But it did not recommend anything like the guidelines now in existence.

It is doubtful the commission would agree to the wisdom of these new guidelines.

IMMEDIATE SOCIAL SECURITY PAYMENT INCREASES ARE IMPERATIVELY NEEDED BY OUR OLDER CITIZENS

HON. HAROLD D. DONOHUE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 24, 1969

Mr. DONOHUE. Mr. Speaker, despite the importance of other pending measures, and notwithstanding the complexity of certain of its provisions, I most earnestly urge and hope that the leadership, on both sides of the House and the Senate, will cooperate with the respective committee chairmen, so that this House and the Senate will be provided an opportunity in the immediate future to approve a substantial increase in social security benefits, an increase that is desperately needed by millions of people in this country today.

Unfortunately, it is an established fact that an insufficient income is still the major problem that deeply distresses over one-third of the some 25 million Americans now over 65 years of age, and we cannot escape the harsh reality that insufficient income will continue to be the major problem of most all of our senior citizens if we further permit running inflation to smother our best efforts to improve the social security system.

Mr. Speaker, it is a further and unfortunate fact that current social security benefits dismally fail, in most cases, to provide even minimal subsistence standards for our older citizens. It is inconceivable to expect some 25 million Americans, all nearly totally dependent upon social security payments, to exist on income at or near the poverty level.

The imperative need of these social security recipients, in the face of continuous and disheartening advances in the costs of every service and food staple necessary to minimal decent living in this land of promise and plenty, is an immediate substantial increase in social security benefits and allowances. Today, one out of every eight Americans count on their monthly social security check for the mere essentials of a decent life and the economic fact is that their present check is not large enough to provide these essentials.

Mr. Speaker, there are, of course, other improving provisions that must be incorporated into any revision of the present social security law, such as an automatic cost-of-living increase to overcome inflation effects, reduction of the retirement eligibility age, the possibility of eliminating the ceiling on earned income, liberalization of the definition of disability, and removal of the unrealistic extended time period for disability qualification, and many other proposed improvements contained in my bill and the other measures pending in committee.

However, and finally, Mr. Speaker, my urgent plea is to immediately initiate and complete legislative action to grant these social security payment increases, with automatic cost-of-living clauses, alone, if it is felt that we do not have sufficient time left in this session of the Congress to accomplish a total revision of the present social security system. I urge the chairman and members of the House Ways and Means Committee to exert every possible effort to report, if necessary, a separate, substantial benefit increase bill and make the benefits payable retroactively to at least April 1, last. Certainly such legislative action would tend to encourage and generate a more realistic sense and widespread appreciation of the spirit of Thanksgiving and Christmas which is, basically, to contribute as much as we legislatively can toward improving the quality of life for all our fellow citizens and fellowmen here on earth.

HAZELWOOD MARINE KILLED IN VIETNAM

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 24, 1969

Mr. GAYDOS. Mr. Speaker, it is with deep regret that I announce the death of another of our brave fighting men, Lance Cpl. Robert C. Barr, of Hazelwood, Pa., who was killed in Vietnam.

We owe a profound debt of gratitude and appreciation to our dedicated servicemen who sacrified their lives for this great country. In tribute to Lance Corporal Barr for his heroic actions, I wish to honor his memory and commend his courage and valor, by placing in the RECORD the following article:

HAZELWOOD MARINE KILLED IN VIETNAM

A Hazelwood Marine has been killed in action in Quang Nam, Vietnam, the Defense Dept. announced.

He was identified yesterday as L-Cpl. Robert C. Barr, 19, son of Mr. and Mrs. Anthony B. Barr, of 5020 Ampere St.

Cpl. Barr, a member of the 3rd Platoon, 1st Marine Division, was killed Tuesday.

He was employed at the Homestead Works of U.S. Steel Corp. after graduating from South Vocational High School in June, 1967, joined the Marines in June, 1968, and went to Vietnam last February.

His sister, Cathleen, said "he didn't seem to be having any difficulty in Vietnam . . . I guess he didn't want to scare us."

In addition to his parents and sister, Cpl. Barr is survived by three brothers, Anthony J., 17, Thomas M., 13, and Richard E., 11.

HOUSE OF REPRESENTATIVES—*Tuesday, November 25, 1969*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

He leadeth me in the paths of righteousness for His name's sake.—Psalm 23: 3.

O Thou who art the light of the world, the life of the faithful, and the love of those who put their trust in Thee, let Thy spirit shine in our hearts as we wait upon Thee in prayer. Grant unto us the will to do Thy will that with faith in Thee alive within us we may let our light of hope shine before men. By Thy grace may we reverently use our freedom to maintain justice, to establish liberty, and to promote understanding among men and nations.

Deepen our life as a nation in righteousness, truth, and good will. Mold us into one people, united in purpose and program, to keep our Nation free and to strengthen the bonds of fellowship between the citizens of our beloved Republic.

Plant virtue in every heart, love in every home, light in every church, and liberty in every country, for Thy name's sake. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2566. An act for the relief of Jimmie R. Pope.

MAKING IN ORDER CONSIDERATION OF JOINT RESOLUTION FOR FURTHER CONTINUING APPROPRIATIONS, 1970, ANY DAY NEXT WEEK

Mr. MAHON. Mr. Speaker, I ask unanimous consent that it may be in order any day next week to consider a joint resolution making further continuing appropriations for the fiscal year 1970 beyond December 6, 1969.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONGRESS MUST PASS FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969 AT THE EARLIEST POSSIBLE MOMENT

(Mr. STAGGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STAGGERS. Mr. Speaker, November 20, 1968, was a sad day for the American Nation. On that day 78 men perished in a mine disaster which rocked the complacency of the coal industry and startled the American conscience into a reawakening.

Many people had thought that coal miners were no longer subject to death, disability, and disease because of their occupation. Many believed that the dis-

asters which had always characterized the coal industry were a thing of the past. The explosions, the fires, and the anguished faces of the widows and orphans of Farmington buried forever that mistaken notion.

Under the impetus of Farmington, Congress has considered the need to update and strengthen the Federal Coal Mine Safety Act of 1952. Public pressure would permit no less. Both Houses have now passed a strong coal mine health and safety bill.

Mr. Speaker, the time for temporizing and delay is long over. I urge the members of the conference committee to bring to the floor of the House and the Senate immediately the coal mine health and safety bill which has been agreed upon by the conference. Our moral imperative dictates no less. Our responsibility, not only to the coal miner and his family, but to our own constituents who have demanded effective mine safety legislation dictates that this Congress respond to this demand and pass the Federal Coal Mine Health and Safety Act of 1969 at the earliest possible moment.

THE RECORD PROVES THAT THE GOODELL VIETNAM WITHDRAWAL RESOLUTION WAS DRAFTED "UNDER THE SUPERVISION AND DIRECTION OF TOP LEADERS OF THE NOVEMBER MORATORIUM COMMITTEE"

(Mr. STRATTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, I see by news reports this morning that a "spokesman" for the junior Senator from New York, Mr. GOODELL, confirms the story which appeared in yesterday's Washington Post about the origins of the Senator's now famous Vietnam withdrawal resolution, but denies, as I pointed out yesterday, that these circumstances mean that this resolution "was actually drafted under the supervision and direction of the top leaders of the Vietnam Mobilization Committee." The spokesman is quoted as maintaining that all the Senator did was to "consult" with the moratorium.

