bought ammunition in August. His record includes convictions for murder, and other assault charges, bought ammunition in February 1969, and was arrested for armed robbery in August.

Arrested previously for assault with a deadly weapon and for enticing young children, another individual bought ammunition in January 1969 and was arrested in August for assault with a gun. The unincorporated ammunition and 10 days later was arrested for the sale of marihuana.
Another man bought ammunition in March of 1969 and was arrested in August for assault with a gun.

A man with arrests for assault with a gun in 1964 and a murder conviction for a degree murder in 1967 bought supplies to make his own handgun cartridges on three visits to the Suitsland Trading Post in April and May of 1969.

Still another who, on probation for a conviction of assault with a gun, one man bought ammunition on July 15, 1969. He had two other charges for assault with guns in 1946 and 1948, the latter a conviction on record. He was arrested in April for carrying a deadly weapon, a gun.

The information I have just recited took a subcommittee investigator a matter of hours to obtain.

Congress has now given the green light to the marauders and robbers who roam our streets with high-powered rifles and with shotguns by inquiring that they will have a ready supply of ammunition to ply their trade.

Surely a rifle bullet or a shotgun shell is just as deadly as is a pistol or revolver bullet.

However, Congress apparently does not believe so.

Perhaps the 23 members of the Weatherman faction of the SDS, who were arrested just this week in Cambridge, Mass., in the sniping attack of a police station will revel at the action taken by the Congress.

The weapons confiscated from this group of radicals included four rifles and a shotgun.

Apparently, the Weathermen accede to the credo of the gun lobby which urges an armed citizenry.

In all, the weapons confiscated, police seized .22-caliber and .30-caliber ammunition and shotgun shells. Thanks to the gun lobby and a confused Congress, future SDS'ers will not have to worry about buying high-powered bullets and shotgun shells to use in their sniping activities.

And if the plans of the gun lobby go unopposed, fatalist will be lost before the .22-caliber rimfire ammunition is once again available with no questions asked.

The congressional spokesman for the ammunition dealers deplored and "regretted" the fact that the Senate had not removed controls over this deadly little item. The SDS'ers can delight in the fact that Members of Congress resolved that their next task would be to repeal the act's controls over 3 1/2 billion more bullets as quickly as possible.

The debate on the conference report on H.R. 12829 in the House contains an excerpt of a letter by Dr. Charles E. Walker, Under Secretary of the Treasury, to the effect that the Treasury Department favors the ammunition amendment to H.R. 12829.

As it appears in the Congressional Record of November 19, a part of that letter reads:

The Department favors the Senate amendment to H.R. 12829 dealing with ammunition recordkeeping requirements. The Department has found that the record-keeping requirements of the Gun Control Act of 1968 would not be effective in preventing the purchase of firearms by felons.

Out of prison exactly 5 months, a man convicted of interstate transportation of firearms and gambling paraphernalia purchased ammunition on February 22, 1969 and was arrested in April for carrying a handgun and a shotgun. He had two convictions for possession of firearms and gambling paraphernalia and was ordered to be printed in the Congressional Record.

As government officials assert that it is intended to control firearms, the public protest would rock the Nation.

This judgment is supported by the testimony of the Commissioner of the Internal Revenue Service before the Juvenile Delinquency Subcommittee just 3 months ago. At that time he said:

It is only fair to report to the subcommittee that we are able to process or check individual ammunition sale records in any meaningful way . . .

He attributed this lack of enforcement of the ammunition provisions to a shortage of personnel. However, I am convinced that these provisions of the act could be enforced by a minimal number of agents at least in the major cities in the United States where crime is running rampant.

It is for these reasons I have forward to Secretary of the Treasury Kennedy the results of our inquiry, which I believe show violations of the Gun Control Act prohibitions against the purchase of ammunition by convicted felons.

I have asked of Secretary Kennedy that he keep Congress informed on these cases.

Mr. President, gun crimes in the United States continue to mount and it is only through effective enforcement of existing Federal controls and with enactment of a new set of controls at the State and local levels of government that this trend will be reversed.

One would think that the Treasury Department, the enforcing agency of our Federal gun laws, would be urging retention of provisions of the Gun Control Act of 1968, rather than urging their repeal, especially when the law has been on the books too short a time to measure its effectiveness.

Congress has not heard the last from the gun lobby. I only hope that we will not again flaccidly yield to their pressures.

Mr. President, knocking these ammunition controls out of the law is an invitation to every criminal and punk in the country to go out and buy ammunition legally for the gun he now owns illegally.

It is an invitation to more crime.

I am not fooling myself: The free and easy sale of ammunition to all comers, as our subcommittee investigations have irrefutably shown, results in more criminals buying more ammunition to commit more crimes.

The Senate should have it recorded that in removing ammunition from control, it implemented the master plan to destroy the 1968 Firearms Control Act that was set in motion by the Gun lobby a matter of weeks after the act became law.

Mr. President, I ask unanimous consent that the articles from the American Rifleman, the voice of the National Rifle Association, and Shooting Industry magazine be printed at this point in the Record.

The articles clearly state the intent of the lobby in extracting ammunition from the law.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the American Rifleman, February 1969]

**THE AMMUNITION PARADE**

If a Federal law required every motorist who bought gas to give his name, address, age, and driver's license identification because a few hoodlums use gasoline for Molotov cocktails, the public protest would rock the Nation.

Something similar has been imposed on firearms owners who wish to exercise their rights under the Second Amendment, but an outcry against it as being outrageous and ridiculous is shaping up.

An estimated 40 to 50 million Americans buy ammunition at some time or another for some legal purpose. They have as much right to do so, unhampered by red tape and legalistic nonsense, as the purchasers of gasoline, liquor, cigarettes, television sets, or anything else.

The Gun Control Law passed by Congress last year was virtually a blank check and the ammosexual asserts that it is intended to control crime and is not intended "to place any unnecessary burden on law-abiding citizens" and does not "impose unnecessary burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms."

Obviously, firearms cannot be used without ammunition. So the Congress apparently intended the law-abiding citizens should have unhampered access to ammunition.

Yet, somewhat in contradiction to this ringing resolve, the law as passed required under Sec. 922(b)(5) that dealers keep in their records "the name, address and place of residence" of individual buyers of ammunition. In effect, the identity of corporations buying ammunition.

While the Federal administrators of the law are now said to be applying this requirement as reasonably as possible, there is an estimated 100,000 firearms dealers and perhaps 2 to 3 times that number of gunsmiths, armament dealers, and other sellers of firearms and ammunition. Thus hundreds of thousands of dealers are being obligated, if they choose to stay in business, to keep detailed records of every sale or purchase. The mass of paperwork threatens to be as monumental as it is useless.

Very likely if anything this can serve the fears purpose in reducing crime, the avowed aim of the Gun Control Law. Ammunition
The hand gun is used legitimately by millions of target shooters and hunters as well as by police officers as a last resort against life-threatening situations, as it is compact, concealable, more so than rifles or shotguns, which seldom figure in crime. In itself, however, being a weapon of last resort, its use is a pair of scissors, a piece of rope or a brick. Therefore, millions of Americans can see no reason to discriminate against ammunition for such purposes.

Except for those who fervently believe in “pass-a-law” as a cure-all for every conceivable social problem, however, nearly all will welcome any reduction in ammunition red-tape.

[From the Shooting Industry, October 1969]

**WASHINGTON HOR-LINE**

There is a bill pending before the Senate Committee on Finance seeking to modify ammunition record keeping requirements for dealers and others setting to the public. The measure (S. 2718) was introduced by Sen."tor Wallace Bennett (R.-Utah), a high-ranking member of the minority side of the committee. The bill also has the backing of the National Rifle Association and of leading Democrat and Republican senators. Changes are it will pass the Senate without too much opposition.

The msyty part of the bill reads as follows: “...no person holding a Federal license under chapter 44 of title 18, United States Code or who transacts business solely for the purpose of being a gun dealer under the provisions of the 1968 Gun Control Act. It was referred to the House Judiciary Committee. Other such measures may be expected in the House and Senate.

The Congress can render a distinct service to many millions of good Americans by amending the Gun Control Law to minimize it to its expressed purpose of repressing crime without harassing law-abiding citizens with silly, pointless regulations.

[From the American Rifleman, March 1969]

**ACTION ON AMMUNITION**

As we forecast editorially last month, a determined effort is underway in Congress to uproot the farcical red-tape regulation of ammunition sales under the 1968 Gun Control Law.

A quarter of the entire Senate is behind the move there from the start, as sponsors of the legislation. Yet all effort to enact that the law has been coming into the House at the brisk rate of one a week.

As reported in Col. 1,845 pointed out, the Treasury Department regulations handed down under the outgoing Johnson Administration (approved by the then IRS Commissioner, Sheldon Cohen) appear to have overstepped and gone far beyond the necessary regulation is far better in the eyes of many millions of good Americans by amending the Gun Control Law to minimize it to its expressed purpose of repressing crime without harassing law-abiding citizens with silly, pointless regulations.

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Mr. FULBRIGHT. Mr. President, on October 7, 1969, I introduced Senate Joint Resolution 157 calling for the appointment of a blue-ribbon Presidential Commission to examine the operations, in the United States and abroad, of the Foreign Service, the Department of State, the Agency for International Development, and the U.S. Information Agency.

I have received several letters regarding this proposal which I think might interest Senators. They are from the Honorable James W. Riddleberger, a retired career Ambassador, who, in the course of 39 years in the Foreign Service, served as Ambassador to Greece, and Austria, as Director of the International Cooperation Administration, and as Chairman of the Development Assistance Committee of the OEC, Frank Stanton, President of the Columbia Broadcasting System, and Sigurd Larson, former President of Young & Rubicam.

I do not consent that the letters be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

**Population Crisis Committee**


Hon. J. William Fulbright, U.S. Senate, Washington, D.C.

DEAR SENATOR FULBRIGHT: As you may observe from the letterhead, my return to the Senate (after a brief retirement from the Foreign Service) did not last very long. General Draper has a very real capability with his committee and, I think, can do an outstanding job in the Senate. But, Senator, it is my belief that the purpose of this letter is not to detract from the important issue, but rather to offer some comment upon your recent initiative as embodied in Senate Joint Resolution 157.

I was in Europe last year when you made your statement in the Senate on May 22, 1969, which naturally was widely discussed in the Embassies I visited, and upon my return immediately read it and the exhibits which accompanied it. After much study, I think you were right last year and am equally convinced now that the time has come to embark upon this kind of review of our governmental structure in the execution of our foreign policy.

In submitting this expression of approval, I wish to emphasize this point; that the government service from 1924 until my retirement in 1968. Of this time, I spent approximately 39 years in the Foreign Service of the U.S. and retired with the rank of Ambassador. I hasten to add that in supporting your resolution, there is no feeling of frustration or disappointment on my part. No Foreign Service Officer could have had a more satisfying career or been more amply rewarded for his service than I have had, in the Department of State, and USIA, by an outstanding Presidential Commission. I thought you were right last year and am equally convinced now that the time has come to embark upon this kind of review of our governmental structure in the execution of our foreign policy.

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during the war, and was also on duty in Berlin throughout the blockade. I was on loan to the Marshall Plan organization in Paris from 1950 to 1952. I recite these assignments merely to underline that obviously I could have no personal complaint, and to indicate the wide variety of assignments which I have enjoyed.

I am completely persuaded that an examination of the whole foreign service establishment is urgently required and should be undertaken by an impartial commission, such as you propose. I feel that only through the experience of a Foreign Service officer in the normal activities of diplomacy, but speaking as one who has participated intimately in economic warfare, military government, Marshall Plan efforts and aid to underdeveloped countries, I shall not attempt to set forth here all the reasons why I believe this commission should be established. You indicated in your two statements introducing the resolutions a number of valid reasons why such a study should be authorized. The formula you have proposed for the Commission seems to me as most sensible in that it will provide for representation from the Congress and enable the President to appoint other members of high qualification in foreign affairs. If this were possible, it would be the correct approach to members who have previously served in either Congress or the Executive Branch. This formula would make possible the establishment of a truly first-class board, whose membership could represent a wide variety of expertise and who could operate in the context of our foreign affairs and whose eventual recommendations would carry great weight.

Although at the moment I am deeply engaged in population problems, if there is any way in which I could contribute to the success of your initiative, I stand ready to do so.

With warmest regards,

Sincerely yours,

James W. Riddelberger,
National Chairman.

New York, October 18, 1969.

Hon. J. W. Fulbright,
U.S. Senate,
Washington, D.C.

Dear Senator: I am delighted by the news that S.J. Res. 173 has been reintroduced on the agenda of the Senate as S.J. Res. 157. By way of the previous resolution I am interpreting these steps as a step toward a goal of the greatest importance to the future conduct of our international relations.

If there is anything that the Advisory Commission or I, personally, can do to further advance its priority or passage, I hope you will let me know.

With all good wishes,

Sincerely,

Frank Stanton.


Hon. J. W. Fulbright,
U.S. Senate,
Washington, D.C.

Dear Senator Fulbright: It was my privilege to meet with you on a number of occasions during my fifteen years service on the U.S. Advisory Commission on Information. This is to express the hope that you get early and positive action on Senate Joint Resolution 157.

Times and changing world conditions call for a complete reassessment of our overseas policies. Agencies are interdependent as you so well know. To study one agency alone as has been suggested for USAW would do little to solve the problem without relating it to the whole.

We have one policy—to preserve world peace and build respect, good will and understanding for the United States. There should be an adequate study of the role of organization, manpower and morale. This should include a study of the entire outgo in resources to cover such waste or duplications that presently exists.

Second—your proposal calls for the inclusion of a truly first-class board, whose membership could represent members of high qualification in foreign affairs. Such a study should be authorized. The formula you have proposed for the Commission should insure that there will be a continuation of the recommendations in the report.

The history of other Commissions—Sprague, Herter, Wriston and Jackson (on which I served) was that the reports were well received but there was lack of follow through, and the long range results were disappointing.

The proposed over all study could not be more timely. There is need that the resources available to our Government in Washington and overseas be restructured to meet the challenges of today and the years ahead.

With all good wishes,

Sincerely,

Siegur S. Louis.

MORATORIUM DAY ADDRESS BY SENATOR MONDALE

Mr. MONDALE. Mr. President, the past weekend again brought to mind the great burden which the war in Vietnam is placing on our young. We saw both the depth of their concern and their willingness to work against their will to continue to work within the confines of law, order, and established political processes.

Our young people are not all of a single mind on every issue and detail of the war. But they are all immensely troubled by it, and I think that we should not forget what we ask of the young men who must serve in this tragic war.

I spoke on this topic last month at Macalester College during the moratorium day rally. I ask unanimous consent that these words be printed in the Record.

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

ADDRESS GIVEN BY SENATOR WALTER F. MONDALE, D-MINNESOTA, AT MORATORIUM DAY RALLY, MACALESTER COLLEGE, OCTOBER 15, 1969

As a former student of this college, I must say that I would love to see these many people at a Macalester event.

Now I know why Washington government has worked harder this past week than at any time in American history. Miracles are happening. After 28 years Hershey has four stars and is on his way. And unless I miss my guess we are going to see more and greater miracles this year.

Just a few months ago everyone would have said that the Mets would never win the pennant and would never have a chance for the World Series. Tonight we know that they have the best team and have a good chance of winning the Series.

A few months ago most people would have predicted that there is no way to bring the Vietnam War to a head or to mount a demonstration which would show that the American people are tired of this war and want an end to it. Today it is happening here in this country. Not only are the millions of people who turned out today in the cause of peace in Vietnam unique in the history of this country, but I suspect never in the history of all nations have more people turned out to protest the war than the distress with war. Surely, this is a message our President cannot ignore.

It is quite clear that a majority of American people now oppose this war. A poll last week showed 27% of the people want to end the war within 14 months. And a poll showed that 58% of the Americans believe this war was a mistake from the beginning.

Each day brings more support to the cause of peace and the demonstration of the millions of people throughout the world who want peace. The challenge is to the people around the world to come together to make peace and build respect, good will and understanding for the United States.

While I believe that the war is obviously a mistake, I don’t think it is easy to get an end to it. I believe that we will get an end to this war in the democratic ideal—to see whether our government can meet the great demonstration of national will.

We are still, in fact, wallowing around in a swamp now and the best we can do is to get back into peace just as we backed into war.

We have all disavowed this war, all right. Everyone—the President, the Pentagon, the hawks, the "great middle"—all have disavowed it. We don’t like the killing; we don’t like the disruption; we all prefer peace.

But too many of our leaders are disavowing the predicament and not disavowing the policy, which has brought us ten years of war. As the President said this country over 44,000 American dead, a quarter of a million wounded, and cost this state over 800,000 of her own blood.

Surely tonight it is clear that it is not enough to hope for peace . . . We must relentlessly pursue peace.

We cannot cling to honor and pride and only hope to bring an end to the war. We must seek peace and only then bring an end to the dishonest and the dishonor which we have already experienced.

Unfortunately, we are seeing an old, old movie in this country, sponsored first by a Democratic President and now being re-run by a Republican President.

We have all heard it before: "Things are getting better; infiltration is down; the enemy is demoralized and weakened; Saigon, Thieu, and Ky want only to represent the people of South Vietnam (including, we suppose, the 21,000 political prisoners resting in informational camps). Vietnamese casualties are down; enemy casualties are up; the peace talks could progress if only we all worked together from the Pentagon—yes, the South Vietnamese Army—yes, the South Vietnamese Army—is nearly ready to take over."

Is an old movie, but an even earlier version was sponsored by the French. Their famous last words are best represented by the unfortunate prognostication of General Navarre in January of 1964 when he stated clearly: "I truly expect only six months more of hard fighting."

Today we are told the President has a secret plan. And I believe some of us have heard that before. The predicament we are in reminds us of Fiesco’s couple: "We dance around a ring and suppose. But the secret sits in the middle and knows."

I hope tomorrow night, two from the middle tonight—What is American policy? I don’t believe there is anyone in Washington, with the possible exception of the President, who can answer that question. Those who criticize our dissent often appeal to us on the need to present a united front and support our President in his difficult pursuit of peace. But I have yet to see a single document or hear a single statement by the President or any of us what that plan or what that course is.

Is it designed to save lives or to save face? Is it designed to deter or to save the political pressure at home? Is it a policy which recognizes our errors or one which will continue to blame us who have forsaken the policy which is to be determined by America or is it one which continues to lock us in the
desires of Hanol and Saigon? In short, is it a policy that drowns the small in a sea of 210,000, and women, political and religious leaders, largely for their political beliefs. I think it is fair to say that the question of whether Americanization of government in Vietnam—only 6,000 less than a year ago.

We are still in full support of a government headed by Thieu and Ky who categorically stated their desire to use force to the North and placed a ceiling on our military authorization budget. We are doing here tonight.

We are not responding to the cause of self-determination in Vietnam, although we know that Thieu and Ky have categorically stated their refusal to acknowledge any free election which might result in the establishment of the Liberation Front. As President Thieu put it, he "would not concede a single hamlet to the other side."

We are told in Washington that our troops have shifted to a defensive strategy, but from Vietnam we hear that we are waging war as usual. In short, by not setting forth a clear policy which affords the young the one opportunity to make a new course for peace, we are clinging to old policies and old myths. It is this admission which we seek from our Administration. It is not merely a question of who pays for our mistake and it is my mistake. What we are paying for today is simply a price for pride, a price for our pride in not admitting to any civilized society to continue to pay.

I have a pride problem of my own. I once supposed that this was the right war, thought it was right. I thought many things would happen in Vietnam: a popular non-corrupt government, land reform, a South Vietnamese Army that would fight, and many other things. I found out I was wrong; I admit it; and I think it is time for the U.S. Government to do the same.

I believe our President said this in May, in so many words, when he said there was no longer any hope for military victory in Vietnam. I think that President Johnson also admitted the wrongness of this war—in so many words—when he stopped the bombing of the North and placed a ceiling on our troop commitments.

But "so many words" are not good enough. "No military victory," I believe, is not good enough. If we shouldn't have any more Vietnams, let's not have the one on our hands today. I think many things would happen in Vietnam: a popular non-corrupt government, land reform, a South Vietnamese Army that would fight, and many other things. I found out I was wrong; I admit it; and I think it is time for the U.S. Government to do the same.

Yesterday on the Senate floor, Mr. Ribicoff, the Senate's leading sponsor of the Vietnam Veterans Bill of Rights, proposed a slight expansion of programs designed to help the migrants and farmworkers in the name of inflation. That was more than we were able to cut out of the $20 billion military authorization budget in 3/4 months of fighting on the Senate floor.

What I am saying is this: We have gotten to the point where this war and the cost of this war are the defining issues of our day. The 1960 election brought the idea that Americanization of government in Vietnam is the greatest cost of all. This is the cynicism, the bitterness, and the alienation of the young of this country.

I am deeply disturbed by the thought of a generation which may lose all confidence in the ability of a democracy to respond with justice, reason and humanity. But what can we expect of a generation which is asked to kill and be killed in a war which cannot be explained. Can a fractured, disheartened and demoralized American possibly be a price for pride, when we are fighting to maintain the system—this system of ignoring the needs of our people—may be one of the great casualties caused by the war in Vietnam.

But there are other costs as well, and perhaps there's one apart from the loss of life which is the greatest cost of all. This is the cynicism, the bitterness, and the alienation of the young of this country.

We can feel pride and love for those who are times to be silent and there are times... There are times to be silent and there are times to speak. This is the time to speak. The ac­ cordingly, those committees are not in men and material alone. There are costs, too, in the effects on the young people's hopes and beliefs. Like ourselves, the vast majority of the students with whom we work still want to believe in a just and honest and sensitive America. But our military engage­ ment in Vietnam now stands as a denial of so much that is best in our society."

The desire to love and respect one's country is a private affair. Yet, as equally deep are the beliefs and values about justice, morality, and humanity. And perhaps the reason why so many of us believe that we have forced our young men and women to choose between these two instincts. The great ma­ jority of the young who feel is bullet. Many, in fact, will not have to go even into the Services. But nearly all will be called upon, to judge, to define, to decide, on the conscience, or their country. And no civilized, free society should put anybody to that test.

We can feel pride and love for those who must serve. Yet we cannot feel pride for the war itself. We cannot feel that a great country has ever felt a bullet. But our eyes and choose—and we lose either way. And something must be blamed for this awful choice. It may be the government, the President, the 'establishment,' the middle class or some other symbol. But at its pressure must lose the respect, the love, and the al­ loy who must choose. And in the end, it is America that must choose.

Above all else, a free society must grant its young the might to act in accordance with national conscience. Above all else, we must end this war and restore this right.

Six years ago, in words that were tragically true, Dr. Martin Luther King told this Congress of the People of Vietnam: "In the final analysis it is their war; they are the ones who have to live it or lose it, and we are the ones who have to watch them keep them under control."

We proposed expanding money for emer­ geny food for medical care. We proposed a slight expansion of programs designed to help the migrants and farmworkers in the name of inflation. That was more than we were able to cut out of the $20 billion military authorization budget in 3/4 months of fighting on the Senate floor.


discrimination against Soviet Jews

Mr. RIBICOFF. Mr. President, discrimination against Soviet Jews is an unconscionable act which can no longer be tolerated.

In a stirring appeal to the United Nations Commission on Human Rights on November 10, Senator Ribicoff of Connecticut and the Soviet Georgians asked this Commission to the world at large to help them in their efforts to emigrate to Israel.

They have bravely brought this issue personally to the world at great risk to themselves. They symbolize the 3 1/2 million Jews living in difficult conditions in the Soviet Union.

For years, the Soviet Government has denied Jewish families their right to join their loved ones in Israel. Then, in January 1969, the Soviet Union signed the Convention for the Liquidation of All Forms of Racial Discrimination. This charter assures every person the right to leave any country, including his own.

Yet the Soviet Union has continued to turn a deaf ear to the pleas of the 18 Jewish Georgians who want to leave for Israel. It is sad to see the difference between their words and actions of the Soviet Government.

These actions should be condemned. They mock the cherished rights of free emigration and self-determination.

Chairman Johnson and the Israeli Government have patiently negotiated this question for months within the Soviet Union.

Persuasion has not worked. The only recourse now is pressure from the world community.

It is my hope that the United States will support the letter sent to the United Nations, and encourage that body to continue its efforts in the Human Rights, to bring the necessary pressure to bear on the Soviet Union to secure the open emigration of Jews to Israel.

For as the appeal has said:

There are 18 of us who signed this letter. But he who thinks there are only 18 of us.

I ask unanimous consent to have printed in the Record the letters to the Human Rights Commission and to the Chairman of the Foreign Soviet of the U.S.S.R. N. V. Podgorny.

There being no objection, the letters were ordered to be printed in the Record, as follows:

November 21, 1969
CONGRESSIONAL RECORD—SENATE

35363
We, 18 religious Jewish families of Georgia, request you to help us leave for Israel. Each one of us, in a relative in Israel, obtained the necessary questionnaires from the authorized U.S.S.R. agencies, and filled them out. Each assured orally that no obstacles would be put in the way of his departure. Expecting to receive the necessary documents, each sold his property and gave up his job. But long months have gone by—years, for many—and permission for departure has not yet arrived. We have submitted hundreds of letters and telegrams; they have vanished like tears in the sand of the desert. All we hear are one-syndicate replies. We see a written reply. No one explains anything. No one cares about our fate.

But we are waiting, for we believe in God. We 18 religious Jewish families of Georgia consider it necessary to explain why we want to go to Israel.

Everyone knows how justly national policy, the theoretical principles of which were formulated long ago by the founder of the present state, have been carried out in the U.S.S.R. There have not been Jewish pogroms, tales or quotas in the country. Jews can walk the streets without fear for their lives; they can live where they wish, hold any position, even that of head of state. This is evident from the example of V. Dymshitis, deputy chairman of the U.S.S.R. Council of Ministers. There is even a Jewish deputy in the present Soviet—A. Chakovsky, editor-in-Chief of Literaturnaya Gazeta.

Therefore, it is not racial discrimination that compels us to leave the country. Then perhaps it is religious discrimination? But synagogues are permitted in the country, and we may pray for Israel as we wish. However, our prayers are with Israel, for it is stated: "If I forget thee, O Jerusalem, may my right hand forget its cunning." For we religious Jews feel that there is no Jew without faith, just as there is no faith without traditions. Then, then, is our faith and what are our traditions?

For a long time the Roman legions besieged Jerusalem. But despite the well known horrible things perpetrated by the conquerors—famine, disease, and much more—the Jews did not renounce their faith and did not surrender. However, they did not have a way to live in alien lands among people who hated them. They showered with insults, covered with the mud of slander, despised and persecuted, they earned their daily bread with saliva from sweat, and reared their children.

Their hands were calloused, their souls wounded. But this is not the worst thing is that the nation was not destroyed—what a nation.