If the Senator's spokesman claims that what the Senator did was nothing more unusual than routine, run-of-the-mill consultation, then he is either unable or unwilling to read English. If the story is confirmed, then it means what it says.

Here is what the story said: The moratorium wanted a "specific piece of legislation around which they could organize a national campaign." Senator GOODELL "had decided to make a dramatic plunge into the peace movement" and "made contact with the Vietnam Moratorium Committee." The story said:

> Out of that meeting came a Goodell promise to produce some legislation. They discussed and discarded the idea of a bill to prevent draftees from being sent to Viet Nam. They did not want a "sense-of-the-Senate" resolution . . . Goodell finally came up with the December 1970 Disengagement Bill and they agreed to support it around the country.

In other words, Senator GOODELL discarded the bills the moratorium disapproved of and introduced in the Senate only the bill they approved. They had a clear-cut veto over his actions on this particular bill. This is a long way from "consultation" in anybody's dictionary.

Senator GOODELL may be playing the pipe, but the Vietnam Moratorium Committee is clearly calling the tune.

VICE PRESIDENT AGNEW'S COMMENTS ON TV AND NEWS MEDIA

(Mr. WOLFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLFF. Mr. Speaker, I share the valid and growing concern being expressed throughout the country at the unjustified and intemperate attacks by the Vice President on free speech and the media. Employing the propagandist's technique of "sweeping generalization" the Vice President has started down a path which, if followed to its end, could lead to censorship, repression, and erosion of the first amendment freedoms.

Some have made a joke of this. But it is no laughing matter. Broad indictments such as those employed by the Vice President are dangerous weapons that have had great success in totalitarian regimes.

No one can responsibly argue that all the media are always responsible or fair. But as one who had a long career "on the other side of the microphone," I know that the media are constantly striving for the highest standards of responsibility and fairness. Accordingly, I shall in the near future read into the RECORD of the House the responses of media representatives to Mr. AGNEW's charges.

Nor can one reasonably argue that all who dissent from policy do so peacefully or properly. But the violence of a very limited element must never be used to justify restrictions on the fundamental right to dissent.

Vice President AGNEW is, I suppose, exercising his own right of free speech. But I would remind him of the classical argument that no one has the right to abridge the rights of others. And the only consequence of adherence to the doctrine currently being espoused by the Vice President would be the abridgement of the rights of assembly, free speech, free press, and dissent.

These are the very freedoms that have made our country so great and they must be protected if our greatness is to prevail.

I would point out to the Vice President that a little repression, like a little recession, is not good for this country.

DR. EDWARD WENK, JR., ANNOUNCES RESIGNATION

(Mr. PELLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PELLY. Mr. Speaker, the announcement came today of the resignation, effective January 31, 1970, of Dr. Edward Wenk, Jr., as Executive Secretary of the National Council on Marine Resources and Engineering Development.

Dr. Wenk served three Presidents as policy adviser on science and technology. As a matter of fact when Dick Nixon became President in January, I immediately expressed the hope that the new administration would retain Dr. Wenk especially because it was apparent that a new and expanded oceanographic program in America is about to come into being after years of careful study and planning. Certainly any legislation to implement our maritime resources and knowledge will owe much to Dr. Wenk, Jr., as those of us on the House Subcommittee on Oceanography will testify.

The Government is losing a topnotch man of science and a great many of us in Congress will regret his leaving, but his future which I understand will be in the academic field assures that his contributions will continue.

Mr. Speaker, I bespeak the sentiments I know of all who worked closely with Dr. Wenk in wishing him well.

PLEA TO END A.B. & W. BUS STRIKE

(Mr. BROYHILL of Virginia asked and was given permission to address the House for 1 minute.)

Mr. BROYHILL of Virginia. Mr. Speaker, the A.B. & W. bus strike is now in its third week with no solution in sight. The situation is intolerable. We cannot blame the drivers for insisting on wages they need to maintain a decent standard of living; nor can we blame management, who will have insufficient revenue to operate at a profit without fare increases if they agree to the wage demands. Yet in an area so vital as daily transportation for thousands of commuters and schoolchildren the public interest is paramount.

We are headed on a collision course, Mr. Speaker, with management unable to pay increases demanded by drivers and the drivers unable to work for less. I believe our only solution is to begin immediate negotiations to buy the company and operate it under public ownership.

Mr. Speaker, I am now drafting legislation to give the Washington Metropolitan Area Transit Authority the authority to acquire all bus transportation facilities in the Washington area, and setting up an interim agency to acquire the A.B. & W. system pending required ratification by the States of Virginia and Maryland.

The strike must be settled before Congress can act, Mr. Speaker, but I believe anticipation that the company will be taken over may encourage management to settle for more than they could do profitably if they expected to continue to operate the system.

Mr. Speaker, I urge my colleagues to join me in action to end the chaos this strike is creating.

DEMONSTRATORS SHOULD POST BOND TO INDEMNIFY TAXPAYERS AGAINST DAMAGE

(Mr. DEVINE asked and was given permission to address the House for 1 minute.)

Mr. DEVINE. Mr. Speaker, the minority leader, the gentleman from Mich-

igan (Mr. GERALD R. FORD), last night on television, revealed that $1,800,000 was the approximate expense totaled up thus far as the result of the "peaceful" demonstration under the guise of a moratorium. It was pointed out that also every bank along Connecticut Avenue and many of the businesses had their windows smashed and there was pilfering and other damage to the citizens of the District of Columbia and their property.

Accordingly, I was compelled to dig out legislation I had introduced 2 years ago, in November 1967, and reintroduce it today. It would require any person or persons, seeking a permit to demonstrate, to conduct a vigil, to march, or to parade in the District of Columbia or on Federal property, to post a bond to indemnify the taxpayers of America against their indiscretions, and damages caused. I see no reason whatsoever for the law-abiding citizens of America, the taxpayers, to be required to pick up the check for the irresponsible lawbreakers. I trust the leadership will schedule hearings at an early date.

JUDGE HAYNSWORTH SHOULD REMAIN ON CIRCUIT COURT OF APPEALS

(Mr. WATSON asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WATSON. Mr. Speaker, inasmuch as Judge Haynsworth and his family have just suffered through a totally unjustified and agonizing personal experience, it is understandable that anyone under similar circumstances would be considering the question of his future judicial service. But let me say publicly, as we encourage Judge Haynsworth to remain on the bench, that all knowledgeable people agree that the failure of the U.S. Senate to confirm him was because of geographical and political considerations rather than a lack of personal qualifications.

While it is highly unfortunate, it is also true that there exist desperate and unprincipled individuals willing to employ half-truths and invidious innuendoes in order to win a political battle. I am, however, confident that neither the American people, nor the parties who may be litigants in matters before the appellate court will give credence to any of the absurd charges leveled at Judge Haynsworth.

Not only South Carolinians who know him as a person of unquestioned integrity, impeccable character and exceptional legal ability, but all citizens of the fourth circuit would be further disappointed and saddened, should Judge Haynsworth decide to resign from the bench.

RIEGLE URGES FURTHER U.S. TROOP WITHDRAWALS FROM VIETNAM

(Mr. RIEGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIEGLE. Mr. Speaker, I am encouraged by the statements of Defense Secretary Laird yesterday when he announced that the administration had reached its December 15 Vietnam troop withdrawal target 3 weeks ahead of schedule. In recent weeks, 35,000 U.S. troops have been withdrawn from Vietnam—in addition to the initial withdrawal of 25,000—and this combined withdrawal of 60,000 troops has served to reduce our present U.S. troop strength in Vietnam to 484,000. This number is higher than I would like it to be, but the trend is toward disengagement and this is encouraging.

I was also pleased to hear Secretary Laird state that the withdrawal process would not stop at this point or depend upon additional formal withdrawal announcements. He indicated that the U.S. withdrawal process will continue. This is essential. Our progress in removing our fighting men from Vietnam must continue. More than that, it must continue, I believe, at an accelerated rate.

Since early July, our withdrawal rate has been running at about 10,000 men per month. This rate must be accelerated—otherwise we will still have American troops in Vietnam in 1974. Clearly, the U.S. military effort in Vietnam must end before 1974. I therefore am hopeful that the present rate of withdrawal will be increased.

Having made the decision to withdraw our combat forces from Vietnam, we must proceed toward that goal—making it clear to the Vietnamese that their ultimate destiny rests in their own hands.

ACCOMPLISHMENTS OF CONRAD, FELLOW ASTRONAUTS ARE LAUDED

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COUGHLIN. Mr. Speaker, with the safe return of our three Apollo 12 astronauts, we again have witnessed a monumental achievement in the history of mankind.

Above and beyond the incredible technology that went into this second voyage to the moon, I think the human investment in intelligence, courage, and talent of our three astronauts still rates highest in terms of accomplishment. Our highest accolades indeed are merited by Charles "Pete" Conrad, Alan L. Bean, and Richard F. Gordon, Jr.

I am particularly proud that Comdr. Pete Conrad grew up in my congressional district, attended Haverford School and, as a teenager, took his first flying lessons at the old Main Line Airport. I have sent his mother, Mrs. J. Weir Sargent, of Haverford, Pa., the following telegram today:

Warmest congratulations on Pete's magnificent voyage. I am proud to be one of a very few Congressmen whose constituent has left footprints on the moon. Please convey my best to Pete and Jane. All Americans, and especially those in Montgomery County, Pennsylvania, applaud his extraordinary performance and the calm and courage of the entire family. Our prayers went with him and we rejoice at his safe return.

PROVIDING FUNDS FOR THE OPERATION OF THE SELECT COMMITTEE ON SMALL BUSINESS

Mr. HAYS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 91–687) on the resolution (H. Res. 554) providing funds for the operation of the Select Committee on Small Business, and ask for immediate consideration of the resolution.

The Clerk read the resolution, as follows:

H. RES. 554

Resolved, That the further expenses of conducting the study and investigation authorized by H. Res. 66 of the Ninety-first Congress, incurred by the select committee appointed to study and investigate the problems of small business, not to exceed $550,000 in addition to the unexpended balance of any sum heretofore made available for conducting such study and investigation, including expenditures for the employment of investigators, attorneys, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman thereof, and approved by the Committee on House Administration.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House, and the chairman of the Committee on Small Business shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

With the following committee amendment:

Committee amendment: On page 1, line 5, strike out "$550,000" and insert "$40,000".

The committee amendment was agreed to.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR THE ADJUSTMENT OF SALARIES OF CERTAIN EMPLOYEES OF THE HOUSE PRESS GALLERY

Mr. HAYS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 91–688) on the resolution (H. Res. 644) providing for the adjustment of salaries of certain employees of the House Press Gallery, and ask for immediate consideration of the resolution.

The Clerk read the resolution, as follows:

H. RES. 644

Resolved, That, (a) until otherwise provided by law, the per annum rate of basic compensation of—

(1) the Superintendent of the House Press Gallery shall be $5,960 per annum;

(2) the First Assistant Superintendent of the House Press Gallery shall be $5,265 per annum;

(3) the Second Assistant Superintendent of the House Press Gallery shall be $4,170 per annum;

(4) the Third Assistant Superintendent of the House Press Gallery shall be $3,695 per annum; and

(5) the Fourth Assistant Superintendent of the House Press Gallery shall be $2,950 per annum.

(b) Until otherwise provided by law, such amounts as may be necessary to carry out subsection (a) of this resolution shall be paid out of the contingent fund of the House of Representatives.

(c) This resolution shall become effective at the beginning of the calendar month in which it is adopted.

Mr. HAYS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HAYS. Mr. Speaker, I just want to say this is a resolution which will adjust the salaries of the people in the Press Gallery. The committee by itself was able to do it in the Periodical Gallery and the Radio Gallery, but the Press Gallery requires a resolution.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FUNDS FOR THE COMMITTEE ON HOUSE ADMINISTRATION

Mr. HAYS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 91–689) on the resolution (H. Res. 710) providing funds for the Committee on House Administration, and ask for immediate consideration of the resolution.

The Clerk read the resolution, as follows:

H. RES. 710

Resolved, That during the Ninety-first Congress, the Committee on House Administration is authorized to incur such additional expenses (not in excess of $500,000) as it deems advisable in carrying out its duties, including the development of a computer system for the House of Representatives. Such expenses shall be paid out of the contingent fund of the House on vouchers authorized and approved by such committee, and signed by the chairman thereof.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditures in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration under existing law.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR PRINTING AS A HOUSE DOCUMENT "A GUIDE TO STUDENT ASSISTANCE"

Mr. DENT. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 91–685) on the concurrent resolution (H. Con. Res. 345) providing for printing as a House document "A Guide to Student Assistance" and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 345

Resolved by the House of Representatives (the Senate concurring), That there be printed as a House document "A Guide to Student Assistance," prepared by the Committee on Education and Labor; and that sixty-two thousand two hundred additional copies be printed, of which forty-three thousand nine hundred shall be for the use of the House of Representatives, ten thousand three hundred shall be for the use of the Senate, four thousand copies shall be for the use of the Committee on Education and Labor of the House, and four thousand copies shall be for the use of the Committee on Labor and Public Welfare of the Senate.

SEC. 2. Copies of such document shall be prorated to Members of the Senate and the House of Representatives for a period of sixty days, after which the unused balance shall revert to the respective Senate and House Documents Room.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

TO AUTHORIZE PRINTING AS A HOUSE DOCUMENT THE PAMPHLET ENTITLED "OUR FLAG"

Mr. DENT. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 91–686) on the concurrent resolution (H. Con. Res. 407) to authorize the printing as a House document the pamphlet entitled "Our Flag" and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 407

Resolved by the House of Representatives (the Senate concurring), That the publication entitled "Our Flag", published by the Office of the Armed Services Information and Education, Department of Defense, be printed with illustrations as a House document; and that two hundred and seventy-one thousand additional copies be printed, of which two hundred and nineteen thousand five hundred shall be for the use of the House of Representatives, and fifty-one thousand five hundred shall be for the use of the Senate.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 2276, CLEAN AIR ACT

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the bill (S. 2276) to extend for 1 year the authorization for research relating to fuels and vehicles under the provisions of the Clean Air Act, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of November 24, 1969.)