The Jews have the world religion and revolutionaries, philosophers and scholars, wealthy men and wise men, geniuses with the hearts of children, and children with the eyes of philosophers. There is a special knowledge, no branch of literature and art, to which Jews have not contributed their share. There is no country which gave Jews shelter which has not been repaid by their labor.

And what did the Jews get in return? For a long time, all the Jews waited fearfully for other times. And when life became bad for all, the Jews knew that their last human opportunity, their only hope, their last way out of the country.

And whoever got away, began from the beginning again. And whoever could not run away, was destroyed.

And whoever hid well, waited until other times came. Who didn't persecute the Jew, everybody joined in battling them.

When the Jews generally lost a war, those to blame for the defeat were found at once—Jews. When a political adventurer did not keep the mountain of flesh he had given, a reason was found at once—the Jews. Jews died in the torture chambers of the Inquisition in Spain, and in fascist concentration camps in Germany. Anti-Semitism raised a scare—in enlightened France it was the Dreyfus case; in theiliterate Russia, the Bells case.

And the Jews had to endure everything. But there was a way that they could have lived. We have petitioned other people. All they had to do was convert to another faith. Some did this—there were cowards everywhere. But millions upon millions perished in a life of suffering and often death to apostasy.

And even if they did wander the earth without fear for all of us, in our souls we have many reasons to be sad.

And if their ashes are scattered through the world, the memory of them is alive. Their hearts are in our veins, and our tears are their tears.

The prophecy has come true: Israel has risen from the ashes; we have not forgotten Jerusalem, it needs our hands.

There are 18 of us who signed this letter. But he who thinks there are only 18 of us, he is mistaken. There could have been many more signatures.

They say there is a total of 12 million Jews in the world. But he who believes there are only 12 million of us. For with those who pray for Israel are hundreds of millions who did not live to this day, who were tortured to death, who are no longer here. They march shoulder to shoulder with us, unoccupied and immortal, those who handed over to us the traditions of struggle and faith.

That is why we want to go to Israel. We believe there is a great mission to perform in the U.S.S.R. The world has a mission in the U.S.S.R. The national minorities and nationalities of the U.S.S.R. have great national missions, duties. The unity of the national minorities and nationalities is the cornerstone of the Soviet Union.

JOSEPH P. KENNEDY

Mr. Middle America wanted to know the truth of the matter. The Middle American Kennedy, as he was called, asked in the Senate his colleagues and friends questions about the life of his brother the Senator. He wanted to know what John F. Kennedy was really like, what his life was like after becoming President.

He learned that John F. Kennedy was a man of great action, a man who believed in doing things. He had little time for speeches or writing. He worked hard and long hours. He was a man who loved his country and was willing to sacrifice himself for it.

He was a man of great compassion, a man who cared deeply about the problems of the world. He was a man of great spiritual depth, a man who was able to relate to people of all backgrounds and beliefs.

He was a man of great leadership, a man who was able to bring people together and work towards a common goal. He was a man of great wisdom, a man who was able to make difficult decisions and find solutions to complex problems.

He was a man of great talent, a man who was able to work in a variety of fields and achieve success in each. He was a man of great beauty, a man who was able to attract the love and admiration of many.

He was a man of great love, a man who was able to love his family and friends deeply. He was a man of great joy, a man who was able to find happiness in the simple things in life.

He was a man of great tragedy, a man who was able to face adversity and come out stronger on the other side. He was a man of great courage, a man who was able to stand up to the challenges of life.
businessman, and a Government administrator.
We have watched Mr. Kennedy through years of triumph, through years of unparalleled tragedy, and through years of ill health have learned to respect him highly for his great example. That respect, that example, will carry on.

OIL IMPORT COST REVEALED
Mr. PROXMIRE. Mr. President, the Office of Emergency Preparedness, the Office charged with overseeing the mandatory oil import program, has finally revealed the true cost of the oil import program.

In my own State of Wisconsin, the oil import quota program costs each man, woman, and child $20.08. This means that the average family of four must pay $116.20 more for driving their car or heating their home than they would if $95,323. 31.79

In order that every Senator can see how much his constituents are forced to pay in higher oil prices because of the oil import quota program I ask unanimous consent that the OEP letter be printed in the Record.

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

OFFICE OF EMERGENCY PREPAREDNESS, EXECUTIVE OFFICE OF THE PRESIDENT,
Mr. PHILIP AREEDA, Executive Director, Cabinet Task Force on Oil Import Control, Washington, D.C.

DEAR MR. AREEDA: At your request, the OEP staff has estimated the 1969 total and per capita consumer cost of oil import control on a State basis. The overall 1969 estimated consumer cost in the OEP staff's Task Force No. 1969 which is in the public record, is distributed on the basis of the combined consumption of motor gasoline and distillate in each State. These State quantities are related to the total consumption of motor gasoline and distillates in District I, II, IV, and District V. The estimated cost of the program in each of these three areas is attributed to each State in proportion to its consumption of gasoline and distillate oil relative to the total gasoline and distillate oil consumption in its area.

Please note that this is an OEP staff item. It was prepared by the staff of the Office of Emergency Preparedness to assist the work of the Task Force. It does not necessarily reflect the views of the Director of that office nor of the office itself.

Sincerely,

EDWARD R. SAUNDERS, Jr., Deputy Director.
National Resources Planning Center.

P.S.—Mr. Horne asked if we had any objection to making the enclosed available for the public record. Although the data developed simultaneously by the Task Force, we have no objection to making it available to the public.

Edgar D. Gage 1.963—September 21, 1.969 1 Petroleum Administration for Defense Districts.

3 Consumer costs for district I, districts II-IV and V from OEP staff submission to Cabinet Task Force on Oil Import Control Costs in each State assumed to be indicated by the sum of gasoline and distillates "consumed" in each State in 1968 in relation to the consumption of these products within its group by districts.

4 Department of Commerce estimated 1969 population used to derive a per capita cost.

RETIRES DEVELOP A PROGRAM TO PROVIDE A NEEDED SERVICE FOR THE ELDERLY
Mr. WILLIAMS of New Jersey. Mr. President, many elderly individuals want and need to continue working beyond retirement. For a large number, this is not necessarily a financial need, but an emotional one. Such persons are happy to volunteer their services to aid others. When these services are utilized, the accumulated wisdom and experience of the elderly volunteer proves more beneficial to all concerned. In fact, there is recent evidence which supports my conviction that certain services can best be provided by the elderly.

I am especially proud to share this evidence with my colleagues today, because an excellent example of volunteer services was developed by an elderly part-time employee of the Committee on Aging. Mr. Ira C. Funston was formerly an attorney with the Department of Labor and his knowledge and experience is now proving to be an asset to the committee, more than 20 years a week.

Last year, Mr. Funston developed a program which not only utilized his
skills—and those of a number of other retirees—but brought needed help to older persons.

A plan on the drawing boards would make it possible for elderly persons with low incomes to obtain assistance in preparing their tax returns under circumstances which would enable them to take advantage of the service offered.

The program originated from a 1969 experiment in which more than 700 people got help in preparing their income tax returns from four volunteers ranging in age from 60 to 65. These volunteers were trained by Internal Revenue Personnel.

C. Ira Funston, formerly an attorney with the Department of Labor and now in private practice, came up with the idea for the program. Funston, who is now working part-time in 1970. The Senate Special Committee on Aging, who expressed his willingness to train the volunteers and continue its cooperation.

Further information is available from C. Ira Funston, Room 2330, Senate Office Building, Washington, D.C. 20003.

THE KATHERINE HAMILTON VOLUNTEER OF THE YEAR AWARD

Mr. BAYH, Mr. President, this week a unique individual is being honored by the National Association for Mental Health which is currently holding its annual meeting in Washington. Mrs. J. R. Bird of Blackfoot, Idaho, will be the recipient of the Katherine Hamilton Volunteer of the Year Award—the highest honor bestowed upon a volunteer for efforts on behalf of the mentally ill.

This award, which has been presented annually since 1964 by the Indiana Mental Health Memorial Foundation, is named in honor of one of my former constituents from Terre Haute, Ind.

Katy Hamilton dedicated 33 years of her life to the mentally ill. She helped organize and promote the work of the Vigo Countychapter, served the mental health association in Indiana for 10 years as a board member, was secretary and delegate to the National Association. She also assisted in eliminating the practice of patient jailings in her home county, and helped to establish psychiatric clinics and the "adopt-a-patient program" in which other persons assumed the role of relative to a patient. She also assisted in the development of hospital volunteers in Indiana, lobbied for increased appropriations for the department for mental health, and helped expand the National Association for Mental Health.

The award was made possible through the generosity of Miss Hamilton bequeathing the bulk of her estate to the Indiana Mental Health Memorial Foundation and to the Vigo County chapter. This enabled the association to form the Indiana Mental Health Memorial Foundation, which undertakes, promotes, and develops research, education, and other services related to the field of mental health.

The Vigo County chapter used its share of the estate to help provide local funds for the Community Comprehensive Mental Health Center which will be named in her honor. The Katherine Hamilton Comprehensive Mental Center will be the first free-standing center constructed in Indiana.

The future of the Katherine Hamilton center and other such institutions, as well as all the patients they will serve, will in part depend on both the State and Federal Governments assuming some of the financial burden incurred for operating and maintenance costs. I trust that in the next few months Congress will pass legislation to bills now pending that would expand the matching grant system to include substantial funding for this and other similar new local mental centers.

ENVIRONMENTAL QUALITY: PESTICIDES AND THE RESTRICTION OF DDT

Mr. TYDINGS. Mr. President, the Senate today takes one of its most important and controversial steps in de-

ed, attacking whether to confirm a nominee to the highest court in the land. Yet I hope this momentous vote will not overshadow the major accomplishment announced yesterday by the Secretary of Agriculture.

Secretary Hardin declared that nearly all uses of DDT are to be prohibited by December 31, 1970. Uses deemed essential under circumstances which completely eliminated it. Secretary Hardin's action follows the recommendation by HEW Secretary Robert Finch that the pesticides use be restricted within 2 years. Both Secretaries are to be commended for their action, and I wish to acknowledge and thank Dr. Emil Mrak, former chancellor of the University of California at Davis, for the leadership he provided the Health, Education, and Welfare Commission on Pesticides.

As a Senator who has introduced wide-ranging legislation on pesticides, I believe Secretary Hardin's decision to be an important one. The quality of our environment, the health and safety of our people, and the indiscriminate use of persistent pesticides has contributed substantially to the deterioration. The restriction on DDT is a step, and an important one, to reverse this quality.

It is equally important for it demonstrates that our institutions of government can be responsive to a concerned, active citizenry. The campaign to ban DDT has grown almost overnight. Secretary Hardin's action is a direct result of this effort. The symbolic nature of the Secretary's decision should not be forgotten.

I call the attention of my colleagues to this restriction on the use of DDT. I urge the Departments of Agriculture, the Interior, and HEW to increase its scope quickly by using immediately nonpersistent alternates now available and accelerating the research for additional substitutes. Finally, I call for appropriate action to limit the use of other hard pesticides such as dieldrin and endrin so that these poisons no longer endanger our environment.

Mr. President, I now ask unanimous consent of the Senate to print two articles from today's Washington Post and Baltimore Sun announcing the restrictions on DDT be printed in the Recess.

There being no objection, the articles were ordered to be printed in the Recess, as follows:

[From the Washington Post, Nov. 21, 1969]

UNITED STATES PROHIBITS ONE-THIRD OF DDT USE

The Nixon administration yesterday took a major step to bar the use of the pesticide DDT on farms and gardens and said an almost complete ban would be in effect by the end of next year.

President Nixon, in a letter to the President's Environmental Quality Council at the White House, with Mr. Nixon presiding, it was announced that Secretary of Agriculture Clifford M. Hardin had ordered cancellation within 30 days of the use of DDT on shade tree pests, pests in water areas, house and garden pests and tobacco pests.

Some 14 million pounds, or 35 per cent of the total amount of DDT annually used in the country, is manufactured for these purposes.

In addition, Hardin announced his inten-
tion to cancel "all other DDT uses" and asked for comment from the industry within 90 days.

Exceptions will be made where DDT is needed for prevention or control of human disease, or other essential uses for which no alternative method is available, the senator said.

Action on this order will be completed by the end of next year, Hardin said.

A recent study by the National Academy of Sciences, calling for the development of new pesticides and a national pesticide policy, has been transmitted to the House of Representatives, Hardin said.

Last week, the administration announced that it intended to phase out most domestic uses of the pesticide DDT by December 31, 1970.

Hardin also turned over to the Department of Health, Education and Welfare responsibility for determining "public health aspects of all pesticide registrations."

The Environmental Quality Council said it would establish a committee on pesticides under Hardin's chairmanship to coordinate programs and develop policy.

WASHINGTON, November 28—Clifford H. Hardin, Secretary of Agriculture, announced today his intention to outlaw nearly all uses of DDT by December 31, 1970, and to prohibit within six months the use of para-DDT, a compound that may be used to kill rats, mice and other rodents.

Mr. Finch's statement was announced two weeks ago.

Mr. Hardin's action cuts in half the proposed six months phaseout of the controversial pesticide.

Mr. Finch called for a two-year phaseout about two weeks ago.

The USDA said the possible harmful effects of use of this pesticide, involves some 14 million pounds or about 35 per cent of the total DDT used in this country.

The Environmental Quality Council also announced its intention to cancel all other uses of DDT, except for emergency control of diseases and massive crop-pest infestations, by December 31, 1970.

It followed a March 18 letter to comment within 90 days on this intention.

Exceptions would be made in the area of public health uses, such as the control of rats, where essential uses for which no alternative is available.

Beginning in March, similar action will be taken in a review of other persistent pesticides.

Dr. Lee DuBridge, executive secretary of the council, said that a science advisory group formed along with Mr. Hardin and Mr. Finch, joined the announcement today at the White House.

Mr. Finch said: "We have no proof that DDT is in fact carcinogenic," or cancer-causing, in humans. He said a report of the committee on pesticides recognized the fact that there was some evidence of its being carcinogenic in animals.

UNITED STATES TO REVIEW PESTICIDE PROHIBITION

WASHINGTON, November 30—The United States will make a prompt review of foreign aid programs to determine if more use of pesticides is needed following the recent decision to phase out the use of DDT, the White House announced today.

The review will be made by the United States Agency for International Development in collaboration with the aid-receiving countries.

Mr. AGNEW: NO LONGER A LAUGHING MATTER

Mr. GURNEY. Mr. President, in recent weeks, the Washington Post, in its usual self-righteous fashion, has been lecturing the public on the right of dissent. Everyone in the eyes of the Washington Post has a natural and innate right to dissent from establishment notions, even the exceptions of the Vice President of the United States, the Honorable Spiro T. Agnew.

In its editorials, news columns and in its executive outlines, the Post has let it be known that it is dissatisfied with the Vice President's remarks in Des Moines. It sees in the Vice President's utterances a continuous threat of television censorship.

I must point out, however, that the Washington Post is apparently not opposed to censorship and the suppression of speech, as one of a matter of principle.

There are times, Mr. President, when the Post feels that certain ideas should be suppressed and certain spokesmen should be "silenced." In this context, I refer to an editorial in the Washington Post on October 21, 1969, again concerning Vice President Agnew.

I ask unanimous consent that this document be inserted in the Record. The last sentence of the editorial reads:

Mr. Nixon wishes to be in any way convincing in this matter or to preserve the voice of any section of the American public outpouring of sentiment against the foreign policy of the President of the United States, then, of not continuing to "disassociate themselves from the objective enunciated by the enemy in Hanoi."

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

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

ARMED SERVICES COMMITTEE SHOULD INVESTIGATE ALLEGED U.S. INVOLVEMENT IN DEATHS OF VIETNAMESE CIVILIANS

Mr. GOODELL. Mr. President, in recent days the American and foreign newspapers have carried numerous reports concerning the alleged massacres of a large number of Vietnamese civilians by American military personnel in Vietnam.

The New York Times this morning quoted British Prime Minister Harold Wilson as saying: "We have proven 'one-quarter true, they would be regarded as very grave atrocities.'"

Yesterday, in a letter to the distinguished chairman of the Senate Armed Services Committee, I requested that the committee initiate a full-scale investigation concerning these alleged killings and the operation of the Phoenix program—an alleged United States reliance program eliminating supposed NLF village officials.

Mr. President, these charges raise grave moral questions concerning the conduct of our troops and the integrity of our country. They must be thoroughly
and impartially investigated at the earliest opportunity.

I ask the support of every Member of Congress in seeking early resolution of this tragic war.

Mr. President, I ask unanimous consent that the text of my letter of yesterday to the Senate Armed Services Committee be printed in the Record.

The consent of the Senate having been obtained, the letter was ordered to be printed in the Record, as follows:

HON. JOHN C. STENNIS, Chairman, Senate Armed Services Committee, Washington, D.C.

Dear Mr. Chairman: On August 13 of this year, Senator Cranston and I spoke out against the mistreatment of American prisoners of war by North Vietnam and the NLF. In a statement in which we were joined by 39 other Senators, we called upon our adversaries in Vietnam to observe minimum standards of humanity in the treatment of our prisoners.

If we, as members of Congress, are concerned about the treatment of our fighting men by the enemy, we should be equally concerned that our military forces in Vietnam maintain the standards of a civilized nation at war.

Last week, eye witnesses quoted in the news media reported the alleged massacre of 33 Vietnamese civilians, mostly women and children, by American soldiers. The estimates of the number killed range from 90 to over 500; the latter figure being cited by Vietnamese survivors.

Even more shocking, these witnesses report that a large part of a company of American troops participated in the shootings that the killings were committed at the instruction of certain officers and non-commissioned officers; and that at least one of the witnesses was warned by his military superiors not to report the occurrence.

This same Army is currently investigating the incident.

I am equally concerned with the report concerning the operation of the joint U.S.-South Vietnamese program for assuring-supposed NLF village officials. Saigon radio allegedly reported that by December 31, 1969, there are 12,000 NLF agents in the program who had caused the death of 18,392 persons.

In his November 3rd speech, the President expressed his deep concern that a collapse of the South Vietnamese government might result in a "bloodbath"—in slaughter of innocent Vietnamese civilians by Communist forces. He indicated that his apprehension over such a possibility has a considerable degree of military policy.

If American policy in Vietnam is so deeply concerned with the possibility of a "bloodbath" perpetrated by Communist forces, it should be equally concerned with preventing the deliberate killing of civilians by our own or South Vietnamese forces.

The barbarous treatment of Vietnamese civilians can totally destroy any credibility the United States can claim to have for human rights.

I therefore respectfully request that the Senate Armed Services Committee initiate a full scale investigation concerning alleged killings of South Vietnamese civilians by American troops; and concerning the operation of the joint U.S.-South Vietnamese program. I request that your investigation include a review of what steps, if any, have been undertaken by the Department of Defense and the American military command in Vietnam to prevent killings of this nature in the future.

Sincerely,

CHARLES E. GOODELL

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER: Morning business is concluded.

Under the previous order, the Senate is in executive session, with the time equally divided.

SUPREME COURT OF THE UNITED STATES

The Senate, in executive session, resumed the consideration of the nomination of Clement F. Haynsworth, Jr., of South Carolina, to be an Associate Justice of the Supreme Court of the United States.

Mr. MANSFIELD. Mr. President, on this side, under the unanimous-consent agreement, I yield all the time except one-half minute to the distinguished Senator from Indiana (Mr. Bayh), and that one-half minute I will yield to the distinguished Senator from West Virginia (Mr. Byrd).

Mr. BYRD of West Virginia. Mr. President, in the interest of decorum, I ask that the Chair instruct the Sergeant at Arms that the floor be cleared of all staff personnel and the lobbies be cleared of all staff personnel until the vote on the Haynsworth nomination has been completed, with the exception of those staff personnel who are immediately needed by their respective Senators in connection with the Haynsworth nomination.

The PRESIDING OFFICER. The Sergeant at Arms is so instructed.

Mr. BAYH. Mr. President, I yield to the distinguished Senator from Maine (Mr. Muskie) such time as he feels he requires to cover the subject he addresses himself to.

Mr. MUSKIE. I thank the Senator from Indiana.

Mr. President, any Presidential nomination subject to the advice and consent of the Senate is an important matter.

Any President, in the discharge of his constitutional responsibility to make such nominations, is entitled to the consideration of his selections on their merits.

His nominee, whose qualifications are in issue, are entitled to the fair and un­
biased judgment of the Senate.

The integrity, good will and public service of any President, in his appointments, are immediately involved—whether the confidence of our citizens in their effectiveness and evenhandedness—must also be consid­
ered.

In appointments such as those to his Cabinet, the President is rarely denied confirmation of his choices. He is given wide latitude to implement his mandate at the polls by selecting men of his choos­
ing, and his and their performance is subject to the approval or disapproval of the voters at the polls. Moreover, their tenure is limited, and their decisions and official actions are subject to legislative oversight.

Appointments to the Supreme Court of the United States, on the other hand, have been traditionally regarded as imposing a different and more independent kind of responsibility upon the Senate. The Senate, for example, has failed to confirm one-sixth of all nominations to the Court.

Supreme Court Justices are appointed for life. Their tenure may extend over decades, and their decisions and opinions can have a profound impact upon public policy and the direction of our national life for years to come. Their performance is not subject to the ap­
proval or disapproval of the electorate. Their decisions and official actions are not subject to legislative oversight.

In the light of these considerations, no Senator, I am sure, has taken lightly the responsibility of casting his vote on the appointment pending before us.

Clearly, men of good will, and Integrity, and judgment, in and outside the Sen­
ate, have endorsed this appointment. Others, of equal good will, and integrity, and judgment have expressed opposition to it.

They have divided upon three questions:

First. Has the nominee, in the conduct of his personal business and financial affairs, been sufficiently sensitive to their implications relative to his responsibilities as a judge of the U.S. circuit court of appeals?

Second. Has the nominee, in the cases which have come before his court, been sufficiently sensitive to the need for meaningful implementation of the civil rights of all citizens?

Third. Has the nominee, in the cases which have come before his court, been evenhanded in his labor-management decisions?

I am most troubled by the first question. I am not persuaded that Judge Haynsworth is a dishonest man. His ac­
tions, however, raise serious questions concerning his sensitivity to judicial ethics which require a judge to avoid even the appearance of private gain through a public action.

From 1950 until March 1964, Judge Haynsworth was a one-seventh owner and a director of Carolina Vend-A-Matic, a lessor of vending machines. He had founded the corporation along with six other individuals, three of whom were his law partners and one of whom was a business associate. He served as its first vice president, and his wife was the corporation’s secretary. As late as 1963, Judge Haynsworth remained as a

trustee of the company’s profit-sharing and retirement plan and attended weekly directors’ meetings, for which his annual fee was as high as $2,600.

Since 1958 the company had done a substantial amount of business with mills controlled by the Deering-Milliken Co. Gross annual earnings from Vend-A­
Matic, in 1963, amounted to over $1 million; the mills totaled nearly $50,000 as of June 1963. In August of 1963, new contracts with other such mills increased those gross earnings to $1 million per year.

Despite those connections, Judge Haynsworth sat, heard, and wrote the opin­
Today, in my judgment, a Supreme Court Justice must be fully sensitive to the efforts of all Americans to participate fully in our society. He must consider, with understanding and compassion, cases which are enmeshed in the most perplexing social problems besetting our Nation.

Judge Haynsworth's record does not evidence the sensitivity and understanding that this task demands.

In 1962 Judge Haynsworth supported—in a dissenting opinion—a plan which would allow changes in the segregated school system. This was a full 8 years after the Brown decision.

In 1963 Judge Haynsworth condoned further delay in the case by the plaintiffs as to require the rejection of his nomination.

But on appeal in 1963, Judge Haynsworth reversed this injunction. While black children remained without formal education for their fifth year, Judge Haynsworth ruled that they had recognized 9 years previously. Fortunately, the Supreme Court overruled Judge Haynsworth and unanimously held the scheme a patently unconstitutional attempt to perpetuate segregated education.

Even in 1967 Judge Haynsworth was allowing perpetuation of segregated school systems. He held procedural delays. Again the Supreme Court overruled Judge Haynsworth.

In the complex area of school desegregation, opponents of equal rights have used procedural devices to achieve further delay. Judge Haynsworth, even though bound to follow the Constitution as interpreted by the Supreme Court, has too often sought out such grounds. His decision in this field of law is a basic re-evaluation of the whole system by the Courts decided, as many of us have, that the only relevant inquiry by the Senate was the question of qualifications.

The Post concluded of the ethical questions which have been raised that:

We do not find them so serious a nature as to require the rejection of his nomination by the Senate.

Mr. President, this is a reasonable editorial by an organization which would have preferred another nominee, it has nevertheless reached the proper conclusion in regard to what the decision of the Senate should be on this nomination. That decision should be confirmation.

I ask unanimous consent that the editorial be printed in the Record at this point.

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

[From the Washington Post, Nov. 21, 1969]

The VOTE ON JUDGE HAYNSWORTH

The long debate that has swirled around the nomination of Clement F. Haynsworth Jr. to the Supreme Court has taken a heavy toll in terms of the President's relations with the Senate, the Attorney General's acumen, and, indeed, the Senate's ability to give a controversial nomination the thoughtful, non-political consideration it deserves. It has also taken a toll in terms of the Supreme Court itself since much of its rhetoric has been directed at a political struggle in which the President and his men have trotted out all their weapons on one side and the labor and
civil rights groups have trotted out all theirs on the other.

Mr. Nixon had that the nomination has been through so rough a wringer. We said, when it was made, that it was not one of the President's most comfortable moments, and making it, Mr. Nixon did not meet the standards he had set for himself nor the standards we would like to see. We wanted to see a selection of the Senate, and we want to see a selection of the Senate, and we want to see a selection of the Senate.

Mr. Nixon would reject it. Such a withdrawal would have been the best course for all concerned. The court the mediocre nominee. It would have saved the court the right to put a name in the Senate.

Mr. Young, the President, in these closing hours of the debate on the confirmation of the nomination of Judge Haynsworth to be an Associate Justice of the Supreme Court of the United States, there is no Senator who is not fully cognizant of the responsibilities that rest on us.

I have searched and studied the record. I have paid considerable attention to the debate on the floor. There are two or three things I believe that I would like with.
November 21, 1969
CONGRESSIONAL RECORD—SENATE 35371

stock in a corporation that had an interest in that case. The decision was made. It was never changed. From 5 or 10 minutes to the court's action following its decision until the present day, the opinion was never changed. And what remained after that was strictly an administrative act.

So, technically, perhaps, and only technically, did he participate in or do something which might be construed as being not exactly within the range of propriety, on first flush.

I put it this way to friends in the Senate who are going to vote or who declare that they are going to vote against Judge Haynsworth on this basis that they are putting a stamp on this man which they have refused to put on themselves and which they have not put on any man who has ever come before the Senate of the United States for confirmation.

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

Mr. HRUSKA. Mr. President, I yield 2 additional minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 2 additional minutes.

Mr. ALLOTT. Mr. President, I will point out one thing which has been mentioned with reference to the philosophy involved. And then I will be through.

There has been mentioned in the Senate Chamber that some did not approve of his philosophy based upon his attitude toward labor. Others have said they did not approve of his philosophy based upon his attitude toward civil rights. One Senator claims that we have refused to vote for him. However, I have not cast my votes on confirmation decisions on that basis. I sincerely hope that by its decision here today, the U.S. Senate is not going to establish a new method of making decisions and decisions of different approach toward confirmation—and that is to base our decisions on whether one might individually agree to the potential decisions to be made by the Associate Justice involved.

Let me add that Judge Haynsworth has been characterized in the press as a conservative. If that means that he could therefore vote against a nominee that goes contrary to the Constitution, I happen to agree with that philosophy.

Furthermore, I believe that men of this caliber are long, long overdue on the Supreme Court, more so, in fact, than political philosophy, because that is not going to establish a trend and the trend and the trend of the Supreme Court to conduct itself as a third house of the legislative branch, to make decisions and decisions of constitutional principles but are an expression of a social or a political or an economic point of view. I have re-resented this trend. I have deplored it publicly many times. I joined with the distinguished Senator from Colorado one time when the Senate even denied an increase in pay to the Justices of the Supreme Court as an expression on the part of the Senate of our resentment of their intrusion into the legislative arena.

I should now like to emphasize a point I have not heard discussed very much on the floor of the Senate. To be consistent, however, it seems to me that every Senator who shares this point of view, who feels that it is not the proper province of the Supreme Court to inject itself into the legislative determinations of the land—I feel that if we share that point of view, we should be bound by a rule that works both ways. If, as I intend to do, and as I have done in the past—I express myself in that position to this philosophy and that trend on the part of the Supreme Court Justices, it seems to me that I and other Senators who hold this conviction should then refrain from any efforts on the part of our legislative branch of the Senate to inject itself into the point of view. It seems to me that we should maintain and practice this precious constitutional separation of powers. It seems to me that if it is sauce for the goose, it is sauce for the gander.

I see no logic or consistency in taking the position—which I take—that the
Supreme Court should not try to enter our arena and determine our attitudes and bend our legislative decisions to its will, and then for Senatorial or United States to use the power of confirmation to try to coerce the Supreme Court to try to make it bend its decisions toward our position. I do not think we can have the best of both worlds. If we are going to be consistent, the same rule should apply to both branches of Government, and I expect to be consistent. I shall vote for Judge Haynsworth.

I want to say, also, that I do not think the power of confirmation of the Senate should be changed, from what is included in the Constitution, to a whole new concept. Where are we going to vote for those issues for which the Senate all the time, that many Senators are now going to vote only for those judges who they think are going to make verdicts with which they will agree. They hope to make the Haynsworth case a precedent by defeating his confirmation. This is as reprehensible—-in my opinion—as having the Supreme Court enter the legislative arena to try to coerce us into legislative action in conformity with what the Court desires and demands. To beat back such a revolutionary change in concept, I for one do not wish to be a party to having the Senate all the time take the vote. I say that Senator Nixon will soon send to the Senate the name of a nominee fully or even more conservative than Haynsworth. For that way the battle here involved will be clearly drawn and definitely decided by this same Senate membership.

The Constitution is involved in this matter, and I think Senators should reflect upon this. I am going to try to write a new formula of desideratum to be considered in terms of confirmation of nominees for the Supreme Court. I do not think they should have in this kind of decision the attitude that they are going to vote only for the confirmation of nominees for the Supreme Court that they expect are going to agree with them. Haynsworth is innocent, and I believe the country would be in a better condition if I am to say that I would have voted against Fortas, I would have voted against Marshall, and I would have voted against Goldberg and a great number of other judges whose nominations I have not thought and have not voted in the ensuing vote that President Nixon will soon send to the Senate the name of a nominee fully or even more conservative than Haynsworth. For that way the battle here involved will be clearly drawn and definitely decided by this same Senate membership.

As to the other factors in this discussion, they have been debated ad infinitum, ad nauseam. I should like to address myself briefly to three which I believe are the so-called ethics issue, the impact of the controversy on Judge Haynsworth's effectivity should he be confirmed, and, finally, the differences between the action of the Fortas and the situation that we now confront from the standpoint of Judge Haynsworth.

I have already indicated the attitude of the minority in the Committee on the Judiciary Committee in terms of legislation and examining technical legal points. It was interesting, therefore, to read the report of the committee on the question of one of the factors of these technical points—had Judge Haynsworth behaved ethically according to the stringent rules members of the bar apply to themselves? There were a total of 17 members on this committee (with whom I believe) who examined technical legal points of view of this body. Nine Senators approved the majority report, exonerating Judge Haynsworth from any ethical impropriety or violation of the Federal Codes. The remaining eight judges—judges of the court of appeals—judges of the Supreme Court, and judges of the circuit court who sat in the case of Judge Haynsworth—judges who had been associated with Judge Haynsworth, and judges who had been added to the committee—judges who had been associated with Judge Haynsworth and three found against him. We have five judges in the ensuing vote that President Nixon will soon send to the Senate the name of a nominee fully or even more conservative than Haynsworth.

Since I wished to place some weight on the committee findings in making my own determination, I found this division of opinion instructive. Although the newspaper accounts indicated, quite correctly, that the seven who were not on the committee voted to send the nomination to the floor with a favorable recommendation did so by a vote of 10 to 7, examination of the newspaper accounts indicated that 12 of the 17 members addressed themselves to the so-called ethics question. I found, of those 12, nine found in favor of Judge Haynsworth and three found against him. In the ethics question, then, the committee's views indicate that the division was not at all a close one, and that by a margin of 3 to 1 the committee is disposed to exonerate Judge Haynsworth of any ethical improprieties.

I have also been impressed by the reputation of Judge Haynsworth in that part of the country in which he once practiced as a lawyer, and has for the past 13 years sat as the chief judge of the highest Federal court of the region. His six fellow circuit judges sent him a telegram, at a time when all of the charges against him were new, which said Judge Haynsworth, and these district judges would have long since formed their opinion. If the accusation be without substance or merit, nonetheless they cast a "cloud" over the nominee, and judges who had been associated with him, the committee's views indicate that the division was not at all one, and that by a margin of 3 to 1 the committee is disposed to exonerate Judge Haynsworth of any ethical improprieties.

You can fool all of the people some of the time, and you can fool some of the people all of the time, but you can't fool all of the people all of the time.

Along this same line, it seems to me that it would be very difficult for an appellate judge to "fool or deceive" his six fellow judges, with whom he worked in consecutive opinions with substantive issues, and over whom he has presided as chief judge of an appellate court since 1964. If there were something wrong with a man's ethics, or with his standards of propriety, certainly these six fellow judges would have good reason to know about it. Yet they, in the face of an organized drive to discredit Judge Haynsworth, chose to volunteer their conclusions and unshaken confidence in his integrity and ability.

Not merely his fellow circuit judges, but all of the district judges in the entire area served by the Court of Appeals for the Fourth Circuit—all of the Federal district judges in Maryland, Virginia, West Virginia, North Carolina, and South Carolina—publicly signified their confidence in Judge Haynsworth, and their support of his confirmation.

I am advised that both as a result of annual judicial conferences, and frequent occasions on which the various judicial districts sit together, these mem­bers of the Court of Appeals and hearing a case on appeal, there is opportunity for constant contact between the district judges in circuit and the circuit judges. I have not the facts to say that if there was something wrong with Judge Haynsworth's integrity or his ethics, these district judges would have long since known of it. Yet they, too, when all the information dug up by Judge Haynsworth's opponents had been made public, themselves publicly indicated their support of Judge Haynsworth and their confidence in his integrity.

The American Bar Association conducted an elaborate and detailed interview program embracing both lawyers who would be associated with Judge Haynsworth and judges who had been associated with Judge Haynsworth. Judge Walsh, the chairman of the ABA's Committee on Judicial Selection, said that it was the "unvarying, unequivocal, and unshaken" view of the interview of the lawyer interviewed that Judge Haynsworth is beyond any reservation a man of impeccable integrity.

There are those who say, in connection with this nomination, that even though the ethical accusations be without substance or merit, nonetheless they cast a "cloud" over the nominee, and judges who had been associated with him, the committee's views indicate that the division was not at all close one, and that by a margin of 3 to 1 the committee is disposed to exonerate Judge Haynsworth of any ethical improprieties.

As we all know, the answers and the factual support to show that a charge may be without foundation never quite catches up with the charge, even though there may be adequate support. To adopt this sort of a policy on which to base one's vote on this nomination would be to say to every special interest group in our country that they have it within their power to defeat any future nominee to the Supreme Court, however upstanding he may be and however impeccable his record may be, if they can only dredge up some trump with which to base an accusation. The gross unfairness of this course of procedure should be apparent to all.

History tells us, Mr. President, that the Supreme Court has not been without controversial members in the past—members who were vigorously attacked by the Senate, who survived the attack to be confirmed, and who served ably and well in the high office to which the Senate confirmed them.

Roger B. Taney served for 28 years as Chief Justice of the Supreme Court of the United States. Only John Marshall, who served in that high office for 34 years exceeded Taney's tenure in the highest judicial office in our Nation. Taney was
nominated as an Associate Justice of the Supreme Court in 1835 by President Andrew Jackson, who in 1831 as Attorney General, and in 1833 he had been appointed as Secretary of the Treasury for the purpose of withdrawing the deposits of the United States, Government from the Bank of the United States, which the previous Secretary had refused to do even at President Jackson's insistence. Taney compelled the President to sign the order that the deposits be returned, and as a result of this fact he was violently opposed by all of the Bank's supporters in the Senate when his nomination to the Supreme Court came before that body. This opposition was sufficient to defeat the nomination through a parliamentary maneuver in the last days of that session of the Senate.

If ever a man was under a "cloud" it was Taney at this point, who had been accused by his opponents of being nothing but a spineless creature of the President. In the previous office which he had held the President had returned him to the judicial bench upon the death of Chief Justice Marshall in 1835, again sent his name to the Senate, this time to be Chief Justice of the United States. And this time, although the President had maintained him, Taney was confirmed in that office. His subsequent 28 years of service on the bench are regarded by historians of the Court as having brought distinction and credit to the high office which he held.

When President Wilson nominated Louis D. Brandeis to the Supreme Court in 1916, that nominee also faced a storm of controversy. The fact that much of the opposition to Brandeis, although couched in terms of ethical insensitivity, was in fact based on opposition to the nominee's philosophical views, I wonder if there may not be some parallel to the Brandeis situation in the case of the nominee now before us. But then, too, the position was taken by some of the opponents that it was sufficient that Taney had been appointed by an administration and as a result of this fact he was violently opposed by all of the Bank's supporters in the Senate when his nomination came before that body. This opposition was sufficient to defeat the nomination through a parliamentary maneuver in the last days of that session of the Senate.

For two single "fundamental reasons" he thought the nomination was unwise. After Hughes had been nominated to the Supreme Court to run for the Presidency and after he had amassed a fortune in practice by reason of his ability to persuade the President had returned him to the judicial tribunal which he voluntarily left to engage in politics and the amassing of a fortune. The Senator feared that such a precedent would encourage political activity on the part of the nominee now before us. But then, too, the position was taken by some of the opponents that it was sufficient that Taney had been appointed by an administration and as a result of this fact he was violently opposed by all of the Bank's supporters in the Senate when his nomination came before that body. This opposition was sufficient to defeat the nomination through a parliamentary maneuver in the last days of that session of the Senate.

A man to be appointed to the exalted and coveted position of Supreme Court justice, he would have permitted his name to be submitted. Now that the fight was on, however, he would not turn back. Nothing that was said in the Senate gave him pause; it silently explained and confirmed his anguished feeling that the builders of the Supreme Court, some bounded by "fundamental reasons" that of the nominee now before us. But then, too, the position was taken by some of the opponents that it was sufficient that Taney had been appointed by an administration and as a result of this fact he was violently opposed by all of the Bank's supporters in the Senate when his nomination came before that body. This opposition was sufficient to defeat the nomination through a parliamentary maneuver in the last days of that session of the Senate.

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Those who are in the gallery may continue to do so, and they must cease all conversation.

The Senator may proceed.

Mr. MUNDT. Mr. President, there is nothing that we in the Senate can do to prevent those who wish to oppose the nomination of justice of the Supreme Court should be free from suspicion and above reproach. Whether suspicion rests upon him unjustly or not, his confirmation would be a mistake.

This position was rejected by the majority of the Senate Judiciary Committee, and by the Senate as a whole, at the time that Justice Brandeis was confirmed. It should be rejected by the Senate now. To suggest that the mere making of charges against a nominee, even though they prove unsubstantiated, is itself ground for refusing to confirm him, gives an open invitation in the case of future nominees to special interest groups, often wide ranging as well as from worthy motives. They will be told, in effect, that if they can muddy the waters enough, they can assure the defeat of even the most highly qualified nominee. They did not succeed in the case of President Jackson. They did succeed in the case of Louis Brandeis, and they should not succeed in the case of Clement Haynsworth.

The debate waxed hotter with each passing hour in the Senate, Hughes was in New York in a state of mental agony. Always thin-skinned to criticism in spite of his exalted position, he never would have permitted his passing hour in the Senate, Hughes was in a state of mental agony. Always thin-skinned to criticism in spite of his exalted position, he never would have permitted his name to be submitted. Now that the fight was on, however, he would not turn back. Nothing that was said in the Senate gave him pause; it silently explained and confirmed his anguished feeling that the builders of the Supreme Court, some bounded by "fundamental reasons" that of the nominee now before us. But then, too, the position was taken by some of the opponents that it was sufficient that Taney had been appointed by an administration and as a result of this fact he was violently opposed by all of the Bank's supporters in the Senate when his nomination came before that body. This opposition was sufficient to defeat the nomination through a parliamentary maneuver in the last days of that session of the Senate.

Mr. MUNDT. Mr. President, finally I would like to discuss what some have charged as a double standard of the Senate, and in particular the controversy over the nomination of Clement Haynsworth to the Supreme Court as having brought distinction and credit to the high office which he held.

Mr. PROCTOR of Missouri. I want to discuss what some have charged as a double standard of the Senate, and in particular the controversy over the nomination of Clement Haynsworth to the Supreme Court as having brought distinction and credit to the high office which he held.

Mr. BYRD of West Virginia. The Senator has made a point. The question involves the conduct of this Senate, and it is to this point that I wish to direct the attention of my colleagues and suggest there is no similarity in the debate which surrounded Justice Hughes, his elevation to the Supreme Court, and the current controversy over the nomination of Clement Haynsworth to the Supreme Court. As I have previously indicated, I must agree completely. A double standard must not exist. The members of our Nation's judiciary must all meet the same high test and the Members of this body must cast aside any political prejudice and vote on the basis of these tests and these tests only.

This should apply to sitting judges as well as judges who are about to be confirmed. We should not have two classes, first-class and second-class Justices on the Supreme Court, some bounded by one standard of ethics, and some by quite different standards.

When many speak of the Fortas "affair" they forget that in fact Fortas and his outside activities while on the Supreme Court drew public attention on more than one occasion and for more than one reason, including accepting money from a convicted criminal. The first was when President Johnson nominated him for the position to be vacated by Chief Justice Warren. This was just after his elevation to the Supreme Court in 1967, and there was then an Associate Justice on the Court and it is to this point that I wish to direct the attention of my colleagues and suggest there is no similarity in the debate which surrounded Justice Hughes, his elevation to the Supreme Court, and the current controversy over the nomination of Clement Haynsworth to the Supreme Court. As I have previously indicated, I must agree completely. A double standard must not exist. The members of our Nation's judiciary must all meet the same high test and the Members of this body must cast aside any political prejudice and vote on the basis of these tests and these tests only.

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When many speak of the Fortas "affair" they forget that in fact Fortas and his outside activities while on the Supreme Court drew public attention on more than one occasion and for more than one reason, including accepting money from a convicted criminal. The first was when President Johnson nominated him for the position to be vacated by Chief Justice Warren. This was just after his elevation to the Supreme Court in 1967, and there was then an Associate Justice on the Court and it is to this point that I wish to direct the attention of my colleagues and suggest there is no similarity in the debate which surrounded Justice Hughes, his elevation to the Supreme Court, and the current controversy over the nomination of Clement Haynsworth to the Supreme Court. As I have previously indicated, I must agree completely. A double standard must not exist. The members of our Nation's judiciary must all meet the same high test and the Members of this body must cast aside any political prejudice and vote on the basis of these tests and these tests only.
Earlier I mentioned that I had voted to confirm Mr. Fortas as a member of the Supreme Court, even though I believed his philosophy to be alien to mine, and even though it was clear his qualifications for the position lay more in the political field than in the judicial field. Of course, I believed President Johnson had the right, other things being equal, to select his own man with the knowledge that past experience had shown members of the Court once confirmed observe the separation of powers edict so essential to our form of government. Indeed, as prior examples have indicated, they have gone on to be outstanding members of the Court. The dictating any candidate for the more heavy challenge of executive decisionmaking, while members of the judiciary, for the deliberate recuse of a judge, the same cannot be said for Mr. Fortas.

The Judiciary Committee hearing record reflects allegations that while on the Supreme Court, Fortas, first, reviewed legislation for the Johnson administration, his simultaneous approval on it, recorded at page 349; participated in conferences and White House discussions on the Detroit riots and the Vietnam war, recorded at pages 104 and 105; and, at the request of the President, put pressure on a business associate and friend to participate in conferences and discussions. Mr. Fortas was queried about these matters when he appeared before the Judiciary Committee. He categorically denied participating in any conference for a judgship and State Department position, recorded at pages 47 and 48; and, the United States, regarding discussions at the White House, recorded at page 104. Several probing questions were answered by raising an intangible claim of confidentiality surrounding discussions with the President, thus frustrating the effort to develop facts relating to the charges.

The entire interrogation was marked by Fortas' reluctance to volunteer information but when confronted with facts would he address himself to the issue.

For some Senators, these facts and disclosures alone were enough to reject Fortas as Chief Justice. When discussing Fortas' extrajudicial activity, Senator Ervin stated:

Justice Fortas has denied some of these charges, and downgraded the importance of others he has admitted. To some he has declined to respond (S. Ex. Rep. No. 8, 90th Cong., 2nd Sess., p. 25).

Senator Ervin opposed the elevation of Fortas to the Chief Justiceship.

When discussing the legislation which Fortas allegedly drafted for the administration, Senator McClellan stated at page 526:

It caused me, therefore, to speculate during the hearings that if Mr. Justice Fortas was being consulted and advising the White House on these issues, then it is quite reasonable and proper to assume that it has been a practice for the White House to consult with him and to seek his advice with respect to legislation that may become quite controversial and the subject of litigation involving vital constitutional questions. This certainly transgresses the correct concept of separation of powers.

Senator McClellan opposed his elevation to the Chief Justiceship.

All this is a part of the Fortas' "affair" and conduct such would ask you to believe Judge Haynsworth guilty of. Yet, has there been any allegation or evidence that Judge Haynsworth participated in White House conferences and discussions? Has there been any allegation or evidence that Judge Haynsworth has drafted legislation for the administration? Has there been any allegation or evidence that Judge Haynsworth has drafted legislation for the administration? Has there been any allegation or evidence that Judge Haynsworth has drafted legislation for the administration? Has there been any allegation or evidence that Judge Haynsworth has drafted legislation for the administration? The answer to these questions is obviously "No." There is no evidence and there have been no allegations for the simple reason that Judge Haynsworth did not do any of these things. Thus, the proposed analogy between the two cases is discredited and I need discuss it no further except to add:

I would apply the same test on separation of powers to Clement Haynsworth if that were the question before us but it is not. The two cases are entirely different.

Mr. President, I have stated in the earlier part of my remarks my reasons for concluding that the charges with respect to Judge Haynsworth's conduct as a Judge of the court of appeals are without substance. Having so determined, I shall cast my vote for confirmation, confident that the teachings of history do not suggest that I do otherwise, and that the teachings of morality would not allow me to do otherwise.

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

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

The Chair inquires as to who yields time.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, the time to be taken out of my side, with the understanding that the time for the quorum call shall not exceed that utilized by the Senator from New York for 5 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAYH. I yield to the Senator from New York for 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, as we come to the last part of this debate on the Haynsworth nomination, I think a summarization is important.

Mr. JAVITS. Mr. President, I have chosen to take my stand on the second ground, that is, the decisions of Judge Haynsworth in the civil rights cases. I must say that it is important to qualify that by saying that although I have decided it on that ground, I think it is not necessary for me to decide the merits of the other objections.

This does not mean that I find the ethical question without merit. The Senator from Kentucky (Mr. COOPER) examined that question last night in a most interesting way. He did that and the Senator from Indiana (Mr. BAYH) and the Senator from Michigan (Mr. GRIFFIN) who sat through the hearings. They have made telling arguments. My reason for stating that personally I did not need to reach that conclusion is simply that I have other grounds for my own decision rather than any derogation of the findings which these eminent men have made on the subject.

I would like to say to those of my colleagues who may yet be listening to this debate, and who are also committed to the historic 1964 decision of the Supreme Court, that they may be surprised to hear that I do not have unique views on the critical issue of education on the desegregation of schools, that if you have any doubt at all about the conflict of interest issue, you need not decide that matter finally against Judge Haynsworth, for you can rest your vote on the basis of Judge Haynsworth's civil rights decisions alone. This nomination, on that ground alone, in my judgment, should not be confirmed.
Now, Mr. President, I have analyzed the opinions on previous occasions.

It is not an analysis, in this instance, requiring endless research, because Judge Haynsworth has written in his own words civil rights opinions in only 17 civil rights cases back to 1954.

Dillard v. School Board of Charlotteville, 303 F. 2d 920 (4th Cir. 1962), cert. denied, 374 U.S. 827 (1963); Bell v. School Board of Accomack County, 404 F. 2d 104 (4th Cir. 1968); Simkiss v. Moses H. Cone Memorial Hospital, 323 F. 2d 959 (4th Cir. 1963), cert. denied, 376 U.S. 928 (1964); Griffin v. Board of Supervisors of Buncombe County, 400 F. 2d 104 (4th Cir. 1969), reversed, 377 U.S. 218 (1964); Pettaway v. County School Board, 332 F. 2d 457 (4th Cir. 1964); Eaton v. Grubbs, 329 F. 2d 710 (4th Cir. 1964); Bradley v. School Board of Richmond, Va., 345 F. 2d 310 and Gilliam v. School Board of Hopewell, Va., 345 F. 2d 325 (4th Cir. 1965), both vacated sub nom. Bradley v. School Board, 334 F. 2d 103 (1965); Nebbit v. Stateville City Board of Education, 345 F. 2d 333 (4th Cir. 1968); Bowditch v. Buncombe County Board of Education, 345 F. 2d 329 (4th Cir. 1966); Brogden v. County School Board, 346 F. 2d 22 (4th Cir. 1965); Haukings v. North Carolina Dental Society, 355 F. 2d 718 (4th Cir. 1966); Bowman v. County School Board of Charlotte County, Va., 362 F. 2d 326 (4th Cir. 1967); Green v. County School Board of New Kent County, 382 F. 2d 338 (4th Cir. 1967), reversed, 391 U. S. 430 (1968); Board of School Board of the City of Norfork, 397 F. 2d 3 (4th Cir. 1968); Copplege v. Franklin County Board of Education, 394 F. 2d 410 (4th Cir. 1968); Copplege v. Franklin County Board of Education, 404 F. 2d 1177 (4th Cir. 1968).

I summarize them as follows:

Of the 17 cases in which Judge Haynsworth has written in his own words, he wrote in opposition to desegregation 13 times, and went with the prevailing constitutional view in the remaining four cases only when there was really no way to do otherwise.

Indeed, it is significant to me that in 1964, 10 years after the decision on school desegregation by the Supreme Court, in an open-and-shut case, the so-called Eaton case, 1964, where Judge Haynsworth ruled against the segregated hospital, he ruled and said that he was only doing this, not because he agreed— he disagreed—but, he said he was doing it because this was so clear and black a case following Supreme Court precedent that he simply could not shut his eyes to it.

The question is: What was Judge Haynsworth doing in the Eaton case? What was the Senator from New Jersey (Mr. Case) argued—that within the philosophic framework from which Judge Haynsworth came, this was logical and sensible, and that everyone we have to vote to put him on the Supreme Court. I find, running through all of the decisions, a record of consistent, unsymmetrical, original thinking.

The real, fundamental question is: Is this a proper ground for decision? I respectfully submit that it is.

I do not believe that all we are entitled to know about and settled question in the Senate is what the Senator from New Jersey (Mr. Case) argued—that within the philosophic framework from which Judge Haynsworth came, this was logical and sensible, and that everyone we have to vote to put him on the Supreme Court. I find, running through all of the decisions, a record of consistent, unsymmetrical, original thinking.

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Thus, I hope very much that Senators will seriously ponder that proposition, those who may be in some doubt as to the conflict of interest, or on other questions.

I thank the Senator from Indiana very much for yielding the floor.

Mr. BAYH. Mr. President, I suggest the absence of a quorum, with the same understanding that I suggested to the distinguished Senator from Nebraska a moment or two ago.

The PRESIDING OFFICER. What is that condition set by the Senator from Nebraska?

Mr. BAYH. That the time be taken out of the time of the Senator from Indiana, to the extent of ten minutes, which was taken out of the time of the Senator from Nebraska; the time thereafter to be equally divided between the two of us.

Mr. HRUSKA. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Nebraska will state it.

Mr. HRUSKA. How much time is left to each side?

The PRESIDING OFFICER. The Senator from Nebraska has 9 minutes remaining; and the Senator from Indiana has 22 minutes remaining.

Is there objection to the request of the Senator from Indiana? The Chair hears none, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

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

Without objection, it is so ordered.

Mr. PERCY. Mr. President, we live in difficult times, and we face great challenges as a people: to cast out ignorance and poverty from our midst; to restore law and order with justice to our society; to provide equality of education for our young and the health and welfare of all our people; to protect the rights of our workers and find jobs for all who are willing and able to work; to fashion a strong and stable economy, to combat the tide of environmental pollution, and to live in a just and peaceful world.

These challenges can be met. But we will need strong institutions to face the task—indebted to the United States; and leaders must be such men. They must...
be above reproach, they must be experienced, and they must be able. But, even more importantly, they must possess the insight, perspective, and sensitivity to deal with the great issues presently before us and the even greater challenges that lie ahead.