Mr. STAGGERS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. SPRINGER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 291]

Abbitt	Fisher	Macdonald, Mass.
Adair	Flood	MacGregor
Albert	Flowers	Mills
Alexander	Flynt	Morton
Anderson, Tenn.	Ford, William D.	Moss
Andrews, Ala.	Fulton, Tenn.	O'Neal, Ga.
Annunzio	Gallagher	Ottinger
Bell, Calif.	Gettys	Passman
Blanton	Giaimo	Patman
Blatnik	Goldwater	Pepper
Boland	Green, Pa.	Pickle
Bolling	Griffin	Pike
Brock	Gross	Poage
Brown, Calif.	Gude	Powell
Cabell	Hagan	Pucinski
Caffery	Hamilton	Purcell
Cahill	Hanna	Rees
Carey	Hansen, Wash.	Reid, N.Y.
Clark	Hébert	Reifel
Clay	Henderson	Roberts
Collier	Hungate	Rostenkowski
Colmer	Jacobs	Scherle
Conable	Jones, Ala.	Scheuer
Corbett	King	Shipley
Corman	Kirwan	Sikes
Cowger	Kuykendall	Sisk
Dawson	Kyl	Smith, Iowa
Dennis	Landrum	Stokes
Diggs	Leggett	Stuckey
Dorn	Lennon	Thompson, N.J.
Edwards, La.	Lipscomb	Udall
Eilberg	Long, La.	Utt
Esch	McCarthy	Waggonner
Evins, Tenn.	McFall	Whalley
Fascell	McMillan	Widnall

The SPEAKER. On this rollcall 327 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

SPIRO AGNEW COLORING BOOK GOES BACK TO PUBLISHER

(Mr. DULSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. DULSKI. Mr. Speaker, yesterday I returned to the publisher an unsolicited copy of a book which I received entitled "Spiro T. Agnew Coloring Book." Following is the text of the letter I enclosed:

NOVEMBER 24, 1969.

GROSSET & DUNLAP, INC.,
Publishers, New York, N.Y.

GENTLEMEN: I am returning herewith the Spiro T. Agnew coloring book, which was sent to me recently unsolicited.

In order for me to properly register my dis-

gust for such material, I would have to descend into the gutter with you.

Sincerely yours,

T. J. DULSKI.

FEDERAL-AID HIGHWAY ACT OF 1969

Mr. O'NEILL of Massachusetts. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 721 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 721

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14741) to amend title 23 of the United States Code to revise the next due date for the cost estimate for the Interstate System, to amend chapter 4 relating to highway safety, and for other purposes, and all points of order against section 6 of said bill are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider without the intervention of any point of order the amendment recommended by the Committee on Public Works now printed in the bill. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. O'NEILL of Massachusetts. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 721 provides an open rule with 2 hours of general debate for consideration of H.R. 14741 to amend title 23 of the United States Code to revise the next due date for the cost estimate for the Interstate System, to amend chapter 4 relating to highway safety, and for other purposes. The resolution also waives all points of order against section 6 of the bill and the committee amendment printed in the bill. The reasons for the waiver of points of order are that on page 4, line 8, the language "and private" would not be germane to a public bill; on page 5, in section 6, lines 9 through 12, there is a transfer of funds.

The bill amends the code to extend from January 2, 1970, to April 15, 1970, the date on which the next cost estimate of completing the Interstate Highway System is due to be submitted to Congress.

The bill would establish January 1, 1971, rather than January 1, 1968—the date in existing law—as the date on which the 10-percent penalty on highway apportionments will be invoked in the case of States which fail to effectively control outdoor advertising and junkyards.

The sum of $1,500,000 is authorized for fiscal year 1971 for administrative expenses in carrying out sections dealing with outdoor advertising control, junkyard control, and landscaping and scenic enhancement.

The Secretary of Transportation, in cooperation with the State highway departments, is required to investigate and study how the provisions dealing with highway beautification should be carried out effectively and submit to Congress a report with recommendations not later than April 15, 1970.

There is a new section requiring the Secretary to carry out a demonstration project for the elimination of all public ground-level rail-highway crossings on the route of the high-speed ground transportation demonstration projects between Washington and Boston being conducted under the act of September 30, 1965. If the highway involved is on a Federal-aid highway system, the Federal share would be 90 percent and the railroad's share 10 percent. If the highway is not on such a system, the Federal share would be 80 percent, the railroad's share would be 10 percent, and the State's share would be 10 percent. The Secretary would be required to enter into appropriate agreements with the States and the railroads to insure that all non-Federal costs would be provided before paying any of the Federal costs. Not to exceed $7 million is authorized from the highway trust fund to pay the costs of the project involving highways on the Federal-aid highway system and not to exceed $19 million is authorized from the general fund to pay the costs of the project involving highways not on such a system. The Secretary is required to make an investigation into safety at all ground-level rail-highway crossings through the Nation and submit recommendations and a cost estimate to Congress by January 10, 1971. Funds authorized to carry out section 307 of title 23, United States Code—research and planning—are authorized to be used to carry out this investigation and study.

Apportionment of highway safety funds authorized under section 402(c) of title 23, United States Code—50 percent in the ratio which the public road mileage in each State bears to the total of such mileage in all States and 50 percent in the ratio that the population of each State bears to the population of all States. Each State would be permitted to spend not more than 5 percent of highway safety funds apportioned to it under this section for planning highway safety programs and projects.

The President is authorized to undertake negotiations with Canada for the purpose of entering into a suitable agreement to authorize the paving and reconstruction of the Alaska Highway, from Dawson Creek, Canada to the Alaska border. This would also include a connecting highway to Haines, Alaska. He is to report to Congress the results of these negotiations no later than 270 days after the date of enactment of this legislation.

Mr. Speaker, I urge the adoption of House Resolution 721 in order that H.R. 14741 may be considered.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from Massachusetts (Mr. O'NEILL) has ably stated, House Resolution 721 makes in order for consideration H.R. 14741 under an open rule with 2 hours of general debate, waiving points of order on section 6 of the bill, which contains appropriating language in violation of the rules of the House regarding the transfer of previously appropriated funds and the committee amendment.

The purpose of the bill is to make a number of amendments to the existing Federal Highway Act.

The bill authorizes $1,500,000 for administrative expenses in fiscal year 1971 for the operation of the highway beautification program. No funds are authorized for billboard control, junk yard control, or landscape or scenic enhancement for the fiscal year. This is because the committee, while supporting the concept of the act, finds that it is unworkable in its present form. The committee hopes to reach some decision as to how to proceed in this area when it considers the biennial highway authorization legislation next year.

The bill also creates a high-speed railroad crossings elimination demonstration project to be undertaken by the Department of Transportation in the Washington-New York-Boston corridor. The aim of the project is to eliminate all 43 ground-level crossings of the railroad right-of-way in this area. Under the demonstration project the Federal Government will bear 90 percent of the cost at those 10 crossings on the Federal-aid highway system. On the remaining 33 crossings the Federal Government will bear 80 percent of the cost; the States will bear 10 percent; and, the railroads will bear the remaining 10 percent. Authorizations totaling $19 million are provided to cover the Federal share of the costs. It is estimated that the project will be completed within 4 years.