It is my constitutional duty to consent to the nomination of a Supreme Court Justice. It is my moral duty to keep these beliefs in mind in casting my vote. Above all, I have decided—as I alone must do—that I cannot support the nomination of Clement Haynsworth, Jr., of South Carolina, to serve as an Associate Justice of the Supreme Court.

In such a climate, the question of who shall serve on the Nation's highest tribunal must remain inviolate is confidence spreading before us, can we afford to the nomination of a man at this moment in history with whose fate he would deal. The times demand some- thing more.

I fully recognize that a man is being judged to be fit or unfit against a more exacting standard than has previously existed. And yet, with an erosion of confidence spreading before us, can we afford to the nomination of a man at this moment in history with whose fate he would deal. The times demand something more.

I, for one, do not question Judge Haynsworth's ability or his honesty. I recognize that these qualities are necessary to meet the demands of his high office. But I feel that honesty and ability are not enough. The times demand something more.

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surely there were many men in his time who would have have satisfied the usual requirements of that term.

No one suggests that we should measure the nomination of Judge Haynsworth by the strict test of Diogenes, but I believe that all of us would agree that membership on the U.S. Supreme Court, a position of the highest honor and trust in our public life, can be conditioned upon standards which are higher than those usually expected in ordinary business and professional life. I have never known in other years a nomination such as that now before us would not have been so carefully considered and examined by the Senate. If that were ever true, it should not be true now. The responsibility of the Senate to advise and consent is a heavy burden, today more than ever, and each of us individually and as a body must fulfill that responsibility with an exercise of due care.

In our time, we have witnessed the development of new dimensions in the definition of human rights and individual liberties, particularly as the result of decisions of the Supreme Court. To some degree, this development is called into question by the pending nomination. All of us would agree that judicial experience and intellectual excellence are important qualifications for an appointment to the Supreme Court. We may disagree, however, on the extent to which the philosophy of a nominee to the Supreme Court can be considered important. But in the history of confirmation of Supreme Court Justices, which is traced in the book, "The Advice and Consent of the Senate," by Joseph P. Harris, it is clearly established that in almost all instances of opposition to a Supreme Court nominee since 1900, such opposition was "due to the philosophy and supposed stand of the nominee on social and economic issues rather than to partisan considerations."

As have other Senators, I have studied many of the legal opinions of Judge Haynsworth. I concluded as did the distinguished senior Senator from Michigan (Mr. HARR), that there is reason to believe that this nominee is "insensitive to the rights of individuals and in considerable disfavor," and that his nomination should be reconsidered. But in the history of confirmation of Supreme Court Justices, which is traced in the book, "The Advice and Consent of the Senate," by Joseph P. Harris, it is clearly established that in almost all instances of opposition to a Supreme Court nominee since 1900, such opposition was "due to the philosophy and supposed stand of the nominee on social and economic issues rather than to partisan considerations."

I fully recognize that there are those who feel the Supreme Court has gone too far in certain decisions. It is important that they, as well as all others, have confidence in our judicial system. But I believe that the Senate can accomplish this objective by another appointee whose views are within the broad stream of accepted opinion on human rights.

In addition to intellectual and philosophical considerations, the nomination for the Supreme Court must be above ethical question or reproach, because he is appointed for life to hear final appeals for humanity. In my opinion, Judge Haynsworth can accumulate this quality by another appointee whose views are within the broad stream of accepted opinion on human rights.

On this question I am impressed by the statement of the distinguished Senator from Delaware (Mr. WILLIAMS):

Perhaps no single decision or action of Judges Haynsworth and Cady has been more fully acclaimed than the high court's decision in the case of the Oil Wars, Inc., and they set a pattern which I hope will guide the Senate in its pending responsibilities.

I must vote against confirming this nomination. I do this not from any personal feeling against Judge Haynsworth, nor did I believe him other than an honest man, but from my personal responsibility concerning the reputation and future of the Supreme Court.

Mr. WILLIAMS of New Jersey. Mr. President, in October, 1967, the case of the Oil Wars, Inc., was assigned to a three-judge panel of the fourth circuit court of appeals. Clement Haynsworth was a member of that panel. The case involved the issue of whether a chattel mortgage held by Brunswick on bowling lanes and pin-setters which it had sold to the operator of a bowling alley took precedence over a landlord's lien for accrued rent. The three-judge panel agreed with arguments from the parties on November 10, 1967. Immediately thereafter they met in conference and orally voted to affirm the judgment of the district court in favor of Brunswick.

The actual decision, however, was not made public until February 2, 1968. Between November 10 and February 2 the only individuals legally informed of the pending decision were Judge Haynsworth and the two other members of the panel. Yet, on December 20, 1967 Judge Haynsworth placed an order with the furnishing of a bowling alley taking precedence over a landlord's lien for accrued rent. The three-judge panel agreed with arguments from the parties on November 10, 1967. Immediately thereafter they met in conference and orally voted to affirm the judgment of the district court in favor of Brunswick. The actual decision, however, was not made public until February 2, 1968. Between November 10 and February 2 the only individuals legally informed of the pending decision were Judge Haynsworth and the two other members of the panel. Yet, on December 20, 1967 Judge Haynsworth placed an order with the furnishing of a bowling alley taking precedence over a landlord's lien for accrued rent.

To me, the ethical impropriety of such a transaction is obvious. However, as chairman of the Securities Subcommittee I find that the Brunswick transaction also raises serious questions as to Judge Haynsworth's conduct in view of the provisions of section 10b of the Securities Exchange Act.

One of the primary objectives of the Securities Exchange Act of 1934 was to restore investor confidence in our Nation's securities markets. The loss of such confidence which had been caused by the trading on information available to only a privileged few was recognized by Congress and the courts.

The Senate committee report on the Securities Exchange Act, Senate Report No. 1455, 73rd Congress, second session 68, clearly and concisely stated:

The concept of a fair and open market for securities necessarily implies that the buyer and seller are acting in the exercise of judgment and not of gain. It is a fair price. Insofar as the judgment is warped by false, inaccurate, or incomplete information regarding the corporation the market price fails to reflect the normal operation of supply and demand.


Over the last 33 years it has been abundantly clear that a free and open market for securities cannot be achieved when one of the parties to a transaction has material information which is unavailable to the other. The most recent examples were in SEC v. Texas Gulf Sulphur Corp., 401 F. 2d 833 (2d Cir. 1968). The court, relying on the SEC's prior decision in Cady, Roberts & Co., 40 SEC 907 (1961) summarized the issues imposed upon the use of "insider information:

Thus, anyone in possession of material inside information must either disclose it to the investing public, or, if he is disabled from disclosing it in order to protect a corporate confidence, or he chooses not to do so, must abstain from trading in or recommending securities concerning which inside information remains undisclosed.

The law in this area is clear. In 1961 the Securities and Exchange Commission in the matter of Cady, Roberts & Co. found that the other side had inside information or to refrain from trading on it extended to any person who knowingly possessed such information. There is no exemption from this Statute for Federal judges.

In its 1961 opinion, 40 SEC at 912, the Commission stated:

Analytically, the obligation rests on two principal elements: first, the existence of a relationship giving access, directly or indirectly, to information intended to be available only for a corporate purpose and not for the personal benefit of anyone, and second, the inherent unfairness involved where a party takes advantage of such information.

Obviously, Judge Haynsworth, on December 20, 1967, when he purchased 1,000 shares of Brunswick Corp. stock, knew that he had in his possession information which was not a chattel mortgage held by Brunswick on bowling lanes and pin-setters which it had sold to the operator of a bowling alley taking precedence over a landlord's lien for accrued rent. To me, the ethical impropriety of such a transaction is obvious. However, as chairman of the Securities Subcommittee I find that the Brunswick transaction also raises serious questions as to Judge Haynsworth's conduct in view of the provisions of section 10b of the Securities Exchange Act.

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ment of trading in a corporation's securities. They included not only information disclosing the earnings of a company, but also those facts which affected its public image. Each one of these two general types must also be made of facts which could affect the desire of investors to buy, sell, or hold the company's stock. In enacting section 10b, congressional intent was to give all investors equal access to corporate information and to subject all members of the investing public to identical market risks.

The SEC stated in its recent brief in the matter of Investors Management Co., Inc., et al., Administrative Proceeding File No. 3-1680 (1969):

One of the major factors, indeed perhaps the most determinative in deciding whether a particular fact constitutes material information is the importance attached to the information by those who knew of it. Nothing demonstrates the clearly material nature of the information than the fact that the respondents, after receiving it, sold and sold shares.

And what did Judge Haynsworth do, he bought 1,000 shares of Brunswick stock at $16 per share on December 20, 1967, when the court's opinion was not yet printed on February 2, 1968.

The Justice Department claims that in this case, chattel mortgages on only 10 bowling lanes and pinsetters were involved. And that the question of whether the landlord's lien took precedence over the Brunswick chattel mortgage affected only one bowling establishment in the State of South Carolina. On these facts, it is claimed that the court's ultimate decision was not material and had little if any effect on the price of Brunswick's stock.

However, how many similar cases would have brought if the landlord had prevailed? How did a fourth circuit opinion affect potential litigation throughout our other Judicial districts? We will never know.

Was Judge Haynsworth's knowledge of a pending judicial decision material in the sense of information required to be disclosed under the Securities Exchange Act of 1934? To put it in a question for the SEC or a Federal court to decide.

It is a matter which should not be brushed under the rug or ignored. No matter what we have been told by Judge Haynsworth's supporters, judges are not exempt from the provisions of our Nation's securities acts.

The lament that at the time of his purchase Judge Haynsworth inadvertently forgot that a formal opinion had not been filed hardly seems worthy of discussion. To coin an old axiom: Ignorance of the law is no excuse. But Judge Haynsworth's conduct is even less excusable if we look at the judicial temperament of the time.

During 1966, in the Federal District Court, the Southern District of New York, the Securities and Exchange Commission successfully prosecuted the Texas Gulf Sulphur Case, 256 F. Supp. 262 (1966). This case was the most widely publicized SEC case of our times. It is the landmark judicial decision on the use of inside information.

In September 1966, immediately after the district court's decision, an appeal was filed before the U.S. Court of Appeals for the Second Circuit. Oral argument was heard on March 26, 1967. Although a decision upholding the SEC was not published until August 13, 1968, it is inconceivable that the chief judge of the fourth circuit court of appeals was unaware of the facts of a case which was pending in a neighboring circuit, especially one of such far-reaching importance. In December of 1967, he should have at the very least been fully aware of the pitfalls involved in purchasing Brunswick stock under these most unusual circumstances.

The very fact that Judge Haynsworth purchased Brunswick stock shows a clear lack of judicial temperament and sensitivity. It shows that he is unaware as to the need for propriety in judicial conduct.

As I have previously stated, Judge Haynsworth has also demonstrated some of the most regressive judicial thinking in at least two areas vital to the majorirty of America—the areas of labor and civil rights. If this is the kind of judge President Nixon wants on the Supreme Court, that is his prerogative as President of the United States.

But, Judge Haynsworth's financial dealings are another matter. His purchase of Brunswick stock in the light of all available facts demonstrates a complete lack of sensitivity, both to the law and to the perception of propriety. He has, in my opinion, failed to meet the test both in substance and appearance of unimpeachable propriety that the American people have a right to expect in all judges; certainly in the members of the Supreme Court of the United States.

I shall, therefore, vote against the confirmation of Judge Haynsworth's nomination.

Mr. THURMOND. Mr. President, the U.S. Senate, as we know, in theory and practice constitutes the greatest deliberative body in the history of man. And yet, our arguments are not confined to a group much like that of the Court of Appeals or the Supreme Court of a few years ago. The taunts and the taunting have been犀nent and are continued to this day in the Senate; and by many of those who now occupy that bench.

Let us examine the charges that have been levied against Judge Haynsworth. If anything, I believe that his greatest concern may not in fact be with the ethics and philosophy, but with the fact that a balance may be achieved on the High Court and that men with analytical minds instead of advocates of emotional "causes" may find their way to the bench.

He has been accused of the high crimes of "insensitvity," and "lack of appearance of propriety." Indeed, he has been libeled as a man whose ethical and philosophical predispositions preclude any consideration of his nomination. However, all these charges are systematically and even viciously demolished in the majority opinion reported by the Judiciary Committee, and I shall not reiterate in detail each of these charges and counter-charges.

I am surprised that these experts on ethics have not examined, for the sake of comparison if nothing else, the "ethics" and "sensitivity" and "appearance of propriety" of those who now occupy that bench located in that cold stone edifice across the way behind the marble image of blind justice.

The opponents have chosen not to compare the conduct of this man with those of the Presidents or the judges charged with the duty of seeing that the conduct which is prevalent in the judicial community, but have preferred to make unsupported charges and headlines. The items given at the beginning of this speech show that it is not necessary to pay attention to the rules of evidence or compare or even to give lip service to concepts such as the ones that support the ex post facto prohibition because all that one has to do is make a statement true is to say it, and to say it long and to say it loud. Yes, apparently that is all that is necessary—to say it long enough and loud enough—

That is to say that no one will be tried for a crime which did not exist at the time the act took place which forms the basis of the prosecution for guilt. Such a thing is expressly prohibited. It would seem that the tenets of basic fair play would dictate that no man should ever be tried for crimes that were created for the purposes of finding him guilty of them.

Another canon of our system of jurisprudence is that one is innocent until proven guilty and that guilt must be based on a foundation of proof, not suspicion or even evidence, but proof.

Mr. President, those who have raised their voices against the nomination of Judge Clement P. Haynsworth, Jr., have disregarded these elementary rules of justice as practiced by free men, and have adopted procedures altogether foreign to those systems of justice, equity, morality, and fair play generally recognized as natural and right.

So the parallel between this body and the court ends. The rules which are urged upon us and the logic which is followed comes as a surprise to me and foreign to us, and they change their complexion with each shift in the direction of the winds of opinion. However, those of us who are the proponents of the nomination accept the challenge of those who are on the negative side, and we shall go forward with the burden of proof.
and someone will believe it. How many times have we seen that technique used to blind and poison the minds of men to the truth? How many times must we repeat the mistakes of history? Thus the charge of insensitivity is a vague notion at best. One of his accusers says "his decisions indicate a consistent insensitivity to the rights of individuals recognized to be within the realm of the law. They just said he is. They have yet to prove, and perhaps this is the ideal of insensitivity." One, in language befitting a bureaucrat, states that the judge's record has been "blemished by a pattern of insensitivity to the appearance of impropriety" and then one other critic, perhaps accidentally, gives us a glimpse of what may be the true basis for the opposition when he states:

Judge Haynsworth's labor decisions, his firm expanded and became the largest law firm in South Carolina. It was known over the Nation as one of the most successful, one of the most aggressive, the best.

Says Webster's Dictionary defines the word sensitive as "receptive to sense impressions; subject to excitement by external agencies; exhibiting irritability; highly responsive and susceptible." Let us be reminded at this time that amoebas and parameciums are needed on the Court and it is further alleged that the Court should be provided with "insights and sensitivities that may not be as certain or as clear or greater than its parts." One, in language befitting a bureaucrat, states that the judge's record has been "blemished by a pattern of insensitivity to the appearance of impropriety" and then one other critic, perhaps accidentally, gives us a glimpse of what may be the true basis for the opposition when he states:

Judge Haynsworth's labor decisions, his firm expanded and became the largest law firm in South Carolina. It was known over the Nation as one of the most successful, one of the most aggressive, the best.

In 1957, Judge Haynsworth was appointed to the circuit court of appeals. He is now its chief judge. His record speaks for itself. He has made an able and able record. And he handed down decisions which no fair and just and honorable man should oppose. The decisions of Judge Haynsworth during his term on the court demonstrate that he is a man who is highly responsive and susceptible.

Sensitive—do these people want a man or a nerve ending? I would like to point out that it is not a crime to lack any of these so-called "qualities," and nowhere has the prosecution produced one shred of evidence that this man is "insensitive." They just said he is. They have yet to show that he is. Of course, never has any nominee to the Supreme Court of the United States been required to fit within the definition of sensitivity. And so this charge constitutes nothing more than smoke—smoke designed for camouflage and distraction.

Mr. President, I might point out at this time that amoebas and parameciums are "sensitive." If you prod them with your electrical current or pin them with a hypodermic needle, and perhaps this is the ideal of those who oppose Judge Haynsworth. Perhaps they just want someone on the Bench who will jump everytime some pressure group turns on the current.

These are the charges, none of which are punishable under the laws of God or man or which constitute an offense against any code of ethics, conduct, or morality. The purpose of the nominee is to be judged, and are as meaningless as the insensitivity allegations.

They say that this man lacks "the appearance of propriety." What a fine and eloquent charge! What a doctrine! This charge should be given as much credence as the charge that he parts his hair on the wrong side of his head.

Propriety, Mr. President, is defined as "the quality or state of being proper," and proper means being marked by suitability, likeness, or appropriateness. Judge Haynsworth certainly is a man suitable for the position for which he has been nominated. His record as an attorney and as a judge bear this out and directly challenges and refutes the allegation that he is not qualified and suitable for the high office.

Judge Haynsworth was born in Greenville, S.C., in 1912. He attended the schools there. He graduated from Furman University in 1933 summa cum laude with a B.A. degree. Judge Haynsworth graduated from Harvard Law School in 1936. From 1936 to 1953, he practiced with the firm of Haynsworth & Haynsworth; a firm established by his forefathers and he is one of the leading and illustrious lawyers who bear that name. Two years of that time he served in the U.S. Navy during World War II. For 2 additional years he served with the Regional Wage Stabilization Board. From 1953 to 1957 he practiced with the firm of Haynsworth, Perry, Bryant, Marion & Johnstone.

The President pro tempore of the Senate, Mr. President, this part is dealt with in the majority report and treatment there is not subject to reasonable doubt.

The issue of Judge Haynsworth's judicial philosophy has been raised. The controversy centered around two areas of decision: First, politics and labor. Mr. President, this part is dealt with in the report and treatment there is more than adequate. However, I would like to point out that the essence of the allegation in the civil rights area is that Judge Haynsworth is sympathetic to minorities and dedicated to continuous segregation of public facilities. Anybody who is familiar with Judge Haynsworth's decisions on the bench, I think, knows that this is not true. A handful of cases have been chosen by the proponents of this position and it is claimed that on the basis of these cases one can conclude that the judge is a bigot. Comparatively, I was cited in the majority report in which Judge Haynsworth ruled for those claiming a denial of their rights, the charges fail and fade away, leaving only a specter of smoke.

During the hearings before the committee, I was struck by the fact that the proceedings seemingly were divided into two parts. The first part being the presentation of objective and unbiased analysis of the conduct and decisions of Judge Haynsworth and the second part resembled a bargaining session. During the hearing the witness after witness came and talked and talked. They all said the same thing, I presume, on the theory that the more often they repeated the same thing the longer they said it, the more smoke they could generate then perhaps the more people they could convince they were right just by the fact that they were saying it. During this part the AFL-CIO loudly and persistently raised objections to the nominee. A handful of labor cases were dragged out and dissected. They did not bother to mention that for so cases the nominee were ruled in favor of labor. These cases are listed in the report, and they offer mute but compelling witness to the lack of support in fact of the position of Mr. Meany and his entourage of associates.

As a matter of fact, the AFL-CIO counsel Thomas Harris admitted that he had not even attempted to look at all of Judge Haynsworth's labor decisions, and yet they would dare to insinuate the integrity, intelligence, and competence of
Senator Frank said that any contrary result should it be the labor bosses? Who does Senator Frank and the law, then you must saying that such a judge was not try the entire judiciary here and now. You cannot pick out one candidate and power? Mr. President, it was Nation?

This was a prophetic remark, for im­

This is indeed strange logic, when men argue that you should believe what they say and not what you see. Mr. President, I have a number of let­

We do not have to go back far in his­

We have no unequivocal "second senate."

Regardless, Mr. President, of which way this historic vote goes, those of us in this Nation who still believe in the Con­

Perhaps these elements are to be re­

Let us not participate in the destruction of this country on the basis of the

"liberalism." And there are still those who seek equity must - come into the court into any court of law in this land with a

We do not wish to put advocates of a cause on the bench. We want men who will give a balanced and even treatment to each and every case which comes before them, and this is why we favor this man.

Mr. President, I have a number of letters from various people which I wish to read at this time that, I think, graphically demonstrate the essence of the feeling of the silent majority across this land who stand and watch this deliberation. We watch and wait to judge us, as we judge.

Mr. President, it is very impressive to receive letters from people from a man's hometown who have known him all of his life, who have known his reputation, his character, and his family.

I received a letter last October from a man who lives in Greenville, S.C., the hometown of Judge Haynsworth. He took the trouble to mail a copy of this letter to each and every Senator concerning this nomination and to give the Senate the benefit of his thoughts.

I realize that many Senators, Mr. Presi­

Haynsworth won't characterize his phi­

We do not have to go back far in his­

Mr. President, let us now allow this same philosophy to permeate this debate. Let us not participate in the destruction of our Constitution through our courts.

senate, or Congress, or of

This is a very illuminating formula in the matter of the

- the new rules to all, albeit, ex post facto. This has not been done, and that is a mistake, and labor later admitted that it was a mistake. It will be a tragic mis­

There are those who would say, and have in effect said, that there where is smoke there is fire, and therefore we should convict on the basis of what may be, or what has been, or not on the basis of what is.

This is indeed strange logic, when men argue that you should believe what they say and not what you see.

Mr. President, let me pose another rhetorical question. Is there any man in this Senate who does not believe that the real issue here is one of ethics? If ethics is really the question that troubles the opponents why have they not carefully examined the ethics of every man on the Supreme Court today? After all, how could he? There is no cause of action.

In a letter to Senator Eastland of Mississippi, he said: "I was very sceptical of possible conflicts of interest when a judge had an interest in a third party which in turn had business relations with a party in the case, after saying that such a judge was not "dis­

The issue is clear and simple. The issue is who shall determine the policy of this Nation? Shall it be the labor bosses? Who de­

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end of some of his decisions—when our position runs counter to the Constitution.

Mr. President, I have received a letter from a gentlemen in Connecticut. He bases his decision and support of Judge Haynsworth on the fact that he feels that the judge is a man of high caliber, a loyal American, a discerning individual, and a gentleman. How true this statement is. There are many adjectives and phrases that can be used in the praise of Judge Haynsworth and unfortunately some of them have been grounded during the great melee that has been packed up over his nomination. But the people, the people across the country, have been able to see through the smoke and the haze that has been created by the opponents of Judge Haynsworth by innumero and inference as this letter so clearly indicates.

Mr. President, I am going to read this letter. I think it is indicative of the kind of support we can find from our friends in the great State of Connecticut:

September 9, 1969.

HON. STROM THURMOND, U.S. Senate.

Dear Senator Thurmond: In regard to the appointment of Judge Clement F. Haynsworth, Jr., to our Supreme Court, Judge Haynsworth is a model of the loyal American, discerning, and a gentleman.

Mrs. Seward and I would like to see Judge Haynsworth appointed to the Supreme Court. We hope you will favor and vote for his appointment.

Best regards.

Sincerely,

Edward Seward.

P.S.—I have an idea you recommended this to President Nixon. Thank you.

As we move across the country looking at these letters from virtually every State in the Union, I find a handwritten one from a gentleman who lives in Chicago.

This man is concerned with patriotism and he is concerned with the Constitution of the United States. There are many citizens, Mr. President, who are concerned with our Constitution and who stand up for it and who feel that we must preserve our Constitution and to maintain this great Republic which is so unique in the history of mankind.

There are many people in this country who believe that Judge Haynsworth is a man of great integrity and intelligence and one who believes in the Constitution of the United States and this citizen is one of them. He urges us to support this confirmation.

Mr. President, I would like to read the letter of this citizen from Chicago:

CHICAGO, ILLINOIS, November 7, 1969.

Dear Senator Thurmond: God bless you for your many patriotic stands in the Senate of the United States.

I am for Haynsworth because of his intelligence and integrity and his belief in the U.S. Constitution.

God help those who are the smears of Bayh and his ilk have their way.

Thank you again.

Sincerely,

Perston H. Walters.

Mr. President, not long ago I received a letter from a gentlemen who is a retired naval officer who operates a company here in Washington. Along with his letter he sent a copy of an article sent out by Mr. Thurman Sensing, executive vice president, Southern States Industrial Council.

Mr. Sensing's article gives us his viewpoint and apparently the viewpoint of the members of his organization. I would like to read into the Record at this time for it may be beneficial for the Members of the Senate to hear Mr. Sensing's thoughts.

The Bretwalda Corp.
Washington, D.C., October 9, 1969.

HON. STROM THURMOND, Senate of the United States.
Washington, D.C.

Dear Senator Thurmond: I have the honour of attaching herewith an article "The Ordeal of a Judge" written by Thurman Sensing, Executive Vice President, Southern States Industrial Council.

It occurred to me that this excellent article would interest you and that you might be interested in its inclusion in the CONGRESSIONAL RECORD, Senate Appendix.

The Bretwalda Corporation has the honour of being a member of The Southern States Industrial Council.

Very truly yours,

Homer Brett, Jr., Commander, USNKR, Ret.

The Ordeal of a Judge

It is the right and duty of the U.S. Senate to give due consideration to the qualifications of the Federal Bench, especially in view of past disclosures concerning the activities and associations of Justice Abe Fortas.

There is a difference between careful scrutiny and an unconscionable smear, and the smear which is the treatment that the Senate liberals reserved for Justice Clement F. Haynsworth, Jr., President Nixon's second appointee to the U.S. Supreme Court.

Judge Haynsworth was tried on the Fourth U.S. Circuit of Appeals for 12 years, is noted for his integrity and dignity, he proved the former and displayed the latter during the long and often ugly hearings in which he was abused.

The abuse directed at Judge Haynsworth was only partially directed at the man himself.

As the judge no doubt understood, his critics in and out of the Senate were really trying to hit at the region where he was raised and beyond that, at the type of distinguished, fair-minded, successful man he is.

Judge Haynsworth is one of the type of American who has built up and maintained the traditions of the American judiciary at its best. He is a fair-minded, successful man of good breeding, calm and restrained in his judgments, an accomplished lawyer, a success in private business—short, respectable, dignified and not given to participating in rough and tumble political crusades. This is the type of man good citizens should want on the Supreme Court of the United States.

This is the type of man who hasn't been favored in recent years.

The opposition to Judge Haynsworth were enraged because they weren't getting another right-minded political partisan to succeed Abe Fortas.

The liberal leaders and militants have had their way for years. They saw the Warren Court packed with men who were personally committed to the welfare of the left wing, the radical, the agitator and the protest organizations. Big Unionism and the advocates of social revolution don't want judges on the Supreme Court; they want advocates of liberal causes. For too long they have had their way.