The bill also amends the Highway Safety Act of 1966. The act provides that the funds appropriated will be made available to the several States under a formula which allocates funds 75 percent on the basis of population and 25 percent at the discretion of the Secretary of Transportation. The bill changes the formula so that apportionments to the States will be made 50 percent on the basis of population and 50 percent on the basis of the public road mileage within the State. The bill also authorizes each State to expend up to 5 percent of its apportionment for planning highway safey programs and projects.

Finally, the bill deals with the Alaskan highway which now stretches some 1,500 miles from Dawson Creek in Canada to Fairbanks, Alaska. There are 1,137 miles of the road in Canada—which are now gravel surface while the approximately 300 miles in Alaska is paved. The road between Dawson Creek and the State of Montana—some 730 miles—is also paved. The legislation aims at securing an all-weather paved road from the Montana border to Fairbanks. The bill authorizes the President to negotiate such an agreement with the Canadian Government and to report the results of such negotiations to the Congress within 9 months so that the negotiated agreements may be incorporated into the bi-

ennial highway legislation the committee will consider next year.

On page 11 of the report the committee sets forth a series of recommendations which it believes the U.S. Government should ask Canada to accept as a part of the agreement in this matter. These recommendations include an equitable division of the costs, a prohibition against any tools or other indirect charges, a guarantee of year-around maintenance, and the assurance that vehicle registration and drivers' licenses provisions for those using the road will be reciprocal between the two nations.

The gentleman from New York (Mr. McCARTHY) has filed dissenting views. He notes that the Federal Highway Administrator recommended an authorization of $30 million for fiscal year 1971 for highway beautification. He supports this recommendation.

Mr. Speaker, I urge the adoption of the rule and passage of the bill.

I have no further requests for time, but I reserve the balance of my time.

Mr. O'NEILL of Massachusetts. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. KLUCZYNSKI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14741) to amend title 23 of the United States Code to revise the next due date for the cost estimate for the Interstate System, to amend chapter 4 relating to highway safety, and for other purposes.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 14741, with Mr. O'HARA in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Illinois (Mr. KLUCZYNSKI) will be recognized for 1 hour, and the gentleman from Florida (Mr. CRAMER) will be recognized for 1 hour.

The Chair recognizes the gentleman from Illinois (Mr. KLUCZYNSKI).

Mr. KLUCZYNSKI. Mr. Chairman, I yield to the distinguished gentleman from Maryland (Mr. FALLON), the chairman of the House Committee on Public works, such time as he may consume.

Mr. FALLON. Mr. Chairman, I am pleased to rise in support of the legislation pending before this body today—H.R. 14741—which was reported by the Committee on Public Works unanimously.

May I at the outset commend the Subcommittee on Roads and its distinguished chairman, Congressman JOHN KLUCZYNSKI, for their work on this particular legislation and for the extensive hearings that the subcommittee held earlier this year on matters of utmost importance to the highway program including safety, beautification and the especially important future highway needs beyond the expiration of the present program.

The legislation before you today does several things; the most important of which is to extend to April 15, 1970, the date on which the new cost estimate for completion of the Interstate System is to be submitted to the Congress by the Secretary of Transportation. I have been on record as a strong advocate of this change in the date from January 1970—as required by present law—to April 1970. The reason for this is that in April of 1970 I believe we will be able to receive a more accurate estimate of the future highway cost needs of the Interstate System so that we on the Committee on Public Works will be able to make a proper recommendation to the Ways and Means Committee for the extension of the highway trust fund which, under present law, expires on October 1, 1972. If the trust fund is not extended it would preclude the apportionment of highway funds to the States in the calendar year 1970.

Another important feature of this legislation is the establishment of a formula for the allocation of funds under the Highway Safety Act of 1966. After due deliberation, the committee reached a conclusion that the most equitable means in which these funds could be apportioned is as follows: 50 percent in the ratio which the public road mileage in each State bears to the total of such mileage in all States, and 50 percent in the ratio that the population of each State bears to the population of all States. This formula will provide a fair apportionment for all States. I hope in the future more money will be available for this important program.

The third important feature of this bill covers legislation which I had the privilege of introducing. H.R. 14741 contains a section which authorizes a demonstration project on the high-speed rail line running between Washington and New York City and between New York City and Boston, Mass.

This demonstration project would authorize the elimination of all 43 grade crossings on public highways; some 10 are on the Federal-aid system and 33 on the State highway system. This project, along with the elimination of private grade crossings on the route will make the Metro route a far safer one than it is now. Trains traveling at the speed of up to 150 miles per hour do create definite safety problems and every effort should be made to insure that those who travel these trains in the future will be protected as properly as possible.

The section further requires that the Secretary of Transportation, in cooperation with the State highway departments, make a complete investigation and study of the problem of providing increased highway safety at both public and private ground-level rail-highway crossings, and that the results of that study be reported to the Congress, with recommendations and an estimate of the cost of such a program, not later than January 10, 1971. Highway trust funds are authorized to cover the cost of this study.

H.R. 14741 also covers certain aspects of the highway beautification program, including a study by the Department of Transportation to report back to the Congress by April 15, 1970, with recommendations for any changes in the program, and defers enforcement of the penalty date under the act by the Secretary of Transportation from January 1, 1968, to January 1, 1971.

It also authorizes the Secretaries of State and Transportation to enter negotiations with the Government of Canada for the purpose of obtaining a suitable agreement authorizing paving and reconstruction of the Alaska highway from Dawson Creek, Canada, to the Alaska border, with a requirement that the report on such negotiations be made to the Congress not later than 270 days after the enactment of this legislation.

This is a good bill. It is needed legislation. It is legislation that will help the highway program to move forward on an even keel. I recommend its passage.

Mr. KLUCZYNSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 14741 is not a complicated bill, though it is an important one. The committee report before you explains it in detail, and my remarks will be limited to a summary.

It extends from January 12, 1970, to April 15, 1970, the date by which the Department of Transportation is required to submit to the Congress the final estimate of cost to complete construction of the Interstate System. Next year the Congress must act on the biennial authorization for the Nation's highway construction program. The committee believes we should have before us the most complete, accurate, and up-to-date cost figures available. The extension of time is necessary if we are to have those figures.

With respect to highway beautification, the bill orders a thorough review of the program by the Secretary of Transportation and his report to the Congress, with recommendations for needed changes, by April 15 next. To prevent the States being in jeopardy with respect to highway construction funds pending review by the Department and the Congress, the bill extends the penalty date for noncompliance with the Beautification Act from the date now in the law, January 1, 1968, to January 1, 1971. Also pending that review, the bill does not authorize program funds for beautification. It does, however, authorize $1.5 million for administrative purposes, to maintain staff and keep the program alive. It has been suggested that failure to authorize program funds for 1971 might jeopardize this program because the Congress might find itself in a "time bind" in handling next year's authorization bill. I find it difficult to believe that the Congress will have serious difficulty finding the time to meet its responsibilities with respect to highway construction authorizations.

The bill authorizes the President, acting through the Secretaries of State and Transportation, to undertake serious negotiations with Canada looking toward agreement upon the completion—through paving and reconstruction—of the Alaska Highway. The Subcommittee on Roads inspected the Alaska Highway this year and held hearings at several points on its present route. We are con-

vinced that progress is needed, and that serious and flexible negotiation will open the way to that progress.