The unionists go on their own and when Arthur Goldberg, former special counsel of the AFL-CIO, was appointed to the Supreme Court, the NAACP got its political reward when Thurman Sensing, its general counsel, received a place on the nation's highest judicial body.

The activist judges brought the Supreme Court into disrepute. Americans as a whole say that Warren Court went too far and of those forces attempting a massive political reconstruction of the United States. This is the reason for the grumbling out men who would serve on the Supreme Court as judges, not partisans.

The liberals weren't happy with the President's nomination of Judge Warren, Jr., as Chief Justice. They didn't feel themselves strong enough to attack him.

In the case of Judge Haynsworth, the liberal decided they could hang him because of his regional background—the fact that he was a Southerner. It seems that a liberal can forestall the nomination of a Southerner by merely being a Southerner who hasn't turned his back on the South and on the U.S. Constitution as written.

The liberals further concluded that they could use against the judge the fact that he was a man who has shown ability in his personal business dealings, as though success were a crime and not a sign of achievement.

The people in this country who are out to destroy free enterprise and constitutional government hate the Haynsworths of the land, the men who have real achievements to their credit and who have made a mark in life.

It is not hard to imagine what kind of country we would have if our judges—future men drawn from the ranks of political propagandists and militant agitation groups—and men of proven competence and personal substance were excluded from the judiciary. The free enterprise system would meet a sudden death in the courts. And that, of course is one of the chief goals of the New Left agitators and their liberal sympathizers in the Congress and the liberal news media.

In the final analysis, the name of Judge Haynsworth is hatred of the capitalist system and of the constitutional system that nourishes it to the benefit of future generations. Judge Haynsworth is simply a convenient target for those who are determined to prevent the federal courts from returning to the strict impartiality that the founding fathers intended the courts would uphold and practice.

Mr. President, last Monday there appeared in the Evening Star, which is, as you know, a newspaper of the Washington, a number of letters concerning Judge Haynsworth.

The authors of these letters reside in district States and demand the attention of their State Senator. This newspaper bears witness to the allegation that I have made that this man's nomination enjoys widespread support. It is for this reason and for the wisdom of their thoughts that I ask unanimous consent to have the letters printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

[From the Washington Evening Star.
Nov. 17, 1969]

Sm: After reading all the pros and cons regarding the Haynsworth nomination, draw the following conclusions:

(a) The liberals are out to "get" Haynsworth in retaliation for Fortas' nomination.

(b) Judge Haynsworth's biggest sin was to be successful as a first-rate capitalist. He had an excellent stock broker or his judgment in the market. We don't know. But one thing is certain.

Since when is it a sin under the American system of so-called free enterprise, to make a profit on intelligent investments. In my book, this would doubly qualify him as a man having the most dispassionate judgment.

The liberals want to tear down the house because they can't run it.

Alice Dinseith.
Sm: Every American must be clear as to what is at stake in this vote. It is not the ethics of the justices of the Supreme Court that is in question, but the ethics of the President in Washington who knows that is a smoke screen. The clearest proof lies in the fact that most of those who are leading the fight against Haynsworth were perfectly willing to accept Abe Fortas as Chief Justice only one year ago. They were willing to support the Carmel Fortas and the Fortas, and they choke on the nats that ** * labor union researchers have been able to dig out after the most thorough and painstaking search by Judge Haynsworth’s financial records. They did not even ask to see the records of Justice Fortas.

The fact is that compared with Fortas and at least one of the Justices, now sitting on the High Court, Judge Haynsworth is as clean as the proverbial hound’s tooth.

What is at stake is whether or not the President will be able to carry out his promises to correct the ills gnawing at America’s vitals. Will he be able to place on the Supreme Court men who will make it possible to effectively fight crime? Will he be able to name as justices men who will find that the American Constitution does not require that we give unlimited license to pornography merchants? Will he be able to put on the court men who will permit the Justice Department to take effective action against the pornography industry? Will he be able to devise a legislative strategy to revitalize the subversive conspiracies that are becoming a serious threat to the continued existence of a free and democratic society in this land of ours?

WILSON C. LUCOM.

ARVADA, COLO.

Sm: Our senators are a bit too close to stone how to stone at Haynsworth. They are not so clean themselves. The judge is lilly white compared to some of them.

MARK J. BENNETT.

KENSDING, MD.

Sm: By what authority does the National Education Association have the right to “come out” against Judge Haynsworth? I am a member of the NEA, I was not polled—nor was I know—whether or not the House of Representatives the nominee has been subjected to?

RUTH C. WEST.

ALEXANDIA, VA.

Sm: I think that failure to confirm Judge Haynsworth would be the most absurd a man of men supposed to be braily I have ever heard of.

V. M.

Sm: One can often estimate a man’s character and ability by taking a good look at his opponents. From their obvious attempt to embarrass the President, there are several of this coterie who aptly fit the description which that great Democrat, Jim Farley, applied to another Democrat, who at that time, strangely enough, was the Democratic presidential candidate. Farley called him an “over-educated, over-polished version of Don Quixote, Rip van Winkle, and nagilac.” Too many of our so-called liberals viewing the world from the intellectual heights of their ivory towers, don’t know what the score is.

JAMES S. HOLMES.

LOS ANGELES, CALIF.

Mr. THURMOND, Mr. President, I have another letter from a lawyer who practices in New York.

He has written a well-reasoned and succinctly worded letter which points out the grave value of minority judges. He makes the point that it would be well for the Members of this body to consider. He bases his opinion on a series of points, the first of which is that a most careful study of the judge’s record fails to reveal any action on his part that might cast a question on his integrity. He also points out that it would be good to have diversity on the bench and thirdly that it would be bad policy for the country in general if this nomination of the President went through for it would have a cohesive effect.

This is a well-written letter certainly worthy of the attention here, Mr. President, and I would like to read it in its entirety to the Senate:

NEW YORK, N.Y., November 4, 1969.

SENATOR THURMOND, Post Office Box 981, Aiken, S.C.

DEAR SENATOR THURMOND:

I am writing to request your continued support in favor of the nomination of Judge Clement Haynsworth for the presently vacant seat on the Supreme Court.

There are three reasons why I suggest this course. First, a most careful study of the Judge’s record leaves any doubt that he is a Judge not that ye be not judged—For with what judgment ye judge, ye shall be judged."

SARA S. WOLFE.

SAN FRANCISCO, CALIF.

Mr. President, I have read letters from many parts of the country and I have one here from the State of California.

I am delighted that this letter was written. This gentleman, in fact, wrote the President of the United States and expressed to him his opinion that it was the duty of a President to appoint men such as Clement Haynsworth to the High Bench and cause them to elect Mr. Nixon to the Presidency in 1968. I think it is illuminating.

RICHMOND, VA.,

August 18, 1969.

Hon. Richard M. Nixon,
President of the United States,
San Clemente, Calif.

DEAR MR. PRESIDENT: Your choice of the late Associate Justice, Mr. Nixon, as an associate justice to the Supreme Court is most commendable and does much to represent the August Body back to the reality of our times.

It was this kind of wisdom and vision that the people expected from you when you
November 21, 1969

CONGRESSIONAL RECORD — SENATE

were elected to the presidency against overwhelming odds, at least in the eyes of those that had not kept abreast of the mood of the general public at large.

Hoping that you will continue to demonstrate this excellent quality of leadership in the future, and that we may, in need of one with your abilities and courage, I remain

Respectfully,

GEORGE MEDINA.

Mr. President, a gentleman from Ashland, Oreg., wrote the latter part of September expressing his support for Judge Haynsworth. This man used the word "bouncing" to describe our nominee, and I am certain that word and its definition befits this fine and able man.

That is a word often used for this man, Mr. President, and he is certainly deserving of the epithet.

I give you, at this time, the benefit of the thoughts of this gentleman from the great State of Oregon:

HON. STROM THURMOND, Senator from South Carolina, Washington, D.C.

My DEAR SENATOR: I have been following with great interest the hearings and proceedings that have been conducted on the confirmation of Judge Clement Haynsworth to the Supreme Court. I hope you will permit me to add a word or two in the interest of this honorable South Carolinian elevated to the Highest Court in the land.

After all I think that many able jurists of the South have long failed to gain the recognition in their chosen field due perhaps to prejudice of many counterfeit politicians. Wishing you success in your efforts and may you continue to be a credit to the Republican Party and the Nation.

Respectfully yours,

THOMAS R. LOGGANS.

A lawyer from Savannah, Ga., has written me and he indicates that he has talked with a good number of people including judges, doctors, lawyers, teachers, and other people, and the consensus of their opinions overwhelmingly favor Judge Haynsworth with no dissent.

I am very much grateful that this man took the time to write, Mr. President, and he has written me with no dissent on behalf of citizens of Chatham County, Ga., which is a highly populous county in that State, and so this letter forms another link in the great many that have been received by my office, and by many other Senators expressing the support of the great mass of people in this country for this man:

SAVANNAH, GA.,

October 3, 1969.

HON. STROM THURMOND,

New Senate Office Building,

Washington, D.C.

DEAR SENATOR THURMOND: This letter is merely another example of another citizen supporting you and your colleagues in the appointment of the Honorable Clement F. Haynsworth to Associate Justice of the Supreme Court of the United States.

In the last few days, I have made an effort to talk with a number of our citizens, including judges, doctors, lawyers, teachers, and other non-professionals. The consensus of their opinion is overwhelmingly in favor of Judge Haynsworth, and I need not say that Haynsworth is especially firm in his integrity or the professional esteem reserved for him by our community.

We in the State of South Carolina endorse you in the position you have maintained in regard to the war in Vietnam and supported President Nixon in the last election and we sincerely hope that the South and our country will be allowed the honor of having Judge Haynsworth serve on the Supreme Court bench.

Sincerely, JOHN WRIGHT JONES.

Mr. President, one of our friends wrote from Florida expressing the hope that we would support Judge Haynsworth and his nomination.

He was of the opinion that these charges were malicious and unworthy of consideration in view of many years of service as federal judge.

Certainly this letter expresses an opinion which if listened to would bring any man to the realization that this nomination is in the best interest of this country and its opposition is clearly not based upon substantial fact or evidence:

WINTER HAVEN, FLA.,

October 8, 1969.

HON. STROM THURMOND,

Senate Office Building,

Washington, D.C.

DEAR SENATOR THURMOND: I hope that you will give your firm support and vote for the nomination of Judge Haynsworth to the U.S. Supreme Court. In my opinion the charges brought against Judge Haynsworth are malicious and unworthy of consideration in view of many years of service as a federal judge.

The real opposition to Judge Haynsworth’s nomination probably results from the fact that he is considered a conservative, and his record shows proper judicial restraint with a high regard for the majority welfare in his court decisions. These qualities are desperately needed in our Supreme Court today.

Yours sincerely,

HARLEY TOMPKINS.

Mr. President, I have read letters from lawyers from various parts of the country and now we have another one from an attorney from the State of New York. This man bases his opinion of Judge Haynsworth on the basis of the man’s legal and judicial career. As an attorney, he undoubtedly reviewed the arguments both pro and con on this matter and concluded that it would be in the best interest of this Nation and certainly in the best interests of future generations which may live in this Nation for many years. This is another example of another citizen expressing the support of the great mass of people in this country for this man:

NEW YORK, N.Y.,

November 13, 1969.

HON. STROM THURMOND,

Senate Judiciary Committee,

Washington, D.C.

SIN: The purpose of this letter is to respectfully urge that you vote in favor of Judge Haynsworth nomination as Justice of the Supreme Court of the United States.

I firmly believe that his outstanding legal and judicial career warrants this favorable consideration.

Thank you for your consideration in this matter.

Very truly yours,

JOHN W. WILL.

Mr. President, it is pleasing for a Senator to receive mail from his friends at home and it is good to get letters from our States. This tells you how the people are thinking and it gives you some good ideas for legislation.

Many of these people are busy and have only enough time to write a few brief sentences, but they are more than enough to say what is on their mind. I often receive letters from our friends in the medical profession. You know, doctors cover a wide spectrum of society for they are professional people, they are also business people with an interest in the economy and they meet and talk with a great number of average citizens each week. These are the people that give you a good judgment of an issue and it is helpful for them to give their views.

Recently, I received a letter from a doctor in Texas. I would like to read it to you:

With the delay and hassle over the confirmation of Mr. Haynsworth there has never been an argument proving that he is anything but a patriotic, loyal and honest qualified American. We are fortunate to have the opportunity of the service of this rare breed.

I have a letter from a man in Staten Island, N.Y., who has expressed his opinion in favor of Judge Haynsworth.

As you will note as I read these letters, I have received a number of letters from New York as well as from other parts of the country supporting this nomination and I trust that the voice of these people will not be ignored by those who are casting their vote for this nomination.

I would like to read this letter to you. Mr. President, for I think that it clearly expresses, along with the same position that our friends in the Empire State have concerning this matter and I am sure that there are many many others across this land who have the same opinion:

STATEN ISLAND, N.Y.,

September 11, 1969.

HON. STROM THURMOND,

U.S. Senate,

Washington, D.C.

DEAR SENATOR THURMOND: President Nixon recently announced his choice of Clement Haynsworth to fill the vacancy in the Supreme Court. His decision took much consideration of the possible men available for this important position.

In this session of the Senate, it will be up to us, the Senators to give this confirmation. It is my firm conviction that the President’s appointee is the best choice for the job. His views on important issues are similar to those of Americans who feel the Court should help them, not defeat them.

In these past few years, the Supreme Court has made decisions that were not in the best interests of the country. It is time to reverse this trend. The purpose of this related letter is to give you, personally, the feelings of many people. I sincerely hope you will give this subject much consideration and thought.

With every good wish,

Yours truly,

GEORGE P. VIEGELMAN.

Mr. President, I should also like to read portions of a letter which was written to
Mr. William M. Hagood III, of Greenville, S.C., who is a practicing attorney and who had the good fortune to serve as a law clerk to Judge Haynsworth. This letter was written to me in May, 1969, in which he urged that I recommend to President Nixon that Judge Haynsworth be appointed. While it is important that the Senate have the benefit of the views of those who are biased in favor of the nominee, I believe it is also important that one who has had the opportunity to work closely with Judge Haynsworth thinks so highly of him that I now read to you.

LOVE, THORTON, ARNOLD & THOMASON,

Dear Senator Thurmond:

You are probably as familiar with Judge Haynsworth's qualifications as I am, although I have had the opportunity to work as his law clerk for one year following my graduation from law school in June 1963. During that time I developed a deep respect for his ability as a lawyer as well as a deep respect for him as a person.

I have followed with interest articles in various newspapers in which you have variously attributed that you want to see in the Supreme Court Justice appointed by the President, and Judge Haynsworth has all of these attributes. His integrity is beyond reproach and a review of the decisions written by him. In matters where the Supreme Court had not already decided the precise issue in question, reveals that he believes in the strict construction of the Constitution. One only has to read a few of his decisions, which, incidentally, are written by him and not by his law clerks, before realizing that he is exactly the type of person needed for this high position.

Very truly yours,

William M. Hagood III.

I should also like to read a letter which I received from the President of the chamber of commerce of the State of Louisiana. This man does not write merely as an individual but on the basis of the unanimous support of the board of directors of the Louisiana State Chamber of Commerce. Mr. Singletary's letter represents the thinking of responsible citizens and deserves our careful attention and consideration.

Louisiana State Chamber of Commerce,
November 12, 1969.

Hon. Strom Thurmond,
Washington, D.C.

Dear Senator Thurmond: At a recent meeting of our Board of Directors, the continuing debate on confirmation of Judge Clement F. Haynsworth as a member of the U.S. Supreme Court came up for discussion.

Upon reviewing some factual information on Judge Haynsworth's background, it appears that much of the publicity opposing his nomination has been exaggerated.

The State Chamber recognized me to communicate with you and other members of the U.S. Senate and respectfully urge that the nomination of Judge Haynsworth be approved.

Sincerely,

Archie F. Singletary, Jr., President.

Mr. President, I also have a number of editorials and newspaper articles which have been written concerning this nomination. I feel that it is important for us to be aware of the position that those men who make their living by observing the political events that take place in this Nation for they often give us insights and viewpoints which are helpful in viewing this vote.

The Columbia Record, one of the leading afternoon dailies in South Carolina, has published two editorials on the subject of Judge Haynsworth and the charges against him.

The first, published on Friday, October 10, and entitled "The Liberals' Revenge," discussed the highly prejudiced treatment of Judge Haynsworth by Howard K. Smith, the ABC television commentator. It also points out that the attempt to draw a comparison between Judge Haynsworth and the case of Justice Fortas is totally fallacious.

I read it:

The Liberals' Revenge

While liberals conducted a campaign of what Vice President Spiro Agnew called "character assassination" against Judge Clement Haynsworth, Howard K. Smith reported in gleeful tones on his ABC television program that the country was about to get its comeuppance.

Blaming conservatives for the uproar that has surrounded the nomination of Abe Fortas, President Johnson's choice for Chief Justice, Smith said that Fortas had done nothing wrong. He said that Fortas, by advising the President on Executive matters, had merely given the appearance of impropriety.

And now the conservatives' attack on Fortas, that has had so much ammunition to be harnessed, with liberals using the same type of ammunition to defeat the appointment of Judge Haynsworth to the vacancy on the U.S. Supreme Court.

The liberals have not uncovered any scandal on Haynsworth. They have found no conflict of interest in his decisions except in their own far-fetched interpretations of his stock portfolio. They have gone to such extremes as finding a sinister association because Bobby Baker and Haynsworth among many others, once bought shares in a large timber company.

Smith conveniently omitted the principal charges against Fortas. He overlooked the fact that they resulted from a story in liberal Life magazine, not from a conservative expose. He did not say that Fortas accepted a $15,000 fee, raised under questionable circumstances, to lecture to a handful of college students. He did not say that Fortas accepted the first installment on a guarantee of $50,000 a year for life from the Wolfson Foundation while Louis E. Wolfson was facing an unsuccessful fight in the courts to avoid serving as a director of illegal stock transactions. Fortas returned the money only after the payoff was exposed.

The Smith was dealing in half-truths, which are also the deadliest and most indefensible weapons in any vicious campaign of character assassination.

On October 11, the Columbia Record again discussed Judge Haynsworth and pointed out that rejection of this nomination would be a repeat of one of history's darker moments. This editorial discusses a parallel between the situation facing the Senate today and that in which a very honorable man, Judge John Parker of North Carolina, was rejected by the Senate.

The editorial also points out that President Nixon has firmly stood with Judge
Haynsworth and has made clear to the American public and to the Senate the importance the President places on the confirmation of Judge Haynsworth. It reads as follows:

Haynsworth's Fort. Carry

Claymont Haynsworth, South Carolinian, may never sit on the Supreme Court as President Nixon wanted him to. He may. The outcome is too indeterminate at this moment, unknown and perilously close.

Should Haynsworth be rejected by the Senate, he will be the only nominee for Associate Justice to have been turned down in this century, with one exception—Judge John Parker of North Carolina. Thus, the only rejec­tion will be South Carolina.

If Haynsworth loses, he will be the victim of character assassination and a totally unfounded, politically manipulable linkage with Abe Fortas. In an editorial which called upon Judge Haynsworth to withdraw to protect the good name of the Supreme Court, the liberal Washington Post called the shots quite honestly.

"For Judge Haynsworth," said the Post, "the theme of prejudice is almost unanswerable. As far as the general public is concerned, his integrity and honesty have been questioned and his record supplemented by all sorts of seg­regationist and foe of labor. Few of the charges made against him, in our judgment, are valid. We believe he is the target of a bitter fight, involving partisan politics as well as ideology and ethics, that is not of his own making. Some of the opposition to him is based on a real bias behind the campaign to deny Judge Haynsworth should be judged on his record and upon his place of birth. I read the editorial:

REGIONAL PREJUDICE

In times past, members of minority groups have faced a wall of resistance in obtaining posts of honor and public responsibility. Louis Brandeis was opposed for the Supreme Court because of his Jewish faith. For decades it seemed unlikely that the U.S. would have a Catholic as President. Negro citizens encountered severe obstacles. All that has changed in recent years. Many Southern cities—Charleston is one of them—have Negro citizens as judge and al­derman. A black man sits on the U.S. Su­preme Court. Louis Brandeis was opposed for the Supreme Court because of his Jewish faith. He made a historic record and upon his place of birth. I read the editorial:

PREJUDGING JUDGE CLEMENT F. HAYNSWORTH

(EDITOR’S NOTE—The following is an edi­torial from The Daily Oklahoman published in Oklahoma City.)

Judge Clement F. Haynsworth Jr., con­tinues to enjoy the expressed confidence of the President's best qualified to weigh the argu­ments against him.

The American Bar Association’s Committee on Judicial Nominations has endorsed Judge Haynsworth and refused to be swayed by the flimsy charges of insensitivity which have never been made against the Judge. I read the editorial:

"The greater significance of this upsurge is not what it testifies concerning the Judge’s qualifications but what it testifies concern­ing the present condition of this country’s former vaunted government of laws.

For the overriding concern of the Senate liberals isn't the suggested conflict of in­terest they aren't able to demonstrate but their fear that Judge Haynsworth’s elevation to the Supreme Court will give it a conserva­tive majority.

In short, he is being prejudged on his sup­posed philosophy. His record as a member of the 4th U.S. Circuit Court of Appeals has brought him into disfavor with the labor unions and the black civil rights leaders as well as their liberal friends in the Senate.

Oklahoma's Sen. Henry Bellmon notes this support from the black civil rights leaders in this case where the Senate has refused to confirm a man because of his philosophy, and I don't think it should be done now."

Haynsworth, like the new chief justice, Warren Earl Burger, has a reputation as a "strict constructionist" who adheres to set­tled law. As such, he might be expected to read more into the Constitution than it contained or to bend it to conform to his own personal philosophy.

Under the "activist" doctrine of the for­mer Warren Court, the constitution was made to mean just about anything a majority of the justices wanted to mean.

Thus it became the cited authority for turning the operation of the public schools
over to the federal judiciary. It became the
cited authority for giving communists the run of defense plants, for making the
concessions of criminals almost impossible to undo. Senator Taft of Ohio, a
master of the Bible in public classrooms, for holding that a college professor may not be dismissed for
teaching a course he had been hired to teach. Lord Macaulay said in 1857 that the U.S. Constitution was
"all sail and no anchor." Certainly it has be­come that if it can be construed to mean
one thing to one court and something alto­gether different to another court.

The present din affecting Haynsworth’s ap­pointment reflects liberal fears that a court composed largely of "strict constructionists"
would set sail in a different direction.

On Friday, September 5, the Chicago Tribune published an editorial entitled "Haynsworth is a Sinner." This editorial, published not in the South but in one of the Nation’s
leading dailies located in the State of Illinois, quotes John F. Roche of Bran­deis University, former chairman of the ADA as follows:

Haynsworth’s record ... was examined with a microscope and, as far as any critic could discover, it has never called for the aboli­tion of slavery, for legalization of torture, or for the abolition of the Federal Government.

The editorial reads as follows:

The Defamation of Judge Haynsworth

Professional "civil rights" agitators, leaders, and "liberal" columnists have launched a massive propaganda campaign against confirmation by the Senate of Presi­dent Nixon’s nomination of Judge Clement F. Haynsworth, Jr., of South Carolina, to be a justice of the United States Supreme court. Judge Haynsworth is opposed mainly by the same forces that defeated Senate con­firmation of President Hoover’s nomination of Judge John J. Parker, of North Carolina, for the same position. Judge Parker, who was chief judge of the United States Court of Appeals for the 4th circuit, of which Judge Haynsworth is chief judge, was confirmed by the Senate in 1954. The National Association for the Advance­ment of Colored People, the labor unions, and other groups have attacked Judge Parker as a "reactionary," but some liberal sena­tors who voted against him, notably

Mr. President, the Times-Dispatch of Richmond, Va., published an excellent
editorial entitled "Haynsworth Critics Err." This editorial points out how Judge Haynsworth’s critics have been highly selec­tive in their treatment of the man they claim is a "reactionary," and that this is not the Constitution as it is written. The liberals believe the Constitution is made of rubber and can be stretched to accommodate their
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vision of a socialist welfare state.
The Senate Judiciary Committee has made a thorough inquiry, and its report will recommend confirmation. If President Nixon has had every fact related to the record of Judge Haynsworth and his position taken into consideration thoroughly and, despite the planted rumors of a withdrawal of the nomination, the White House says that nothing of the sort is contemplated. If the President backed down, he would lose the respect of a huge number of white voters as well as millions of citizens who do not want to see public suspicions and unproved charges of lack of integrity hurt the reputation of an honest man who has been named to be a Supreme Court justice.

It is obviously unfair for critics to base their opposition on political grounds, including attempts to curry favor with labor unions and "civil rights" organizations. Incidentally, a substantial number of senators didn't allow such bias to interfere with the confirmation of Negro lawyer, Thurgood Marshall, or of a former counsel of labor unions, Arthur Goldberg, who was confirmed by the Supreme Court just a few years ago.

Mr. Lawrence wrote another column entitled "Ethics Paradox in Haynsworth Case" which appeared on November 10 of this year. A point he makes most effectively is that the opposition to Judge Haynsworth is an alleged conflict of interest, the Senate says that nothing of the sort is contemplated, the White House says that nothing of the sort is contemplated, the President backed down, he would lose the respect of a huge number of white voters as well as millions of citizens who do not want to see public suspicions and unproved charges of lack of integrity hurt the reputation of an honest man who has been named to be a Supreme Court justice.

Haynsworth's records do show that he was a practicing lawyer, he had consented to serve himself a judge, reported similar amounts of a corporation's stock. It is the * * * contention that Judge Haynsworth was clearly involved in a conflict of interest when he ruled on a case in which the Greenville Hotel, the name of the case, the interest of Judge Haynsworth, Sen. Cook, who was himself a shareholder, was interested in his own corporation, was himself a shareholder, a check made by the corporation that it has only 0.0059 per cent of the 3,279,559 shares of preferred stock and an even smaller 0.0015 per cent of the 4,500,000 shares of common stock. How is that for a substantial interest? What's really behind the opposition that has been manifested in the Senate against the confirmation of Clement H. Haynsworth, Jr., as associate justice of the Supreme Court?

The answer is to be found in analyzing closely the political game. Those senators, for instance, who are fighting the man who has been serving as chief justice of the Fifth U.S. Circuit Court of Appeals take their cue for the most part from organizations that have come from the leaders of the AFL-CIO and the National Association for the Advancement of Colored People and other Negro organizations. To be that, the rank and file will be convinced that Judge Haynsworth is anti-labor and anti-Negro.

As for the labor leaders, it is well known that they maintain organizations which do a lot of electioneering in political campaigns and openly boast that they have the backing of a majority of the House of Representatives. They have substantial support in the Senate, too. The AFL-CIO does not hesitate to issue each year a list showing the percentage by which each member has supported the labor side in battles.

On the surface, the main weapon of opposition to Judge Haynsworth is an alleged lack of ethics in sitting on cases which supposed interest might influence his decision. Nobody has brought forth any proof of dishonesty or of prejudice related to his position as chief justice, but the people do have their own stocks in a company whose principal customer was a defendant in a lawsuit before the court. In which he has served, but the significance of this has been exaggerated. A smear campaign has been launched in the press in which several senators have cooperated.

So it goes, including Judge Haynsworth's "association" with Bobby Baker, whom he last set eyes on in 1958, before it was known that Bobby Baker was a scoundrel, and with whom he is now engaging in any suspicious enterprise. Richard Nixon pointed out that he had known Baker far better than Haynsworth did, and that, in fact, Mrs. Bobby Baker had been one of his stenographers while he was in the Senate.

Holmes Alexander has also written a column on this subject. Mr. Alexander, who is known for his integrity and his honesty, points out that "every single accusation on conflict of interest has been proved a dud." I believe Mr. Alexander's thoughts on this matter are important, and I would like to read some of them to you:

[From the Greenville (S.C.) News, Oct. 18, 1969]
any opinions relating to civil rights or to labor union matters, he would not have had the slightest problem in getting confirmed. The same cannot be said for Mr. Kilpatrick.

Unfortunately for Haynsworth, because he comes from the South and, along with other judges, constantly rules on labor union matters that the union leaders don't like, an organized effort is being made to block his appointment to the Supreme Court.

American politics has reached one of its lowest points when an honest man—chosen by his fellow Southerners—stands today on the Supreme Court because of his experience and capability as a judge—and can be threatened with a denial of the seat because of the fact that he was a justice of the U.S. Court of Appeals for the Fourth Circuit, his decisions didn't please the labor politicians and Negro leaders.

Such views can prevent the country in the future from getting impartial and fair-minded judges. The Supreme Court could become a political agency subject to the will of vested interests which have enough money or influence to defeat senators for reelection if they don't vote on judicial confirmations in the way demanded of them by special groups.

Suggestions have been made by some of his opponents that he ought to write essays to draw voluntarily. This, however, is merely a device that would help his critics. For if the judge could be required to write essays, the senators opposing the confirmation would be safe and would not feel at the polls any ill effects.

What some of the political science students of today ought to do is to make a list of all the senators who have already spoken out against Haynsworth and examine how the nature of their constituencies—the number of big cities with a large Negro population or with a high labor standard in some part of these votes dominate statewide elections and overcome the support an opposing candidate may get in the rural or suburban areas.

What is most important is a record of the vote on the Haynsworth nomination, so that the American people may know which senators have voted against him. This could bring out a resentment vote in the next election, as the people do not like to see their representatives in Congress voting against the demands of groups which seek the appointment of judges favorable to their side and with labor union interests.

Mr. President, Mr. Kilpatrick wrote another column which was published on August 25 on this nomination, which apprised Judge Haynsworth as a "judge's judge" and as "an able scholar, a hard worker, and a jurist of long experience." But it is not true.

Mr. Kilpatrick also points out the parallel between this case and that of Judge Parker of the Fourth Circuit. But this time the most grievous charge is that Parker once had made a speech, many years earlier, containing some shining remarks.

Today it would be hard to find a responsible lawyer who would challenge the correctness of a statement in the context of its day, Parker did what he had to do. And far from being "anti-Negro," the North Carolina established a liberal record, both as a judge and a judge, that was far ahead of his time.

Nevertheless, Senators Norris, Borah and LaFollette, the big three liberals of the 71st Congress, so inflamed their colleagues that there were no actual recorded votes, the senators opposing the confirmation would be made to reconsider their opposition. One senator has agreed to reconsider his opposition.

It is a pity that members of the Senate already have indicated their intention to vote against Judge Haynsworth's nomination. It has taken a position publicly, he hates publicly to change his mind. Yet the case against Haynsworth is more than just a matter of smearing or slurring references to Negroes. The charge is absurd. Judge Haynsworth served for many years as chief judge of the Fourth Circuit. This time the most grievous charge is that he had decided against the United Mineworkers in the union's "yellow dog" suit and he also was charged that Parker once had made a speech, many years earlier, containing some shining remarks.

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Nevertheless, Senators Norris, Borah and LaFollette, the big three liberals of the 71st Congress, so inflamed their colleagues that Parker at last was denied confirmation, 41-39. It was a shameful chapter in Senate history.

It would be grossly wrong to see history repeated in the Haynsworth nomination. In passing upon certain cases of school integration, Haynsworth has refused to put the lash on Southern school boards; He has not demanded that they take affirmative actions to achieve greater integration. A further example was in the Darrow case of 1963. Haynsworth found the statutory inhibition against a company's closing a profitless mill by reason of union activity.

Doubling down, he was charged that Parker once had made a speech, many years earlier, containing some shining remarks. Today it would be hard to find a responsible lawyer who would challenge the correctness of a statement in the context of its day, Parker did what he had to do. And far from being "anti-Negro," the North Carolina established a liberal record, both as a judge and a judge, that was far ahead of his time.

But it is not true. One of the five cases listed by the senator was Merck v. Olin Mathieson Chemical Corporation. Judge Haynsworth, not being a labor lawyer, was not involved in the case. It was well decided, and the record clearly shows that the labor unions were not involved in the case.

In his statement of October 8, Indiana's Sen. Birch Bayh charged that in at least five cases, Judge Haynsworth "held a financial interest in one of the litigants substantial enough to require disqualification under 28 USC 458" and to constitute "conflict of interest under the canons of judicial ethics." It is a serious charge; if proved, it would justify Haynsworth's rejection.

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I have an article that appeared in the National Review on November 18, 1969. This story is concerned with the treatment of the Haynsworth matter, and I think it reveals the hollowness of the attacks in the press that have been leveled.

This article, which was written by the distinguished columnist Ralph DeToledo, is an extremely thorough account of the entire controversy surrounding Judge Haynsworth. In this controversy by the press, more particularly Time magazine:

**TIME MARCHES ON HAYNSWORTH**

*(By Ralph DeToledo)*

Once upon a Time, to put it charitably, the decision to withdraw the nomination was made. It was based on engaging in vicious character assassination. Presidents are expected to speak in softer accents. Yet that is exactly what the media material amounts to. It is like John Randolph's dead mackerel in the moonlight, a work of artistry that both shines and stinks.

But the magazine has grown shabby with the passing of the years. And to television.

I cite as Exhibit A to prove the point. It is the cover story in the November 21, 1969, issue of Time magazine. It is like that advertised in the ant-Haynsworth pose. Time was aware that the real victim of the attack on a Fourth Circuit judge was not to be Clement Haynsworth but Richard Nixon.

The Haynsworth case was to be a chapter in a work in progress fittingly and sadly named: *The Death of a President.* Without luck and voodoo, it could be the key chapter, eliminating the treatment of the Haynsworth matter as a backwater, as a peripheral campaign of innuendo, corrupting the public mind. And Nixon's campaign forces had been marching on Haynsworth in its classic style, always lugging slightly behind the pack—superb in its use of innuendo, corrupting the record only with care, magnanimously granting Judge Haynsworth a point here and there, and a new layer of innuendo, putting the deceptions of the nominees of those who were swinging the rope over the tree limb.

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"Of course, the giveaway. Didn't Time researchers know? And didn't they know that in two textile Workers cases, Judge Haynsworth, in favor of the union? Or that the vending machine company's dealings with the unnamed firm itself (Darlington) amounted to zero, only 3 per cent of its business?" The associate Deering Milliken Company, giving Judge Haynsworth roughly .0042 per cent, which is hardly the "characterastic interest" demanded by judicial canons.

Of this case, Time said: "John P. Frank, liberal Democrat who serves on the Advisory Committee on Civil Procedure of the Judiciary Conference, stated flatly that 'there was no legal ground for disqualification.'" It did not add that this was from Mr. Frank: "It is perfectly clear under the authority that there was literally no choice whatsoever for Judge Haynsworth except to participate in that case." Nor did it point out, as noted above, that in ruling on the Darlington case, the judge "there was no business connection of the vending machine company, Carolina Vendamatic.

Some story: "The judge, who sat on a 1963 "Lyndon Johnson's protege and doing a tenuous business connection with Bobby Baker, the former Democratic Senator's candidate in South Carolina, real estate deal several years ago although neither apparently knew each other. . . . The real estate deal was apparently innocuous and innocent." The facts: The Circuit Court unanimously agreed on a disposition of the case early November. Judge Haynsworth bought his stock in December. Secondly, the case was a small one ($20,000) which could have virtually no effect on the value of all stock—half cent a share, to be exact.

October 16, 1969: "What brought about the sudden shift in Republican ranks was that Haynsworth was the disclosure that he once had a tenuous business connection with Bobby Baker, the former Democratic Senator's candidate in South Carolina, real estate deal several years ago although neither apparently knew each other. . . . The real estate deal was apparently innocuous and innocent." The facts: The Circuit Court unanimously agreed on a disposition of the case early November. Judge Haynsworth bought his stock in December. Secondly, the case was a small one ($20,000) which could have virtually no effect on the value of all stock—half cent a share, to be exact.

The facts, then, are these: Darlington was an old family-owned mill which went into bankruptcy in 1937 and was rescued by an infusion of money from Deering Milliken. In 1937, 60 per cent of its stock. In 1956, Darlington was again in trouble. An engineering efficiency concern was called in to devise a plan to keep the company in business. The plan called for the infusion of considerable sums of money and a reorganization which would increase the productivity of its employees—if Darlington was to survive. At this time, the Textile Workers of America began an organizing campaign in the plant. The facts were all on the record, in the pleadings before the Circuit Court and the Supreme Court. The real estate deal was to survive. At this time, the Textile Workers of America began an organizing campaign in the plant. The facts were all on the record, in the pleadings before the Circuit Court and the Supreme Court.

This parody of the Darlington case was extended treatment, if only because it was the seed from which all the other charges against Judge Haynsworth grew. These facts were all on the record, in the pleadings before the Circuit Court and the Supreme Court. The real estate deal was to survive. At this time, the Textile Workers of America began an organizing campaign in the plant. The facts were all on the record, in the pleadings before the Circuit Court and the Supreme Court.

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This is the case which Time so whimsically characterized in one brief paragraph distinguished by an error in almost every sentence. It is out of this case that Time found the index to the Un-American Activities Committee and the case about a plant which was already dismantled when it reached Judge Haynsworth, who presumably subverted the law to put Vendamatic machines into the ghost premises—or to pick up a couple of extra bucks from Deering Milliken. An aspiring candidate for the Presidency could come up with some interesting notes on the nature of the news media were he to follow that story from the beginning and put in the time that Time correspondence, through the writer's copy, to the hapless checker who must, according to the rules, approve their incorporation for every word in a Time story.

Was she asleep at the switch, too busy reading the one-sided story of the charges and replies to those charges that have been made concerning Judge Haynsworth. I would like to read this article for it gives a point-by-point analysis of the situation:

CHARGE

Haynsworth voted in a 3-2 majority of the Fourth U.S. Court of Appeals on Nov. 18, 1963, to permit the Deering Milliken textilizing plant to continue to operate in Darlington to avoid antitrust action. At the time the judge had a one-seventh ownership in the plant. The Fourth Circuit Court refused to sustain the NLRB in a decision written by a judge other than Haynsworth. This decision was in line with the preponderance of rulings made by other federal courts of appeal.

Enter now the Supreme Court. Having heard argument, it did not reverse the decision in which Judge Haynsworth had concurred. The high court merely said that certain factual findings and the decision to develop so far in the litigation. By steps the case moved back to the trial examiner, who sent Darlington closed to mill off five hundred employees. Haynsworth concurred in a majority opinion that the company had a right to close out part or all of its workforce. Haynsworth's motive was anti-union. In overturning the decision, the Supreme Court noted unanimously that a partial closing of a business is unfair if the purpose and probable effect are to chill unionism in the employer's remaining plants.

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CONGRESSIONAL RECORD — SENATE

35391

November 21, 1969

The judge should have disqualified himself because of that connection.  

REPLY

The judge definitely should not have disqualified himself in this case.  

(1) Vend-A-Matic was not involved in the case in any way; (2) The Darlington plant did not even use Vend-A-Matic; (3) Vend-A-Matic, therefore, received no fees, and (4) Vend-A-Matic's sales to Deering Milliken totalled $60,000 in 1962 and $100,000 in 1963.  

Vend-A-Matic was never involved in either court case. Each case involved only procedural questions, not necessarily favorable or unfavorable to Deering Milliken. Research Cost Accounting and Frank testimony would also apply here.  

CHARGE

Sen. Bayh accused Haynsworth of having a conflict of interest when he participated in a 1951 case involving Kent Manufacturing Co. That year, Vend-A-Matic had sales of $21,322 to a Kent subsidiary named Runnymead.  

REPLY

There is no connection between Kent Manufacturing, a Marion firm which makes fireworks and was the litigate mentioned by Sen. Bayh, and the Kent Manufacturing Co. in Delaware which operated the Runnymead plant in Pickets, S.C. Bayh even withdrew his charge after Haynsworth backers revealed the link.  

CHARGE

In the last five cases Judge Haynsworth "held a financial interest in one of the litigants substantial enough to require disqualification under 26 USC 455 and to constitute impropriety under the canons of judicial ethics."  

REPLY

The accusation is absolutely false. One of the five cases was the Brunswick case. The Fourth Circuit Court unanimously agreed to the action of the Judicial Committee on Nov. 10, 1967, more than one month before Haynsworth purchased $16,000 worth of Brunswick stock. Judge Harrison Winter, who wrote the opinion, maintained that Haynsworth had broken no judicial code in purchasing the stock before the writ of mandamus. Whether Brunswick won or lost the case, however, could not possibly have made any material difference to its stockholders, since they were not parties to the litigation. This was bluntly by Sen. Strom Thurmond whether Haynsworth's purchase of the stock should disqualify him from handling future cases. Judge Winter replied: "I don't consider it the slightest disqualification."  

Another of the five cases listed was Merck vs. Olin Mathiesen Chemical Corp. Judge Haynsworth, it turns out, never owned any Olin Mathiesen stock, but Bayh now says his staff researchers misread a business transaction and that this charge is "an error." Two more of the "big five" cases involved Grace Lines and Maryland Casualty Co. Haynsworth, it develops, also owns no stock in either company. In all cases, the judge tends he should have disqualified himself because he owns stock in the parent corporation or in the parent company. In the new cases, it is contended, a judge could not rule on, let us say, General Motors, if he owned a mutual fund which, in turn, owned shares of General...
motors, for he might somehow "benefit" from the decision.

The last of the big five—Darter vs. Greenville-Service Employees Hospital—was decided in 1962. This case, according to President Nixon's deputy counsel, Clark Mollenhoff, "demonstrates the absurdity." Ben Haynsworth's unstated rejection of Judge Haynsworth was involved in conflicts of interest because of a substantial interest in corporations that had "n't support." Judge Haynsworth had absolutely no interest in the Greenville Community Hotel case or any company having any interest in that corporation in 1962. On April 26, 1964, before Haynsworth was on the court, one share of Greenville Community Hotel stock was worth $2 to trans­ferred to him so he could be a director of that corporation. He held that position until he went on the bench in 1957.

A short time later, Jan. 1, 1958, Judge Haynsworth did receive a check for 15 cents, the 1957 dividend of the hotel, by association. Mr. President, as you know, 16 past judges have served with Judge Haynsworth on the Fourth Circuit. This is a time for emphatic reemphas­tion of the image of a distinguished group of gentlemen.

The judge was involved, along with others, in a South Carolina cemetery venture with Robert G. "Bobby" Baker, the discredited former Senator Democratic secretary who re­signed under criticism for his business dealings.

There were 25 individuals and business firms involved in the venture, which Haynsworth thought he had bought as the advice of others. He did not see or communicate with Baker in connection with the investment. He has had only three conversations with Baker, the last in 1958, years before Baker got into trouble with the Senate. Sen. John Williams (R.-Del.), who took an leading part in oppos­ing the questionable activities of Baker, says he has looked over his files and "can find no reference which would connect Mr. Haynsworth with an improper manner." He has also warned his colleagues to beware of discrediting Haynsworth on the basis of a letter by association."

The judge has an anti-labor record in his judicial performance. He has sat on 10 cases which were reviewed by the Supreme Court, and in all 10 his position was reversed by the Supreme Court.

None of the Supreme Court reversals suggested that the decisions being overturned were "anti-labor." Two of the 10 cases were not even labor-management cases. Besides, the cases that went to the Supreme Court had an 8-to-5 slender pro-labor opinions and joined in 37 other pro-labor rulings.

The judge is an opponent of civil rights.

There is absolutely no pattern that would establish bias. As in his labor decisions, some decisions are in favor of the party clai­ming an infringement of civil rights and some decisions were not. Prof. G. W. Post, Jr., a strong civil rights advocate, has appraised Judge Haynsworth's record in these words: "I have thought of his work, not as that of a segregationist-inclined judge, but as that of an able, able, and open-minded man with a practical knack for seeking workable answers to hard questions."

There is no difference between the Abe Fortas case and the Haynsworth case.

There is all the difference in the world. Last week the American Bar Association, in a letter to Sen. John Williams, stated: "The conduct of Mr. Fortas while a Supreme Court Justice, described in his statement of the facts, was clearly contrary to the canons of judicial ethics even if he did not and never intended to intercede or take part in any legal or judicial matters affecting Mr. (Louis E.) Wolfsen."

Fortas resigned without ever making a public statement. The canons of the Bar have not been published. By contrast, the ABA has supported the Haynsworth nomination. His handling of the Darter case has also been defended by the ABA and other leading authorities on judicial conflict of interest.

Unlike Fortas, Judge Haynsworth has revealed his financial holdings in a detail that has few if any parallels in the history of judicial confirmations.

Mr. President, those best situated to judge this man both as an individual and as a judge are those who serve with him on the circuit court bench.

On October 9 six of the judges who have served with Judge Haynsworth on the Fourth Circuit sent a telegram expressing their confidence in Judge Haynsworth.

This telegram was signed by Judge Simon F. Sobeloff of Maryland, Herbert S. Borman of West Virginia, Albert V. Bryan of Virginia, Harrison L. Winter of Maryland, J. Brackson Craven, Jr., of North Carolina, and John D. Beucken of Virginia. Certainly these men are better qualified perhaps than anyone else to judge this man and determine his accredi­tability as a judge and as a man of character and honor.

This telegram read:

Despite certain objections that have been voiced to our confidence, we express to you and to the Senate the unbroken confidence in your integrity and ability.

Judge Harrison L. Winter appeared before the committee during the hearings and testified in behalf of Judge Haynsworth and it is well that we be reminded of the remarks made by him in a unique position to determine whether or not Judge Haynsworth is competent and credible.

On November 10 another eminent jurist, former Associate Justice Charles Whitaker, who served on the Supreme Court from 1937 to 1962 issued a state­ment setting forth his views on Judge Haynsworth's nomination. He has written a unique position to determine whether or not Judge Haynsworth is competent and credible.

Mr. President, as you know, 16 past members of the American Bar Association have endorsed Judge Haynsworth. These men are leaders in their profession and their endorsement is not that of a group of men simply wishing fellow prac­titioner well. These individuals are fully capable of considering all the factors in a given case and reaching a just and proper conclusion. They have endorsed Judge Haynsworth unreservedly.

This endorsement surely must be given great weight for it emanates from a very distinguished group of gentlemen.

It is interesting to note the places of residence for these men for it indicates that people throughout the United States support this very important nomination. The members are Harold J. Gallagher, New York; Cody Fowler, Florida; Robert G. Storey, Texas; Lloyd Wright, California; E. Smythe Gambrell, Georgia; David F. Maxwell, Pennsylvania; Charles S. Rhyne, Washington, D.C.; Ross L. Malone, New Mexico—General Motors, New York; John D. Randall, Iowa; Whit­man, New York; Senator John T. Satterfield, Mississippi; Sylvester C. Smith, Jr., New Jersey; Lewis F. Powell, Jr., Virginia; Edward W. Kuhn, Tennes­see; Senator S. Martin, New York, and Earl F. Morris, Ohio.

Mr. President, is not the real crime that this man has committed three-fold? First, he is a constitutionalist; second, a casuist; third, he came from the wrong part of the country.

Mr. President, since it appears that no evidence has been presented by the prosecution and since the accused has not had the opportunity to present his case, I ask that the verdict of the uncommitted be not guilty as charged.

I ask that these distinguished Mem­bers of this body who are now undecided, if you will, cast your decision as to how they shall cast their lot on the tempts of justice and equity and not on the basis of political expediency.

To deny the President his choice, to deprive the people of his choice, to deny his choice, a choice dictated by the results of the balloting in the 1968 election, is to break faith with the precepts of this sys­tem of government.

Mr. President, I urge that the Senate consent to the nomination of Clement F. Haynsworth, Jr., to be Associate Justice of the Supreme Court of the United States.

Judge Haynsworth's character, intelli­gence, legal knowledge, judicial temperament, and the exemplary manner in which he has filled the duties of the office of chief judge of the Fourth Circuit qualify him to become a Justice of the Supreme Court of the United States.

Mr. BIBLE. Mr. President, I want to make a brief statement concerning my vote on the Haynsworth nomination.

I am glad to be able to say that throughout my deliberations on this ex­tremely difficult matter I was free of any undue pressures. There was, of course, active interest by the people of my State of Nevada. I received a good cross-section of correspondence, but neither side dom­inated the other. There was an unusually close division of views, and I am grateful to all who took the time to write.

The constitutional responsibility of the Senate to advise and consent to nomina­tions is an important one. It is a heavy at best. It takes on an added di­mension in times such as these when— for whatever reason—the Court is the object of concern or uneasiness on the part of too many of our citizens.

I think this is a time for shoring up public confidence in the Supreme Court. This is a time for emphatic reemphas­ization of the existent public mandate de­manded of those who serve or aspire to serve as justices of the Nation's highest tribunal.
In the final analysis, the strength of the Supreme Court—the sanctity of the Court as an institution indispensable to our balanced system of government—depends upon the respect and confidence of the people. And this, in turn, depends on the public's respect for individual justices.

This is no time to dilute the well-recognized standards. To do so would be to further damage already troubled court. Supreme Court nominees must be above reproach. They must be devoted to the Canons of Judicial Ethics. They must be insusceptible to weight, whether moral or financial, from impropriety and the appearance of propriety.

Canon 4 commands that—

A judge's official conduct should be free from impropriety and the appearance of impropriety.

Canon 29 provided:

A judge should abstain from performing or taking part in any judicial act in which his financial or material interests are involved.

And canon 34 cautions every judge that “in every particular his conduct should be above reproach.”

I have read and reread the record generated by this nomination. I cannot in good conscience conclude that Judge Haynsworth meets the high standards, which it is the Senate's solemn obligation to demand.

Last June, Judge Haynsworth testified before a Senate committee that when he went on the bench he “resigned from all such business associations I had, directorships and things of that sort.” The record makes clear his continuous and active association with Carolina Vend-A-Matic until October, 1963. In view of the Judge's very substantial interest in that firm, I am hard-pressed to believe his words denoted a lapse of memory.

I am also disturbed by the nominee's participation in the Brunswick and other textile firms.

Judge Haynsworth had a concededly substantial interest in the Brunswick Corp., a litigant before his court—contrary to Federal statute, canon 29, and an explicit holding of the ABA's Committee on Professional Ethics, which a judge should not act in a case in which one of the parties is a corporation in which he is a stockholder.

In addition, the nominee participated in at least five other cases in which he had a stock interest. Between 1958 and 1963 he sat on at least six cases involving customers of the vending machine company he helped organize, which he served as an officer and director, in which he held high financial stakes. And the hearing record contains testimony that he sat in at least 13 cases involving clients of his former law firm.

It may well be true that no one of these cases provides a sufficient basis for denial of this appointment. I feel, however, that the record as a whole raises substantial concerns concerning Judge Haynsworth's sensitivity to the exacting ethical standards we must expect of those who would assume lifetime positions in the Supreme Court.

I have deemed it my duty to do what I can to preserve the integrity of the Supreme Court, and to resolve these doubts against the nominee. I have done so reluctantly and with a heavy heart, for I have no desire to cast reflections on any man. Judge Haynsworth is an able jurist. This has been for him a regrettable ordeal. For the Nation, and the Senate it has sparked deep divisions, which only time can heal. In his inaugural address, Justice Chief Justice Earl Warren expressed the necessity to surmount what divides us and cement what unites us. I would have preferred that this nomination be withdrawn, and the Senate would not have to decide.

Mr. GRANT. Mr. President, the vote about to be taken will bring the Senate to a moment of truth to another moment of history.

The Senate debate on the nomination of Justice Abe Fortas was drawing to a close, I said:

After today, the Senate will stand taller in the scheme of Government. We make it clear that the Senate, at least, will once again to exercise with care and diligence the Constitutional power of advice and consent.

Regardless of the outcome today, it can be said that the Senate has endeavored with great care and diligence to fulfill its constitutional responsibility with respect to the pending nomination.

The past several months have been a very trying period for Judge Haynsworth—and for every Member of the Senate.

It has been a trying period because under the circumstances per curiam may misconstrue or fail to understand the role of the Senate with respect to such a nomination.

Unfortunately, some may believe that the Senate will decide today whether the nominee is fit. No such decision will be made.

No one in this body, to my knowledge, has challenged the honesty of the nominee, and the record on that point should be absolutely clear.

Even with respect to the question of ethics, the Senate will not decide today whether the nominee did—or did not—obstruct justice. Our decision will not affect his eligibility to sit as a judge on the Fourth Circuit Court of Appeals.

The single and only question before the Senate is this: Does the Senate believe the nominee should be promoted to the Supreme Court of the United States?

Justice Samuel F. Miller, who was named to the Supreme Court in 1868 by President Lincoln and who was one of the Court's greatest members, once said:

The judicial branch of the government is, of all others, the weakest branch. It has no army; it has no navy; it has no press; it has no officers except its marshals. . . . So far as the ordinary forms of power are concerned, (it is), by far the feeblest branch of the government. . . . The Judiciary (must) rely on the confidence and respect of the public for its weight and influence in the government.

Because that is true, the Senate need not find a nominee guilty of anything. But it is important that the Senate be particularly cautious in any nominee and in favor of preserv-
To those who might be concerned about the sincerity of the Senator from Indiana, let me suggest that some of the matters which I have felt compelled to raise have also been raised by others. Just last evening, the distinguished Senator from Kentucky (Mr. COOPER) came to the floor with a handwritten speech in which he said in part:

It may be said that the standards on which I base my decision should not apply to this nominee as they are standards which did not prevail at the time the cases in which I have referred were before me, I answer by saying that the standards were applicable at the time.