This bill also takes the initial step in a field of major concern—highway and rail safety at ground-level, rail-highway crossings. Ultimately, we will have to deal with this problem on a nationwide basis. Now, and urgently, we must deal with it with respect to the high-speed rail service between Washington and New York and Boston. The bill, therefore, authorizes a demonstration project, to be carried out by the Department of Transportation, in cooperation with the States and the railroads involved, to eliminate the 43 public crossings on that route. With respect to the 10 crossings on the Federal-aid highway system, the Federal contribution will be 90 percent and the railroad contribution 10 percent. With respect to the 33 crossings not on the Federal-aid system, the Federal contribution will be 80 percent, the State contribution 10 percent, and the railroad contribution 10 percent. Authorization of Federal funds in the amount of $26 million in fiscal year 1971 is provided, and it is anticipated that the program can be completed within 4 years.

Subsequent to formal action by the Public Works Committee ordering H.R. 14741 reported to the House, we were informally advised by the Department of Transportation that, in the absence of specific language in the law granting the Department contract authority with respect to the funds authorized for this demonstration project, the Bureau of the Budget would find it necessary to object to the Department's making such a request.

This is an urgent matter. I, for one, am not willing to wait, for example, until a Metroliner ploughs into a school bus full of children, at 150 miles an hour, before we get to work on this, and I do not believe any other Member of Congress needs that kind of "inspiration" either.

This act will require cost participation by both the States and the railroads involved. It should be evident, without having to belabor the point, that neither the States nor the railroads are likely to enter into the necessary agreements to provide their shares of the cost without assurance that the Federal Government's share will also be available.

To eliminate even the remote possibility that the present language would not absolutely insure the availability of the full amount of Federal funds, an appropriate amendment will be offered at the proper time.

The Highway Safety Act of 1966, for which the Public Works Committee bears legislative responsibility, required that a permanent formula for the distribution of highway safety funds to the States be adopted to become effective with fiscal year 1970. The committee recommends, in this bill, a formula based 50 percent on population and 50 percent on public road mileage, irrespective of jurisdiction, which is the coverage of the Safety Act itself. The amendment also provides that the States may use up to 5 percent of their allocated Federal funds for planning purposes.

I will not take the time here to discuss in detail the several other important matters growing out of administration of the Highway Safety Act which are discussed in the committee report. I would urge, however, that every Member of this House read that report with care. It constitutes definitive legislative history as to the intent of this Congress in the enactment of the Highway Safety Act. It also serves notice to each of you, my good and valued friends, that I shall be seeking your active and determined support for good-faith fulfillment of the Federal commitment to highway safety in the months ahead. I have been privileged to serve 19 years among you, and I know you are men of conscience and compassion and honor, dedicated to the lives of the people you serve, and that knowledge gives me confidence that I shall not seek your support in vain.

Mr. CRAMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my remarks will be brief. The distinguished chairman of the subcommittee, the gentleman from Illinois (Mr. KLUCZYNSKI), has adequately explained the intent and the purpose of the legislation, along with the distinguished chairman of the committee, the gentleman from Maryland (Mr. FALLON).

I do want to comment on a couple of aspects of the legislation.

First, this legislation is here of necessity because of the need for additional time to make proper cost estimates, particularly in view of the 1968 Highway Act, which provided for a new program, broad based. The States need an opportunity to further provide estimates under that particularly in view of the relocation program newly enacted.

The 1968 act added 1,500 miles, which likewise needs additional cost estimates study, and in order to give the Bureau time enough to accomplish this the date has been changed from January 12, 1970, to April 15, 1970, for the report as to the cost estimate for completing the interstate system and the needed funds for the ABC system. They were provided with an additional period of time to April 15. The Bureau indicates it can conform to that date.

The significance of that is it is hoped, and the report so indicates, and it is contemplated that this report will be a base on which the committee can build the authorization for the balance of the interstate system and finally its completion. At the same time, it will provide proper information for the committee to consider what is now called an after-75 program. Where do we go and what do we do relating to the ABC system and relating to reclassification of highways—a study that is now underway—after 1975?

It takes 4 or 5 years to phase in new programs, to start planning for what happens after the Interstate System is essential that adequate time be given to the Bureau to accomplish this objective so that we will have the necessary information upon which our committee can act next year, hopefully, not only with regard to the completion of the Interstate System, with figures that make sense and that are properly considered, but also with regard to the after-75 program.

We have for many years not been giving adequate consideration to the primary, secondary, rural and urban highways. We are now getting into urban highways to a greater extent, with the safety program, TOPICS, and the municipalities are rightly asking when is it going to be their turn to participate in some way in the highway program of the future on some Federal-aid basis?

All these problems will have to be considered next year. That is one of the basic reasons for this additional period of time.

With regard to the highway safety, that has been adequately discussed. It is one of the primary reasons for the bill being here. We had to act on an apportionment formula, because the present apportionment formula has expired. Therefore, this legislation is absolutely essential if the apportionment formula is to be resolved. I believe the one in the bill is a proper resolution of that apportionment formula. It is fair and equitable to all the States and takes into consideration the problems involved.

On page 4 of the bill as it relates to high-speed surface transportation between Washington, D.C., and Boston, Mass., it is absolutely essential, I believe, in the name of safety, not only relating to the railroads but also relating to the highways, that proper consideration be given to how we can have safer railroad crossing to protect both the railroad user and the highway user.

We have set up a pilot project in this bill on this with the Metroliner service between Washington and Boston. That makes more sense, I think, so that we can learn the problems and hopefully come up with proper answers in the future. It is obvious to me—and therefore I offered in the committee an amendment with relation to it, which appears on page 4, line 8—that "private crossings" cause serious safety problems as well. If a study on a long-range basis is going to be made, you have to study what to do, if anything, with the private rail crossings. It is obvious, as the gentleman has stated, that railroad crossing safety is absolutely essential. When we consider that only 30 seconds of warning are provided by current signals at 43 remaining railroad grade crossings on highways, this constitutes a very serious hazard relating to the Washington to Boston railroad.

Mr. Chairman, with respect to the Alaskan Highway, a lot of people wanted to authorize this highway from the United States to Alaska. It was obviously not an acceptable approach at this point on the facts and with no Canadian participation, so we provided for a study as to what should be done in the future with regard to this matter.

To summarize the bill, in 1968, DOT submitted to Congress its estimate of cost to complete the Interstate System. Based on 1966 data, 2 additional years of authorizations would be required to complete the system, at a cost of $56.5 billion—an increase of $9.7 billion over 1965 estimate.

The Federal Aid Highway Act of 1968 added 1,500 miles to the system and extended the completion date by 2 years, from 1972 to 1974. Relocation assistance and real property acquisition require-

ments were added to the program. The act also required DOT to submit a final estimate for completion of the Interstate System by January 12, 1970. But the new programs, plus a 1,500-mile increase, plus inflation make costing difficult.

AASHO, therefore, proposed that 1970 estimate be based on the 1968 estimate plus cost of 1,500 miles addition.

Despite costing difficulties, this approach was unsatisfactory. The committee must, next year, consider: First, future long-range highway needs; second, authorizations for all Federal-aid highway systems; and third, consultations with Ways and Means on extension of the highway trust fund.