What is at issue is whether judges will observe them, and I am confident that the overwhelming majority do; and what is at issue is whether the Senate will apply strictly the standards of the statute and the canons.

So speaks the Senator from Kentucky. Earlier the Senator from Delaware (Mr. WILLIAMS) had spoken with equal eloquence of his concern that this nominee had not adhered to the standards which have been developed throughout this country, and which he personally felt the Senate of the United States should require of a prospective Supreme Court judge.

The distinguished minority whip has been one of the more eloquent spokesmen in expressing concern. If there was ever a Member of this body who was in a difficult position, it had to be our distinguished colleague from Michigan. Yet he spoke eloquently about his desire that we reach for a higher standard than that which had been set by the nominee.

Our distinguished colleague from Idaho (Mr. JORDAN), in what I am sure was also a difficult decision, said:

However, after carefully studying the Judiciary Committee hearings on the nomination, grave doubts arose in my mind as to the wisdom of elevating Judge Haynsworth to the Supreme Court. These doubts are based on my opinion that the nomination would undermine public confidence in our judiciary, and my judgment that Judge Haynsworth has failed to demonstrate how easily this confidence can be undermined by even the appearance of impropriety on the part of our judges.

Mr. President, it has been suggested by some that the Senator from Indiana has malignned the character of this jurist. Certain very illustrious citizens of this country have called me a character assassin. Certain Members of this body have accused the President of requiring the judge of trying to feather his own nest by deciding cases in a manner that would be to his own best interest.

If I examined everything I have said—not a sentence here, or a part of a sentence there, or an inference here or there—I do not see how such a conclusion could be reached. I have said repeatedly that I do not believe that Judge Haynsworth is a man who would calculatley make his decision in a case dependent upon whether or not the decision was in his financial interest. What every one of us is concerned about is whether or not this judge has established that degree of sensitivity that is absolutely indispensable if we want to insuire the confidence of the people of this country in the courts. Has he, indeed, avoided the appearance of impropriety, as defined in the Canons of Ethics?

It has been suggested that we should not consider the Canons of Ethics. This, of course, is a determination each Senator must make for himself. But this Senator is concerned about what the Canons of Ethics say about the appearance of impropriety.

I think, to put the issue in proper perspective, I think it would be rather naive not to recognize the facts as I see them. It seems to me that the facts are almost indisputable, though Senators can look at them from different standpoints. The question is not what the facts are, but whether the individual Members of this body, in looking at those facts, believe that they constitute a breach of the standards that they set for themselves, and that they want to see set for the Supreme Court.

The Brunswick case has been discussed with some degree of particularity. It involves a thousand shares of Brunswick stock which were purchased before a final determination had been reached by the judge and his colleagues. I have talked with a number of appellate court judges, and they have suggested that on numerous occasions an individual has been persuaded that his informal decision had been reached in the courtroom. There seems to be unanimous feeling among them that a decision is final until all the cases have been heard, and the motions for new trial and the various legal petitions have been denied. Those who have studied the record have to recognize the fact that Judge Haynsworth himself said that he had a substantial interest in the Brunswick case, that he bad made a mistake, and that if he had to do over again, he would not do it.

The Grace Lines case involved an interest of $13,875 in the parent corporation of a subsidiary that was before the judge. The Maryland Casualty cases—there were seven of them—involved a $10,700 investment in the parent of a subsidiary corporation that was before the judge.

The Carolina Vend-A-Matic case is a different type of case, in which the interest was one step removed. The Judge was an original founder of a company. His holdings were worth $450,000. He was a director; he was the vice president; his wife was secretary for 2 years. This corporation was doing $100,000 of business with Deering-Milliken, at the time the Darlington case was decided. The Darlingtown Mills case has been described by our distinguished colleague from North Carolina, was a landmark case in textile law.

Given this involvement with Carolina Vend-A-Matic, and in the fact that the Judge had significant stockholdings in three or four textile firms, given the fact that Carolina Vend-A-Matic was doing $2 million worth of business with textile firms, it seems to me that there was a matter which breached the standard of ethics which were set for the courts long ago.

Mr. BYRD of West Virginia. Mr. President, may we have order?

The VICE PRESIDENT. The Senate will be in order.

Mr. BAYH. Mr. President, in looking at
this issue, we have studied the rather succinct statements of Professor Mellin­ koff from UCLA, the statement of Dean Lewis Pollock of the Yale Law School, and the opinion of 19 law professors from five different universities. They all sus­ ject that the judge violated the necessary standards of ethics.

I think we have determined that section 455 of title 28, United States Code, has been breached. I refer to three Supreme Court decisions which have defined substantial interest. These are: the Commonwealth Coatings decision, the Murchison decision, and the Tumey decision.

In fact, the Supreme Court had pointedly in the passage from the Commonwealth Coatings case. In examining a financial relationship, which amounted to 1 percent of an arbitrator's income and which was not a current relationship, the court suggested:

We have no doubt that if a litigant could show that a foreman of a jury or a judge in a court of justice had, unknown to the litigant, any such relationship, the judgment would be subject to challenge.

Mr. President, my time has about expired but I would like to make one final observation. Perhaps the matter of deepest concern to me is the impact of the hearing until this, the final hour of debate, has been the effect that this controversy and indeed my personal participation in it would have on the future of Judge Haynsworth. Only the most naive among us would refuse to recognize that our opposition must have some impact on the nominee. This fact has made the burden of my opposition greater.

I sincerely hope that the per­ sonal impact upon Judge Haynsworth will be minimal. I hope he will continue serving on the fourth circuit. In fact, I hope he will take advantage of this opportunity to prove that those of us who have opposed him have been erroneous in our judgment.

But in this body each of us has the obligation to do what he must—what he thinks is right. In my judgment, the personal impact on Clement Haynsworth, the personal impact on the prestige and reputation of the President and the Senate and the personal impact on the Senator from Indiana should not be significant factors in our decisions. Our ob­ ligation is to the Senate and to this country. And I trust that each of us will cast his vote yea or nay with that sole thought in mind.

The VICE PRESIDENT. All the time allotted to the Senator from Indiana has expired.

The Senator from Nebraska has 7 minutes remaining.

Mr. HRUSKA. Mr. President, at this late hour, in this debate which has con­ sumed weeks and days, not much could be said which would be new. It would not be possible for any ordinary mortal to say anything that would change the minds of Members of the Senate.

A good part of the debate has been centered on the matter of disqualification of a judge—when should it occur and when should it not occur?

This is a viewpoint that has been urged by the opposition to the nomination. But it is not the rational policy that has been in effect since the beginning of the Federal courts. The proof of this is found in section 455 of chapter 28 of the United States Code. But what has been breached?

Professor Frank concluded by saying:

But these two systems exist side by side in the United States and what we need to know, because it is . . .

Mr. BYRD of West Virginia. Mr. Pres­ ident, may we have order?

The VICE PRESIDENT. There will be order in the Senate.

Mr. HRUSKA. Professor Frank stated:

But these two systems exist side by side in the United States and that we need to know, because it is rather controlling for the judges which you Senators are now making, is that the Federal government from the beginning has taken the so-called . . .

The VICE PRESIDENT. Please, may we have order in the Senate. The galleries will be cleared until the President is recognized.

Mr. HRUSKA. Mr. President, Profes­ sor Frank stated:

But these two systems exist side by side in the United States and what we need to know, because it is rather controlling for the judges which you Senators are now making, is that the Federal government from the beginning has taken the so-called. . .

Mr. President, one of the characteris­ tics and, in fact, the essence of law, whatever form law takes—which it is statute or court rule or a court decision or a canon of ethics—is that it must be accessible to everyone who is governed by that law to be able to de­ termine what conduct is required of him and what conduct is denied to him in order to comply with that law.

It was during the course of the debate to hear the state­ ment: "Well, it is true that there was no violation of title 28, United States Code, section 455, but the precept of the statute has been upheld.

Mr. President, what is the principle of a statute to one man is not the principle to another man. And the reason we have printed words to reflect the meaning of a statute is to be able to understand and comply with that statute. That is what we must have in law.

The same thing is true of canons of ethics. They can be said that a man has been violated exactly, but that the appearance of evil has been created, and Judge Haynsworth had put himself into a position of reproach.

What appearance will mean to one man, is different than it will mean to another man. Judging by "appearance" means making the rules as we go along. It is too highly subjective, a total immobilization of the power and the capability of the Senate to advise and consent.

If we consider this alternative to­ gether with the outstanding record and the constructive assessment of this nominee a man of integrity and honesty, there is every reason why we should confirm the nomination. The reasons were clearly expressed in the majority report of the Judiciary Com­ mittee which was approved by a vote of 10 to 7.

Mr. SCOTT. Mr. President, in legislative session, I rise to ask the disinguished majority leader what the order of business is for today following the vote and for next week.

Mr. MANSFIELD. It is my understand­ ing that conversations are now going on concerning H.R. 7491, an act to clarify the liability of national banks for certain taxes. A decision on that should be ready after the pending nomination is disposed of.

Then it is the intention to lay before the Senate the tax relief and tax re­ form bill, and to start debate on that Monday.

There is a very strong likelihood that on Monday, Tuesday, and Wednesday of next week there will be amendments to the tax reform-tax relief bill, and I set that out for the information of Sena­ tors that the Senate will be fully informed.

Mr. SCOTT. I thank the Senator.
The Senate in executive session resumed the consideration of the nomination of Clement F. Haynsworth, Jr., of South Carolina, to be an Associate Justice of the Supreme Court of the United States.

The VICE PRESIDENT. All time on the nomination has expired.

The question is, Will the Senate advise and consent to the nomination of Clement F. Haynsworth, Jr., of South Carolina, to be an Associate Justice of the Supreme Court of the United States?

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The VICE PRESIDENT. The clerk will call the roll.

The VICE PRESIDENT. The Chair wishes to caution the gallery that there will be no outbursts at the announcement of this vote.

The legislative clerk called the roll.

The result was announced—yeas 45, nays 55, as follows:

YEA—45

Allen
Allen
Allott
Baker
Bellmont
Bennett
Boggs
Byrd, Va.
Byrd, W. Va.
Cook
Cox
Coombs
Currie
Dole
Dominick
Eastland

Mundt
Murphy
Paxson
Pryor
Fullbright
Russell
Gravel
Hansen
Holland
Hutto
Griffin
Goodell
Johnson, N.C.
Long
McClellan

NAYS—55

Anderson
Bayh
Bible
Brooke
Burckard
Cassady
Case
Church
Cooper
Cranston
Dicks
Eagleton
Goodell
Gough
Griffin
Hatch
Hart
Hartke
Hatfield

Mondale
Inouye
Jackson
Jacobs
Jordan, Idaho
Kearney
Magnuson
Manfield
McGovern
McIntyre
Moffett
Miller
Montoya
Moss
Muskette

So the nomination was rejected.

Mr. ALLOTT. Mr. President, we have just had a vote on a very important question, and of course there is no useful purpose in trying to reargue the questions on that matter. However, there is one discrepancy which has occurred in this whole matter to which I feel it my obligation to call very serious attention.

In Newsweek, an article appeared on the Haynsworth matter in which the junior Senator from Kentucky (Mr. Cook) was quoted, and which I am informed is not the truth. The article takes the President's counsel, Clark Mollenhoff, to task very severely.

While no man, of course, makes points by losing his temper—and I believe Mr. Mollenhoff did on that occasion—I want to call the attention of the Senate to the alleged facts which were contained in the Mankiewicz-Braden article, which were in issue in Mr. Mollenhoff's television appearance and then compare them with the facts with respect to the situation as it existed. In issue was the transfer of certain property which Judge Haynsworth bought from Furman University, from which he graduated.

The Mankiewicz-Braden article is so slanted with little words that the only conclusion anyone can draw from it is that Judge Haynsworth was indulging in a lot of hanky-panky to deprive the Internal Revenue Service of tax dollars it justly deserved. In fact, the article says this.

Mr. President, for many, many years, gifts made by people to educational institutions have been a valid legal deduction under our income tax system. This article points out that if it can be demonstrated that it was not done by prior arrangement, it was perfectly legal.

What happened was that in 1958 Senator and Mrs. Charles Daniel started the construction of a home, and then the husband bid on and purchased land one year after that, to Furman University at a price of $115,000. Some time after that, as a matter of fact, 11 days after they re­ceived the deed, the then-debtors and turbine judge called Judge Haynsworth purchased that house from Furman University, and in return gave his own house plus $65,000 in cash to Furman University.

The article is so slanted as to be classified completely irresponsible, if not a purposeful attempt to mislead the American people. At one place it reads:

The process of transfer was arranged over a five-year period, during each of which years Haynsworth donated a one-fifth interest, stating the total value of the property still at $115,000. He claimed a charitable deduction in each of the five years.

If one takes that statement on the face of it, there still is nothing wrong with anything Judge Haynsworth did, but it does not state the truth. If I had been the President's counsel, I would have had a better prepared record. Having those two particular columnists who had written such things, I think I would have felt the same indignation, the same righteous anger—and it was righteous anger—that he felt at that time.

The article goes on to say:

On April 1, 1968, Haynsworth completed the transaction with a deed of the entire property, as a part of which he and Mrs. Haynsworth retained a life estate—the right to live in the residence as long as either is alive.

When you look at these two paragraphs, it is apparent that the plain and obvious attempt of this misleading article is to make people believe that Judge Haynsworth somehow trimmed the tax-house of the{Name of Institution} by the amount that the life estate involved. So his charitable deduction was less than 60 percent of the actual amount that the university did receive by reason of the entire value of the property.

I would not fault him if he had claimed the entire $115,000 but, contrary to the Braden-Mankiewicz report to which I have referred, he actually sold the property for the life estate he and Mrs. Haynsworth retained. A life estate, of course, is a right of use during their lifetime, and Judge Haynsworth therefore discounted the $115,000 by an amount calculated on the basis of the life expectancy of he and his wife, regardless of how long they really might use it. Braden and Mankiewicz did not mention this, however, giving the public the "true facts."

I think the actual facts should be made clear at this point, Mr. President. I think a great injustice has been done to Mr. Haynsworth, a man who had researched this matter to be sure that Judge Haynsworth had not done anything improper, and who knew the facts, which obviously Mr. Braden and Mr. Mankiewicz did not know, even though they purported to.

Therefore, Mr. President, I ask unanimous consent to have printed in the Record at this point, in the article published in Newsweek magazine entitled "The Judge Come to Judgment," calling particular attention to the last four paragraphs of it, in which Mr. Mollenhoff, after referring to what he had printed, the Frank Mankiewicz-Tom Braden column of November 9, 1969, which is entitled "The Strange Case of Haynsworth's House"; and third, an absolutely factual analysis of what did actually occur. If any American can read these three items without becoming fully convinced that it was the desire and the purpose of Mr. Mollenhoff to downgrade and degrade Judge Haynsworth, and that in doing so they have distorted the facts unmercifully, then I
think I am incapable of reading the English language. In view of such an article how can the news media take exception to some of the recent remarks of Vice President Agnew? I believe the rejection of the immigration bill illustrates the seriousness of the problem.

There being no objection, the articles were ordered to be printed in the Record, as follows:

THE JUDGE COME TO JUDGMENT
Across Lafayette Square from the White House, in the stolidly modern headquarters of the AFL-CIO, President George Meany lit up a cigarette and told his audience, "I'm convinced now. We've got this one made." Next door to the executive suite, the Executive Office Building, Richard Nixon's chief political operative, Harry Dent, confided to a friend over the telephone, "For the first time now, I feel we might pull this thing off." Thus last week, the top lobbyists both and against the confirmation of Clement F. Haynsworth Jr. as a Supreme Court Justice, were expressing optimism as they prepared to rest their case and await the verdict of the U.S. Senate.

Many senators, even some on Haynsworth's side, took umbrage at what they considered maladroit handling of the case in the White House itself. Chief target of their wrath was Deputy Supreme Court Justice Clement Mollenhoff, the intense, ex-newspaperman who has taken on the task of rebutting the charges against Haynsworth. Along with Kentucky Sen. William Proxmire, a strong Haynsworth supporter, Sen. Daniel Goddard, a Missouri Democrat, has been trying to guide the Senate through the labyrinth of transactions. Administration strategists dotted up 47 senators definitely for Haynsworth and expected to be able to wrangle another three or four. The undecided; that would set up a tie to be broken in the Administration's favor by Vice PresidentSpiro Agnew. Within the Senate itself, the Haynsworth lobby was doing well. But the roll is called, probably this week, the noes would have it and the President would be faced with his first Senate defeat with whom he was personally unpopular.

The legal validity of all this depends on the arms-length nature of the transactions. Haynsworth was at one time a lobbyist for Kansas City's South Oarolina Vend-A-Matic and the companies with which he had to do business. The legality of all this depends on the arms-length nature of the transactions. Haynsworth was at one time a lobbyist for Kansas City's South Oarolina Vend-A-Matic and the companies with which he had to do business.

HAYNSWORTH'S HOUSE

In 1959, Judge and Mrs. Charles Daniel, a close friend and associate of Haynsworth to Furman University. The university has some cash and will one day have a sponsor of Haynsworth for appointment to the Circuit Court. And the 11-day period during which the Senate was in Washington was not wasted on the Haynsworth lobby. The Senate is having difficulty reconciling its views on the Haynsworth nomination.

THE STRANGE CASE OF HAYNSWORTH'S HOUSE

In 1958, Senator and Mrs. Charles Daniel sold a large new home in Greenville, South Carolina. At that time Mrs. Daniel, who held title to the home In which they were living, gave a one-half interest in the home to Furman University. But in 1960, Mrs. Daniel gave Furman University the remaining one-half interest in the old Daniel home.

The deductions for these gifts were taken on the Daniel tax returns in 1958 and 1959, but there was no record of them until 1960. The delay in recording the deed was at the request of Mrs. Daniel, who did not want publicity in connection with the gift of the home.

In May, 1960, Judge Clement P. Haynsworth, Jr., purchased the Daniel home for $51,000. Furman University had no need for this type of home, but did need the money and accepted Judge Haynsworth's offer. In purchasing the home, Judge Haynsworth gave the university the $51,000, in cash along with his former home, which had an appraised value at that time of $50,000. (The former Haynsworth home was actually sold by the university for $50,000, so this was not an imaginary figure.)

The purchase was not a surprise; there had been discussion between Senator Daniel and Mrs. Daniel and the Haynsworths in connection with the gift of the home to Furman and the subsequent purchase by Judge Haynsworth. The Daniels, looking forward to moving into a new and much more elaborate home, permitted the old home to fall into disrepair in the last two years they were living in it, while paying rent to the university.

Upon moving into the old Daniels' home in June of 1960, Judge and Mrs. Haynsworth completed the transaction with a deed of the entire property, as a part of which he and Mrs. Haynsworth retained a life estate—the right to live in the residence as long as either is alive.

So Daniel wound up paying no tax on the transfer of this property and in addition was able to take a tax deduction of $115,000: Judge Haynsworth has a house in which he and his wife would live. A part of this deduction is to offset the purchase price he, too, has had a shelter for income for five years; the university is some cash and will one day have the property.

HAYNSWORTH'S HOUSE GIFT

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Mr. ALLOTT. I am happy to yield to the Senator from Kansas.

Mr. DOLE. I simply wanted to say to the Senator from Colorado that I think perhaps this was a part of the effort to create the appearance of impropriety, which was successfully done. I do hope that by the Senate action today, we have not destroyed Judge Haynsworth’s future.

That is the only comment I have.

Mr. HATFIELD. Mr. President, during the past 3 months I have listened to the debate regarding the nomination of Judge Haynsworth, participated in colloquy and discussion, and wrestled with the decision that confronts me.

I believe the President has responded appropriately to the challenge of creating a more vital balance in the philosophy of the Nation’s Highest Court. When President Nixon nominated Warren Burger, a “strict constructionist” or judicial conservative, for Chief Justice, I endorsed him warmly and gave him my full support.

As the chief executive of the State for Oregon for 8 years, I made nearly 1,000 judicial appointments. In each case, I sought to weigh their legal expertise, their philosophy, and, of particular importance, their personal character as I made these decisions. I have employed these same criteria as I have given long and serious thought to the nomination of Judge Haynsworth.

I have not been overwhelmed by the consistently clear logic or irrefutable evidence on either side of this case presented to the Senate. Valid questions and objections have been raised, and a thorough-going defense of Judge Haynsworth has been offered.

As I have considered the total picture, it has now become my strong conviction that the debate within this body, the deep division throughout the country, and the crisis threatening our Nation created by this issue have destroyed the possibility of effective service by Judge Haynsworth on the Supreme Court.

In the same manner, it became apparent that my doubts and misgivings could function constructively after serious ethical questions had been raised, focusing public concern on the integrity of the Court.

This nomination will not reestablish the trust and respect that is needed so gravely today for our Nation’s Highest Court. For the sake of the Court, I opposed it.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

LIABILITY OF NATIONAL BANKS

FOR CERTAIN TAXES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 523, H.R. 7491. I do this so that the bill may be the pending business.

The PRESIDING OFFICER (Mr. Dole in the chair). The bill will be stated by the Chair.

The PRESIDING OFFICER. The Aggressor again. A bill (H.R. 7491) to clarify the liability of National banks for certain taxes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Banking and Currency with an amendment to strike out all after the enacting clause and insert:

TAXATION OF NATIONAL BANKS

SECTION 1. (a) Section 5219 of the Revised Statutes (12 U.S.C. 548) is amended by adding at the end thereof the following:

"5. (a) In addition to the other methods of taxation authorized by the foregoing provisions of this section and subject to the limitations and restrictions specifically set forth in such provisions, a State or political subdivision thereof may impose any tax which is imposed generally on a nondiscriminatory basis throughout the jurisdiction of such State or political subdivision (other than a tax on intangible personal property) on a national bank having its principal office within such State in the same manner and to the same extent as such tax is imposed on a bank organized and existing under the laws of such State.

"(b) Except as provided in subsection (a), the Congress has provided the legislature of each State may impose, and may authorize any political subdivision thereof to impose, the following taxes on a national bank located within the jurisdiction of such State if such taxes are imposed generally throughout such jurisdiction on a nondiscriminatory basis:

"(1) Sales taxes and use taxes complementary thereto shall be imposed pursuant to this paragraph upon purchases, sales, and use within the taxing jurisdiction of tangible personal property which is the subject matter of a written contract of purchase entered into by a national bank prior to September 1, 1969.

"(c) No sale tax or use tax complementary thereto shall be imposed pursuant to this paragraph upon purchases, sales, and use within the taxing jurisdiction of tangible personal property which is the subject matter of a written contract of purchase entered into by a national bank prior to September 1, 1969.

"(d) As used in this paragraph 5, the term "political subdivision" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam."

Effective January 1, 1972, section 5219 of the Revised Statutes, as amended by subsection (a), is amended to read as follows:

"SEC. 5219. (a) Notwithstanding any other law, a State or political subdivision thereof may impose any tax which is imposed generally on a national bank having its principal office within such State in the same manner and to the same extent as such tax
The PRESIDING OFFICER. The clerk will call the roll.

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

Mr. PROXMIRE. Mr. President, the bill as presently before the Senate was offered in the Senate originally by the distinguished Senator from Florida, who has had a very deep interest in this matter. Also, a somewhat similar House bill was introduced.

The purpose of the bill is simple, although the implications of the bill are very complex.

The purpose of the bill is to try to give the States an opportunity to tax banks in those States on an equitable basis.

This is hard to do because the present law, section 5219 of the Revised Statutes, provides that excise taxes, of whatever description, which can be imposed on national banks by States or their political subdivisions, the list is explicit and contains a number of detailed and cumbersome exceptions. The point is that the taxes specified in section 5219 are exclusive; that is, they are the only taxes that can be imposed by a State government on a national bank.

This method of restricting State taxation of national banks had its inception approximately 100 years ago.

Mr. SPARKMAN. Mr. President, will the Senator from Alabama, Mr. PROXMIRE, yield to the Senator from Florida, who has had a very deep interest in this bill.

Mr. PROXMIRE. I yield to the Senator from Florida, who originally by the Senate, provided a list of taxes which were moving into a State, which resulted in this kind of protection. There was a very complex situation, and there was a very complex.

Regardless of the method employed by the particular State in an attempt to tax banks, it is important to consider the question of whether it has actually been achieved, be it equality between State and National banks, or equality between banks and other businesses.

There may have at one time been justification for giving national banks privileges and immunities which were denied State banks, under the theory that national banks are the instrumentality of the Federal Government, and, as such, hold a unique and distinct position from that of other institutions. Without specifically addressing the question of whether national banks remain, in substance, such a Federal instrumentality, the committee is agreed that there is no longer any justification for Congress continuing to grant national banks privileges and immunities which are not afforded State banks.

The committee believes that the existence of some of those problems justified correcting amendments.

I shall mention just briefly two particular problems.

The committee believes that the greatest concern about possible increased intangible personal property taxation of banks stems from uncertainty about the implications of the sudden imposition of additional such taxes on the banking systems. Accordingly, the committee believes it wise to prohibit initially the imposition of intangible personal property taxes other than those which were authorized in section 5219 and to require the Federal Reserve Board, in cooperation with the Department of the Treasury and appropriate State banking and taxing authorities, to conduct a study of intangible personal property taxation and its impact on the banking systems. The report would be made on or before December 31, 1970, a little over a year from now, and would not be effective until 1 year later than that, that is, January 1, 1972. The prohibition against additional intangible personal property taxation is thus protected by the provisions of the bill, be automatically repealed unless Congress acts to the contrary during the intervening time.

The committee wants it clearly understood that the prohibition against intangible personal property taxes contained in the proposed new paragraph 5(b) is not a prohibition against the
continued imposition of any tax under the authority of section 5219 of the Revised Statutes which is not authorized under the existing language of section 5219. A new subsection is added to section 5219 which deals with the expanded taxing authority being immediately granted. This was done for the purpose of allowing the States to take immediately the necessary action to impose the additional taxes which might be adversely affected by the immediate repeal of the existing language of section 5219 and replace it with a simple broad statement of law.

The bill then provides that, as of January 1, 1972, section 5219 is amended to do away with the detailed and rather cumbersome language of the current section 5219 and replace it with a simple broad statement of law. The major effect of the January 1, 1972, amendment is to remove specifically the prohibition against intangible personal property taxes that might be levied by the States on national banks whose principal offices are located within that State.

Mr. President, I reserve the remainder of my time.

Mr. BENNETT. Mr. President, as a member of the committee, I supported the bill. I voted for its reference to the Senate. I certainly agree with the purpose and the reason for the pending legislation. However, I have had called to my attention since the bill was reported the fact that there is one provision of the bill which may create very serious problems.