To meet these responsibilities, the committee requires the most current and complete data available, and cannot approve, therefore, the request for abbreviated estimates.

Recognizing, however, the need for additional time to provide a more reliable estimate, particularly in view of the 1968 act requiring additional mileage and relocation, H.R. 14741 extends from January 12, to April 15, 1970, the time for the Federal Highway Administration to submit its cost estimate. The agency will be able to meet this date.

HIGHWAY BEAUTIFICATION

Since passage, in 1965, the Highway Beautification Act has been the subject of controversy, because the mechanics of its administration created problems, costs and hardships for both the Government and individuals.

While not abandoning the philosophy of the act, the committee has concluded it must be revised if it is to succeed. The Secretary of Transportation has been requested, therefore, to submit his recommendations for improving the program by April 15, 1970.

In the meantime, the 10-percent penalties for noncompliance by the States is extended to January 1, 1971.

Also, $1.5 million is authorized to insure a continuing working staff.

Requested authorizations by DOT for 1971 have been deferred until the future of the program is determined, based on the findings contained in the April 15, 1970, report.

RAIL CROSSING ELIMINATION

The Federal Government is presently participating in high-speed ground transportation demonstration project between Washington and Boston. Ultimately, the Metroliner service is contemplated at speeds in excess of 150 miles per hour.

With only 30 seconds of warning provided by current signals, the 43 remaining grade crossings on public highways constitute a serious hazard.

Section 5 does two things: First, directs DOT to make complete investigation of grade crossing problem and report to Congress by January 10, 1971, and second, sets up a demonstration project to eliminate public crossings on Metroliner route. Those crossings—10—on the Federal-aid highway system, are to be financed on a 90-percent Federal, 10-percent railroad basis—$7 million authorized—out of the highway trust fund. Those not on the system, to be financed 80 percent Federal, 10 percent State, 10 percent railroad—$19 million—out of the general fund.

HIGHWAY SAFETY—SECTION 6

Revises the formula for apportionment of safety funds to the States.

Heretofore, 75 percent population basis, and 25 percent at discretion of Secretary.

Amended to 50 percent population basis and 50 percent public road mileage; that is, any road under the jurisdiction of a public authority.

Also authorizes the States to expend 5 percent of its safety funds for planning safety projects with broadest latitude given in their use.

ALASKA HIGHWAY—SECTION 7

Authorizes initiation of negotiations to pave the Alaska Highway. Results to be reported to Congress within 9 months.

Guidelines for negotiations enumerated, and include: First, equitable apportionment of construction costs; second, provision of rights-of-way; third, no tolls; fourth, no other fees; fifth, reciprocal vehicle and license recognition; and sixth, year-round maintenance.

I urge the adoption of the bill.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. Mr. Chairman, I rise in support of H.R. 14741. In our concern over the difficulties of the Vietnam war and the tremendous loss of lives in that conflict, we must be careful not to ignore serious situations on the home front. One of these situations is the constantly rising motor vehicle accident toll.

The National Safety Council reports that the loss of lives in the 1960's as a result of accidents involving motor vehicles amounted to approximately 475,000. An additional 1½ million persons were permanently disabled. Fifteen million more were partially disabled. Another 16 million persons were temporarily disabled. The 250 million accidents during this period amounted to a cost of $90 billion. Yet what cost can really be placed on the loss of lives?

The Public Works Committee acting through the Subcommittee on Public Roads has conducted an extensive review of the administration of the Highway Safety Act of 1966. I must commend the committee for its continued interest and inquiry into this important area of citizen concern.

There is much that is still to be done, though, in the area of highway and automobile safety to stop, or at least cut back considerably, this needless loss of life on the highways. Just yesterday, the Department of Transportation reported that tires certified by four major manufacturers failed 30 of 120 safety tests primarily in areas involving endurance, high-speed performance, and strength. Examples of faulty equipment, hazardous road design, improper or no marking of roads and numerous others could be listed directly from the accident reports. But the numbers of people killed and injured speak for themselves.

Elimination of loss of lives due to mechanical failure, improper design, or low-quality equipment requires no new technology. It does not require any massive expenditure of Federal funds. It requires only the commitment by manufacturers of automobile and highway materials to exercise proper care and control in the production of their goods. And in conjunction, it requires the commitment of public officials to the development of standards and guidelines that will make our vehicles and roads models of safe travel to the world.

Mr. KLUCZYNSKI. Mr. Chairman, I have no further requests for time.

Mr. SCHWENGEL. Mr. Chairman, the Federal-Aid Highway Act before us today makes several significant improvements in our basic highway legislation. One of the most significant provisions deals with the problem of rail grade crossings on our highways. It makes a two-pronged attack on the problem, first by directing the Secretary of Transportation to undertake a full-scale study of the problem, and second, it authorizes Federal participation in a demonstration project for the removal of grade crossings on the Metroliner route. These efforts should provide sound data upon which the Congress will be able to make further judgments in this area.

The bill directs a further study of the problem of highway beautification, and delays the date for compliance with the Highway Beautification Act until January 1, 1971. Other provisions of the act extend the date for completion of the Interstate System cost estimate; changes the method of apportioning highway safety funds; and authorizes further negotiation with respect to paving and reconstruction of the Alaska Highway.

Mr. Chairman, I would like to take this opportunity to commend the chairman and ranking minority leader of our committee for their fine leadership on this important legislation.

Mr. OLSEN. Mr. Chairman, I support this legislation. I am heartily in favor of it. Mr. Chairman, I would like to make a few remarks about section 7, of H.R. 14741. This section authorizes the President, acting through the Secretaries of State and Transportation, to undertake negotiations with Canada for the purpose of entering into a suitable agreement to authorize the paving and reconstruction—including realinement—of the Alaska Highway, from Dawson Creek, Canada, to the Alaska border, with a connecting highway to Haines, Alaska.

For the 9 years that I have been in Congress, I have lived with this legislation. Dreams, plans, and prayers have paved this highway a thousand times, and today the voice of this great body has started the ball rolling for a dream to become a reality.

Earlier this year I traveled with the Public Works Subcommittee on Roads, and its distinguished chairman, the gentleman from Illinois, JOHN C. KLUCZYNSKI, to conduct onsight hearings along the proposed Alaska Highway route. Members of this body representing all sections of the Nation accompanied us on the trip and the resulting enthusiasm for reconstruction of the highway was tremendous. Today that enthusiasm has overflowed into this Chamber, and the authorization of negotiations with the

Canadians is indeed another "giant step for mankind."

For some of my colleagues who are not totally familiar with the Alaska Highway, the road as it exists now was constructed by the U.S. Government during World War II. Ever since, there has been a continuing interest in improving the highway so as to provide a dust-free, all-weather, paved ground route leading all the way to Alaska. Since the admittance of Alaska as a State, and more recently with the advent of the tremendous oil discoveries on its North Slope, there has been increasing interest in Alaska, western Canada, and the western part of the United States in the need for progress on this project.

The existing road is 1,535 miles in length from Dawson Creek in Canada to Fairbanks, Alaska. All of the 1,137 miles in Canada is graveled surface. The approximately 300 miles in Alaska is paved. The distance from Dawson Creek to the Canadian border at the State of Montana is 730 miles, all of which is paved. Within the United States, Interstate 15 picks up at the Canadian border and proceeds south through Great Falls, Mont., to connection with I–90 at Butte, Mont. From this point the Interstate System provides distribution to all parts of the United States.