I am sure that this contingency was not thought of by either the proponents of the bill or the members of the committee.

I realize that there is nothing like this section in the House bill, so that the matter will be in conference. I do not expect to ask the Senate to vote on the measure today for that reason. But I would like to make the record so that everyone in the room knows that before the measure goes to conference the members of the committee and the Senate will realize the problem.

Beginning on line 23 of page 5 and continuing through line 4 of page 6 is what is headed the Savings Provision of the act.

Notwithstanding any other provision of law, no tax may be imposed on any bank or by under the authority of any State legislature which is not authorized under the existing language of section 5219 and replace it with a simple broad statement of law.

Mr. PROXMIRE. Mr. President, I really think that by calling this to the attention of the Senate in this brief discussion, I have probably laid the basis for serious consideration of the matter in conference. Therefore, I will not press for a vote on the matter.

Mr. PROXMIRE. Mr. President, I very much appreciate the suggestion that we consider this seriously in conference. However, it has raised an objection that would indicate to me that we certainly should consider whether it should remain in the bill after we adopt it.

Mr. BENNETT. Mr. President, the Senator from Wisconsin will agree with the Senator from Utah that this particular aspect of the language did not occur to any of us during the discussion in the committee. This is a new approach to the problem.

Mr. PROXMIRE. Mr. President, the Senator is absolutely correct. This is a new approach which, I think, was not considered, but which might well have persuaded us to knock it out. However, I prefer, if the Senate agrees, to take this to conference because we have not had a chance to discuss it completely.

Mr. BENNETT. The Senator is correct. I agree with him.

Mr. PROXMIRE. Mr. President, how much time do I have remaining?

Mr. PROXMIRE. Mr. President, I yield to the Senator from Florida all my time if he wishes.

The PRESIDING OFFICER. The Senator from Florida is recognized for 10 minutes.

Mr. HOLLAND. Mr. President, first of all, I express my appreciation to the chairman of the subcommittee which handled the bill and to the distinguished member of the full committee and to the Senator from Alabama (Mr. Sparkman), the chairman of the full committee, not only for prompt hearings of the measure but also for the effort to meet to consider the matter so that we can get it, we hope, to conference.

Mr. President, the act permitting States and local units of government to tax national banking units was passed about 100 years ago. However, I could not support that statement of my own knowledge.

Mr. PROXMIRE. Mr. President, the Senator is almost precisely correct. It was in 1863.

Mr. HOLLAND. It was more than 100 years ago. I thank the Senator.

Under that decision, certain taxes levied by the State which I represent in part, the State of Florida, were held to be illegal when levied against national banks. The fact was that they were levied against national banks and also against the savings and loan institutions.

Since the State of Florida has legislation which, in effect, exempts State banks from any taxes levied against national banks which national banks do not have to pay, this meant that the State banks also were exempted from these particular taxes not specifically permitted by Federal law.

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Since the State of Florida has legislation which, in effect, exempts State banks from any taxes levied against national banks which national banks do not have to pay, this meant that the State banks also were exempted from these particular taxes not specifically permitted by Federal law. And since my State has a similar provision affecting savings and loan institutions, the same result obtained there.

So, the total loss of taxes in the State of Florida, as I am told by the comptroller of our State, who has charge of the collection of State taxes, is somewhere between $25 million and $27 million a year. That is a rather serious deficit in the tax potentiality.

The comptroller, as well as the banking organizations and the building and loan organizations of my State, requested that I introduce legislation on this subject. The purpose of the legislation
As documented in the report (91-530) was ordered by the House Banking and Currency Committee on June 9, 1969. The House passed the bill on July 17, 1969. Hearings were held before the Senate Banking and Currency Committee on H.R. 749 and similar bills and proposals on September 24, 1969. On November 4, 1969, the committee ordered that the bill, with amendments, be printed in the Senate Record.

**BACKGROUND OF THE LEGISLATION**

Section 5219 of the Revised Statutes (12 USC 548) currently provides a list of taxes which can be imposed on national banks or their branches as State taxes or their local branches as State taxes. The list is explicit and contains a number of detailed and cumbersome exceptions. The committee believes it is time to rewrite the list and permit the taxing of national banks in response to taxes levied by the Federal Government on State banks.

The States have utilized a number of methods to deal with the problems arising from the fact that the State and Federal governments are not liable for the same State taxes as State banks.

SOME STATES HAVE EXEMPTED STATE BANKS FROM LIABILITY FOR ANY STATE TAXES WHICH NATIONAL BANKS ARE SUBJECT TO TAXATION ON TANGIBLE PROPERTY, COMPARED TO THEIR IMPACT ON MANUFACTURING CORPORATIONS, WHICH HAVE ALMOST ALL STATE TAXABLE PROPERTY.

The committee also notes that some of the taxes on national banks now being allowed under the present section 5219 are considered to be discriminatory or unfair, for example, the tax on intangible personal property as that term is used in the new section 5(a), and they could be imposed on national banks by the States during the period up to January 1, 1972, as well as after that date. The committee believes that the greatest concern about possible increased intangible personal property taxation of banks stems from uncertainty about the magnitude of the impact of the additional such taxes on the banking systems.

The committee believes that the States have utilized a number of methods to deal with the problems arising from the fact that the State and Federal governments are not liable for the same State taxes as State banks.

The committee believes that the question of taxation of national banks from liability for any State taxes which national banks are subject to taxation on tangible property, compared to their impact on manufacturing corporations, which have almost all taxable property.

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As noted earlier, serious objections were raised in regard to the possibility of allowing such taxation without additional study. Accordingly, the committee agreed to continue the prohibition against interstate taxation with the exception of those taxes which virtually everyone concerned agreed should be paid by banks, even though they may be located outside the taxing State. Accordingly, section 5(b) specifies the taxes which may be levied. These taxes are sales and use taxes, real property taxes, documentary taxes, tangible personal property taxes, and the various license, registration, transfer, use and occupational taxes levied in connection with tangible personal property. Other forms of unspecified Interstate taxation would be prohibited until Congress acts further.

The proposed new paragraph 5(c) prohibits the imposition on banks, organized 5, of sales and use taxes on tangible personal property which is the subject matter of written purchase contracts entered into prior to September 1, 1969.

The proposed new paragraph 5(d) defines the term "State" to include the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

Section 1(b) of the bill provides that as of January 1, 1972, section 5219 of the Revised Statutes is amended to remove the detailed specifications of allowable taxes (contained in the law as of December 1, 1968) prior to that date which were temporarily retained for a period of 2 years (to allow States to conform their statutes to the new tax structure) and substitute in broad statement of law:

"(a) Notwithstanding any other law, a State or political subdivision thereof may impose a tax on income from sources within the jurisdiction of the State. The tax must be levied and imposed on a non-discriminatory basis and shall be in an amount not to exceed an amount equal to the effective rate of the income tax imposed by the Federal Government on Federal taxable income (determined by subtracting Federal income tax). The amount raised shall be the effective rate.

"(b) Notwithstanding any other law, a State or political subdivision thereof may impose a tax on income from sources within the jurisdiction of the State. The tax must be levied and imposed on a non-discriminatory basis and shall be in an amount not to exceed an amount equal to the effective rate of the income tax imposed by the Federal Government on Federal taxable income (determined by subtracting Federal income tax).

As noted earlier in this report, the major substantive change in this amendment would be to remove the prohibition against the interstate imposition of intangible personal property taxes.

Section 2 of the bill provides that no tax money may be imposed on any bank under the authority of any State legislation in effect prior to the date of enactment of this act if such bank is not required to pay the tax prior to such date, unless the imposition of such tax is affirmatively authorized by the State legislature after the enactment date.

The committee realizes that for many years the tax structure within the States have been drawn in recognition of the different positions of State and National banks with respect to liability for State taxes. In effect, the States have adopted many different formulas in an attempt to equalize the tax burdens between State and National banks. If by congressional action banks were automatically subject to taxes which they had not been previously paying, the result would be the destruction of the degree of equality that the State legislation was intended to achieve. Accordingly, the committee believes it wise to require positive State legislative action as a prerequisite to the imposition of the additional taxes authorized by the bill.

Section 3 of the bill requires the Federal Reserve Board to conduct a study, in consultation with the Secretary of the Treasury and appropriate State banking and taxing authorities. A report of the results of the study must be made to Congress not later than December 31, 1970.

Cordon Rule

In the opinion of the committee it is necessary to dispense with the requirements of subsection 4 of rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate in connection with this report.

Individual Views of Mr. Tower

While agreeing with the motives for this bill, namely, the extension of the State taxation base in the banking industry and at the same time encouraging greater equality of treatment taxwise as between national banks, State banks, and other financial institutions, I must take issue with the methods by which the committee's bill proposes to accomplish these purposes.

The specific purpose of both the House bill and the Senate committee consideration is to provide authorization for the States (and local governments) to levy modern personal property taxes, the characteristics of which were not in common use and not allowed for when the present statute (sec. 5219) was drawn. Notwithstanding these basic three methods under consideration to accomplish this purpose, the first being the House bill, H.R. 7491, the second being Senator Holland's bill, S. 2906, and the third being the present committee bill.

These three approaches to the problem of changing existing law to bring modern personal property taxes to be imposed are explained and compared below; my conclusion in studying these three bills is that Senator Holland's bill is considerably simpler and less costly for the States to put into effect than either of the others and will not disrupt the existing State tax-structure which States and localities currently depend heavily on.

1. H.R. 7491: In one immense, immediate move this bill would treat national banks as State banks for purposes of State taxation, which would have the substantial disadvantage of--

(a) Destroying State taxation statutes which refer to the Federal statute (Sec. 5219).

(b) In States where the taxation statutes for national banks would survive H.R. 7491, the provisions of the bill where the State treats them equally by its own statute would become subject to taxation as normal corporations, in addition to the special tax which was imposed on them by authority of section 5219 and which would still be in effect. Since States and localities currently draw substantial revenue from the tax they impose on national banks by virtue of section 5219, they will be unlikely to move quickly to abolish it, and the result will be a still further layer of tax on the banks, in addition to the non-existent expense of labor that is likely to encounter upon the enactment of H.R. 7491 (e. g., double taxation of net worth).

(c) Require State legislatures to reconsider and entirely revamp their bank taxation structures, surely a time-consuming and expensive process.

2. S. 2906 (Senator Holland): In recognition of these principal disadvantages (and others) connected with the House bill, Senator Holland introduced a much more feasible bill which would take into account the existing complex State tax structures based on section 5219 and would allow them to continue such structures, with the specific addition of the newer taxes desired by the States, namely: (1) Sales taxes (use taxes), (2) tangible personal property taxes (not in-
Mr. HOLLAND. I thank the Senator. My purpose is to have the Record disclose just where we are, because bankers all over the country, citizens all over the country, and many others who are going to be very interested in this matter and want to know what is before the conference. Of course, they are going to be very eager to hear any agreement reached and also to know what that action will be.

So far as the Senator from Florida is concerned, he is inclined to agree with Senator Holland's substitute bill and impose the newer taxes rather than on rather hazardous guessing, as the committee's proposal does in its present form.

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JOHN G. TOWER.
I do want to say this: The Senator said something about hoping that the conference could be held within the next few days. It will not be feasible to hold it until after December 31. However, I certainly will do my best to get it to conference as soon as we can.

Mr. HOLLAND. Mr. President, will the Senator yield briefly?

Mr. HOLLAND. I yield.

Mr. HOLLAND. I understand that the Governor of my State has called a special session of our legislature to meet in December. I am not sure of the date but it will be before December 31. Therefore, I hope that the conference can rely on that and I am confident we will come back with a bill.

Mr. GURNEY. Mr. President, I support this bill, H.R. 7491, the purpose of which is to equalize State taxation of banking institutions, that is, to put on an equal basis within a particular State, the taxation of national banks and State banks.

An intolerable situation had arisen in the State of Florida out of the case of the First National Bank of Homestead and Okaloosa National Bank at Niceville against the State. This case, decided by a three-judge U.S. District Court for the Northern District of Florida, enjoined the comptroller of the State of Florida, the Florida Revenue Commission, and the director of revenue from levying certain sales and use taxes, intangible personal property taxes and documentary stamp taxes on the said national banks. The case was affirmed by the U.S. Supreme Court in a memorandum decision on July 26, 1969.

This case meant the loss of many millions in dollars in tax revenue to the State of Florida, which was serious enough by itself. But there was an even greater injustice caused by the decision, in that it placed the two banking systems in the State of Florida, that is the State banks and the national banks in entirely different economic categories. The State banks were subject to various State taxes, while the national banks, because of the decision, escaped the same taxes altogether. Obviously, this created an intolerable situation.

This bill corrects that injustice and disparity and I fully support the bill.

The passage of this bill will be accompanied with considerable and grateful enthusiasm by banking interests in Florida, as well as other interested citizens, who are acquainted with this problem.

While I support H.R. 7491, because the legislation is urgently needed and will accomplish the desired result of equalizing taxes as far as State and national banks are concerned, I must say that S. 2906, which was introduced by my colleague, the senior Senator from Florida, and cosponsored by me and others, would have been a much better bill. However, Senator HOLLAND’s bill would have equalized the tax situation as far as the State and national banking institutions are concerned, but it would have also permitted the various existing complex State tax structures to have continued, whereas the bill before us, H.R. 7491, complicates and confuses the situation.

Senator HOLLAND’s bill was simpler, and in my view, much more reasonable and logical. However, as I say, I do support the present bill before us as urgently needed to cope with the situation facing the State of Florida and others, and that is to correct the inequitable State taxation of State banking institutions and put them on a par.

The PRESIDING OFFICER (Mr. SCHWIKER in the chair). The question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 7491) was read the third time and passed. Mr. HOLLAND. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I move that the Senate insist on its amendment and request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the conferees on the part of the Senate.

ASSISTANCE TO MEDICAL LIBRARIES

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Represent­atives on H.R. 11702.

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. 11702) to amend the Public Health Service Act to improve and extend the provisions relating to assis­tance to medical libraries, and to authorize further reductions in the federal foreign instrumentality, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. MANSFIELD. Mr. President, 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. YAR­BROUGH, Mr. WILLIAMS of New Jersey, Mr. MANSFIELD, Mr. EDELMAN, Mr. CRANSTON, Mr. HUGHES, Mr. DOMIN­ICK, Mr. JAVITS, Mr. MURPHY, Mr. PROUTY, and Mr. SAXE conferences on the part of the Senate.

TAX REFORM ACT OF 1969—REPORT OF A COMMITTEE—INDIVIDUAL AND SEPARATE VIEWS (S. REPT. NO. 91-532)

Mr. LONG. Mr. President, from the Committee on Finance, I report favor­ably with an amendment, H.R. 13270 to reform the income tax laws, and I submit a report thereon. I ask unanimous consent that the report be printed, together with individual and separate views.

The PRESIDING OFFICER. The report will be received and the bill will be placed on the calendar; and, without objection, the report will be printed, as requested by the Senator from Louisiana.

Mr. LONG. Mr. President, the legis­lation I am reporting is the Tax Reform Act of 1969. It is a comprehensive and momentous piece of legislation—probably the most massive bill that will come before the Senate in the 91st Congress. This bill represents more than 2 months of some of the most painstaking work any Committee has ever undertaken. It contains $7 billion of revenue raising tax reforms and it extends more than $9 billion of tax reductions spread out over the years 1971 and 1972.

Without the tremendous dedication to their work that the members of the Finance Committee demonstrated during the long and arduous work that preceded the bill it would not be possible for this bill to come before the Senate at this time. The Senators of the committee gave generously of themselves. They did their homework and always prepared themselves for the intricate discussions of tax loopholes and tax avoidance devices which marked most of the work on the bill. Our staffs, too, demonstrated tremendous dedication to the Committee. And, Senators will learn next week when we begin the debate on the bill that this is not the kind of a bill that can be acted on without the aid of an expert staff.

Mr. President, I should particularly commend the chief of staffs of the joint committee, Mr. Larry Woodworth, Mr. Harry Littell, senior counsel of the Sen­ate’s office of legislative counsel, and Mr. Tom Vail, chief counsel of the Committee on Finance, as well as their fine assistants for the many, many hours of dedicated work they devoted to this task. These people prepared all sorts of data on pamphlets for Senators day by day to take home with them at night to study for the session the next day, preparing and summarizing statements of witnesses before they appeared so that we could move more expeditiously through the hearing, more so than has been achieved by any other Committee during this Con­gress, the previous Congress, or Con­gresses before that, so far as I recall.

We tried to hear all witnesses who were requested to appear. It was necessary to persuade at least 500 or the nearly 800 people who wanted to testify that we would accept a statement to be printed in the record, or consolidate their statements with those of other witnesses so that we could conclude the work on this bill in the time allotted to us.
For the last 3 weeks since the committee ordered the bill reported on October 31, the drafting of the technical language carrying out our many decisions—and we made more than 400 changes or deletions going on in the office of the Senate legislative counsel. The drafting group was large. It consisted of our committee staff and the Joint committee staff and perhaps as many as 75 experts that the Treasury Department and the Internal Revenue Service made available to us for this work. But in the final analysis the entire product of their efforts in carrying out this draft rests upon the shoulders of one man: Harry B. Littell, senior tax counsel, in that office.

The Committee on Finance is, and indeed the Senate itself should be, very proud and fortunate to have a man of Harry's unquestioned ability available to help transform our decisions into precise statutory language. The limit placed upon him to draft this unusually long and detailed bill was almost impossible to meet. But by giving us his Saturdays and Sundays and by working around the clock during the long weekdays he has finished the technical work. I for one applaud him as a good tax lawyer, an excellent draftsman, a dedicated Senate employee, and a fine person.

Now it is up to us in the Senate to take up the committee's bill and decide whether the many tax reforms in this bill are going to be put into effect. It is up to us to decide whether the massive tax cuts this bill provides—and the tax relief it brings to poverty income groups—is truly going to be the law of the land. It is important. 

In preparing for the debates on the bill next week, I urge Senators to read and study the summary of the bill I sent them on Tuesday. It is an accurate and complete description of the many features of this complex bill. I am certain that Senators will profit by reading it in advance of the formal debate. It will help them understand not only what we have done but why we have done it. It will also explain why we propose it. If Senators will view the committee's work in this perspective it will do much to expedite floor consideration of the Tax Reform bill.

Mr. MANSFIELD. Mr. President, I wish to commend the distinguished Senator from Louisiana who, with his committee, has done a remarkable job in reporting the bill, which will soon be the pending business before the Senate, not later than October 31, and for being able, in a circumscribed period of time, to report to the desk the bill in all its details so that the Senate can be ready to take it up on Monday night.

I cannot speak too highly in praise of the distinguished Senator and the members of his committee on both sides of the aisle. I think Senator Proxmire has done a magnificent job and I think what they have accomplished is something a lot of people thought they could not do in the period in which they worked. I cannot say words high enough in praise of the Senator from Louisiana for this fine job. I am grateful that he has been able to do what he has done, and I have every reason to believe that the fact that it was an unusual success.

Mr. LONG. May I thank the majority leader very much for the kind remarks he has made, both about the chairman of the committee and the committee itself.

As I said in my remarks, I believe the committee put in longer hours and worked more diligently on this piece of legislation than ever before, to try to hear the points of view of all concerned about the bill—and there were many—and also to try to consolidate the statements, and get abbreviated statements, so that we could consider the points of view of all those, for one reason or another, might feel they were adversely affected by this legislation, as well as those who felt that they were perhaps entitled to more consideration than the House or even the Senate felt it could accord them.

I regret it was not possible to hear some witnesses to the extent we would like to have done. I am particularly referring to the witnesses representing a nationwide organization, who was concerned about the fact that he was permitted only 10 minutes to testify. He certainly had a right to speak longer than that. However, there were others who shared his point of view who spoke for 2 whole days with regard to the subject that this witness was concerned about. And I believe they would have made it impossible to have acted on the bill this year. Therefore, we did the best we could with the time available to us.

Mr. MANSFIELD. I deeply appreciate what the Senator has done.

TAX REFORM ACT OF 1969

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 13270, the Tax Reform Act of 1969. I do this so that the bill will become the pending business of the Senate.

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

The LEGISLATIVE CLERK. H.R. 13270, an act to reform the income tax laws.

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

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, again for the information of the Senate, first, there will be no votes this afternoon; second, there will be amendments. I am sure, offered on Monday, Tuesday, and Wednesday of next week before we go out for the Thanksgiving period.

It is possible that there will be votes on some of the amendments. Thus, once again, I emphasize this very strong possibility to the Senate, so that all Senators will be prepared and will know what the prospects are for next week.

AGNEW'S ATTACK ON RESPONSIBLE PAPERS—WRONG BUT SHREWDED POLITICS

Mr. PROXMIRE. Mr. President, the Vice President of the United States last night delivered an attack on two of the giants in the nation's press, the New York Times and the Washington Post.

The speech was inaccurate, as both the New York Times and the Washington Post pointed out with documentation today. It was wrong-headed in its assumption that deliberate bias rather than for fairness, objectivity, balance—these principles of the Nixon administration have not been getting a generally favorable press.

The overwhelmingly pro-Republican editors and position editors throughout the country have, correctly, expressed that. Even in Washington—which the Vice President singled out as a horrible example—two of the newspapers support the Nixon administration on most issues. The third, the Washington Post, has supported President Nixon on some and, of course, given his views on virtually every significant issue, strongly opposed him. 

But in spite of all this, the Vice President deserves credit for opening up an area of power and influence in America that should be debated and discussed. And the most important part of what the Vice President has missed—the Vice President has come across an ingenious and attractive target for any shrewd politician, and the target that Mr. Agnew has discovered, as have a few other astute politicians, is that making a punching bag out of a really good, honest, fair and responsible paper today is smart politics.

This is something new. One of the first principles any successful politician learns at his mother's knee or shortly after is: "Never argue with a newspaper."

The sense behind that principle is that the newspaper can in the long run win any argument with an adversary and destroy him in the process.

Now this was true of papers—almost all papers—a generation ago. It is true of many papers today. Any Senator who tangles with a paper that has little regard, for fairness, objectivity, balance—accuracy—a paper that is willing to conduct a feud—any politician tangle with that kind of paper has not got a chance.

The politician can make his argument but the paper will not print it. The paper will print the arguments of his opponent. It will carry features stressing his mistakes, his weaknesses. Every time it makes a blunder—and all of us do it—it will come down hard, and constantly. In the community where that paper circulates, it will kill him.

But in the good old days, papers like the Washington Post, the New York Times, the Milwaukee Journal, the Louisville Courier, the St. Louis Post-Dispatch and others, will not do that. They will not do this because the principles they believe and practice.

A public official can take those papers on directly. He can threaten, denounce. And he can win.

Why? Because the paper will not really fight back. It will not stop printing what the public official says if it is newsworthy. It will not slant its coverage of him. It will not exaggerate every statement of the official's weaknesses. It will do its best to report the news
EXTENSIONS OF REMARKS

COINCIDENTAL RACISM

HON. WILLIAM (BILL) CLAY
OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
Thursday, November 20, 1969

Mr. CLAY. Mr. Speaker, many black Americans and peoples of other colors throughout the world have suspected that racial overtones are involved in the Vietnam war. I might add that the sus­picion is based more on fact than fan-
tasy. For Americans being racist oriented as they are—have justified the intrusion militarily into the internal affairs of Vi­etnam on the pretension that the spread of international communism must be re­stored. Further, Americans rationalize that it is in the best interest to coexist with the chief architects of this inter­national Communist conspiracy.

Our country has divided the Commu­nist world into two groups—the good and the bad. And it may just be coinci-
dental that all the bad Communists are peoples of color—Chinese, Cubans, Viet­namese, Kowtows. If in truth it is coinci-
dence, I contend it is racist coincidence.

Mr. Speaker, I charge the American Government with hypocrisy of the highest order. While our troops are dying in Asia to prevent a colored minority from determining the future of a colored ma-
jority supposedly, and at the same time this Government is supporting white mi-
norities in African countries who are forcibly dominating black majorities.

Mr. Speaker, I call the attention of my

contrary. Their failure to respond would be validating the Agnew criticism.

Mr. Agnew has found an ingenious formula for political success. It will be hard for the great newspapers of this country, great in their efforts to report fully, fairly, objectively, and with bal-
tance, to find a way to meet this without destroying their principles.

In a new test of popular under-
standing and intelligence to see how the American people respond to this new technique. I suspect there is nothing really the newspapers can do except be parochial and try to present collec-
tive wisdom of the American people. If there is anything else the TV networks can do, this Senator would like to hear it.

AUTHORIZATION TO FILE REPORTS
DURING ADJOURNMENT

Mr. BYRD of West Virginia. Mr. Presi-
dent, I ask unanimous consent that it be in order to file reports on bills and resolu-
tions, together with minority and indi-
vidual views, during the adjournment of the Senate until 11 a.m. on
Monday, November 24, 1969.

The PRESIDING OFFICER. Without objec-
tion, it is so ordered.

Mr. BYRD of West Virginia. Mr. Presi-
dent, 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. PROXMIERE. Mr. President, I ask
unanimous consent that the order for the
presence of the Members be recalled.

The PRESIDING OFFICER. Without objec-
tion, it is so ordered.

ADJOURNMENT UNTIL MONDAY,
NOVEMBER 24, 1969, AT 11 A.M.

Mr. BYRD of West Virginia. Mr. Presi-
dent, if there be no further business to come before the Senate, I move, in ac-
cordance with the previous order, that the Senate stand in adjournment until 11 o'clock Monday morning next.

The motion was agreed to; and (at
1 o'clock and 49 minutes p.m.) the Senate adjourned until Monday, November 24, 1969, at 11 o'clock a.m.

REJECTION

Executive nomination rejected by the
Senate November 21, 1969:

SUPREME COURT OF THE UNITED STATES
Clement F. Haysworth, Jr., of South Carolina to be an Associate Justice of the Supreme Court of the United States.

EXTENSIONS OF REMARKS

about its assailant fairly, accurately, ob-
jectively.

Oh, of course, back on inside page 22
on the editorial page it will rough him up. But a man as astute as Mr. Agnew
will know that the only people who can
consistently read the editorials are the edi-
torial writers and the people they discuss, plus a very few more.

Studies repeatedly show the enormous readership divergence between a front-
page story, reporting what an Agnew says, and inside the paper editorial
reporting that what he says is not true.

The editorial does not have a chance. And the good newspaper does not, either.

This is particularly true because a pub-
lic official attacking an established news-
itorial writers and the people they discuss, plus a very few more.

And the good newspaper does not have many friends. One time or another it has
cut up a lot of people and struck out at a lot of popular prejudices. It has prob-
ably taken on groups and institutions around in this fight he is the und erdog, the New York Mets in the
world series or N a m a t h 's Jets in the
super bowl.

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