This bill acts as the first step in authorizing the required negotiations between the United States and Canada which will establish the mutual responsibilities and contribution of the two countries toward the completion of the project. In order to coordinate the results of these negotiations with the enactment of biennial highway legislation in 1970 it is also required that the results of these negotiations be reported to the Congress within 9 months.

In 9 months then, we will know our next step, and if all goes well, the Alaska Highway project will be part and parcel of the omnibus highway bill in 1970.

Mr. DON H. CLAUSEN. Mr. Chairman, I rise today in support of H.R. 14741, the Federal-Aid Highway Act of 1969, of which I am a cosponsor. I strongly urge passage of this legislation as reported out of our Public Works Committee.

In my judgment, one of the major features of this legislation has to do with the vital subject of highway safety. Each year in the United States over 50,000 persons lose their lives in accidents on our public roads. To me this is totally inexcusable and intolerable.

We in the Congress, like many others, have given a great deal of lip service to safety on the highway, but we have never provided the full measure of resources that are necessary to find a cure for this gigantic and growing problem.

In the legislation now before us, the Congress has an opportunity to make these necessary funds available to the States in greater amounts than before by making the funds applicable to all public roads, rather than just those that are in the federally aided system. In addition, this act provides for funding for State safety projects on a total program basis rather than the present financing on a project-by-project basis.

By the simple expedient of making this program applicable to all public roads, the States will now be able to earmark additional Federal funds for their safety programs. These new guidelines will permit the individual States to work toward a viable program that can be a major step toward decreasing the carnage on the Nation's highways. New and innovative safety projects can now be commenced, with the net result being the saving of human lives and a reduction in the tremendous economic loss which is a part of our skyrocketing accident rates.

In addition to highway safety, the act also deals with the problem of highway beautification. Thus far, the Highway Beautification Act of 1965 has been rather ineffective, not because of its basic philosophy, but rather, because of the mountain of administrative problems that have been created. The committee has asked for an appropriation of $1.5 million, primarily for administrative expenses for fiscal 1971.

These funds will allow the Department of Transportation to properly study the program and to recommend to the Congress possible revisions that will make the Act more workable, and, most importantly, more meaningful. We are not abandoning the philosophy of highway beautification, but rather are attempting to make it more efficient, and thus, more effective.

The Federal Highway Act of 1969 is extremely important to the health and welfare of the citizens of the United States, since it strikes at one of the major problems of our Nation today—death on the highway. We can and must reverse the present trend of increasing deaths on our public roads and this legislation can and will go a long way toward this goal.

Again, I would like to strongly urge passage of H.R. 14741.

Mr. OTTINGER. Mr. Chairman, having cast the sole vote against the Federal-Aid Highway Act of 1969, I want to make clear that this was a protest against the continuation of our distorted transportation priorities and the omission from this legislation of any authorization beyond June 1970 for highway beautification. The administration had requested $30 million for this program, which was nominal enough, but even that was omitted.

I protest too, against the continued overemphasis on highway construction while the mass transit needs of our Nation's cities are ignored. Despite that 106 of my colleagues and I have sponsored legislation to create a mass transit trust fund, that bill remains in limbo while the roadbuilders successfully lobby for more and more funds with which to pave over more and more of the countryside.

Our children and our children's children will pay a heavy penalty for our failure to achieve a balanced national transportation system.

Mr. STRATTON. Mr. Chairman, I support this legislation and intend to vote for it. Members will recall that over the years I have regularly opposed certain provisions of the Highway Beautification Act relating to signs and billboards. I did so, not because I am opposed to highway beautification but because I have been convinced that the very narrow limitations placed on highway signs and billboards—namely, that only those located 660 feet away from the right-of-way are beautiful—are not only unfair and unrealistic but would impose an intolerable economic burden on small tourist businessmen, restaurant and motel owners, such as those located in this beautiful Finger Lakes region of New York State, which I have the honor to represent.

I had difficulty, Mr. Chairman, in trying to sell this simple proposition to the previous administration. But I have been very pleased to see that our new Secretary of Transportation has resolved to undertake a new review of the sign requirements of the present law to see whether a more flexible, less burdensome, and yet equally attractive set of standards can be established, so that we can eliminate ugly sores on our highways without at the same time driving hundreds of small businessmen out of business.

This bill postpones the effective date of the implementation of this law until the Secretary can complete his survey, and until Congress can then consider and act on his recommendations.

The Secretary's survey is required under this new bill by next April 15. The penalties on the States for noncompliance with the sign provisions of the law are postponed from January 1, 1968, to January 1, 1971. No funds are included here for implementing this program at all; that decision will not be made until after the question of new guidelines for signs and billboards has been determined by new legislation.

This seems to me to be a reasonable way to deal with this problem and I congratulate the great Committee on Public Works for the lead they have taken in making it possible for a new sign section of this law to be written that will be acceptable and beneficial to the traveling public and also to the tourist businessmen.

I support this bill today, then Mr. Chairman, as a constructive step toward the development of a workable and reasonable new rule regulating signs and billboards on the Nation's primary and secondary road systems without causing economic chaos to thousands of tourist small businessmen around the Nation.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read the bill, as follows:

H.R. 14741

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal-Aid Highway Act of 1969".

SEC. 2. Section 104(b)(5) of title 23, United States Code, is amended by striking out "within ten days subsequent to January 2, 1970." and inserting in lieu thereof "not later than April 15, 1970."

SEC. 3. (a) The first sentence of subsection (b) of section 131 of title 23, United States Code, is amended by striking out "1968" and inserting in lieu thereof "1971".

(b) The first sentence of subsection (b) of section 136 of title 23, United States Code, is amended by striking out "1968" and inserting in lieu thereof "1971".

(c) There is authorized to be appropriated,

out of any money in the Treasury not otherwise appropriated, for necessary administrative expenses in carrying out sections 131, 136, and 319(b) of title 23, United States Code, not to exceed $1,500,000 for the fiscal year ending June 30, 1971.

SEC. 4. In order to furnish Congress with the information necessary to provide the basis for evaluating the programs established in sections 131, 136, and 319 of title 23, United States Code, the Secretary, in cooperation with the State highway departments, shall make a full and complete investigation and study of how such programs should be carried out to effectively provide the desired public and private benefits and submit to Congress a report based on such investigation and study, including his recommendations, not later than April 15, 1970.

SEC. 5. (a) Chapter 3 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 321. Demonstration project—high-speed rail crossings

"(a) The Secretary shall carry out a demonstration project for the elimination of all public ground-level rail-highway crossings along the route of the high-speed ground transportation demonstration projects between Washington, District of Columbia, and Boston, Massachusetts, conducted under authority of the Act entitled 'An Act to authorize the Secretary of Commerce to undertake research and development in high-speed ground transportation, and for other purposes', approved September 30, 1965 (49 U.S.C. 1631 et seq.).

"(b)(1) If, in the case of a project to eliminate such a crossing, the highway involved is on any Federal-aid system, the Federal share of the cost of such project shall be 90 per centum and the railroad's share of such cost shall be 10 per centum.

"(2) If, in the case of a project to eliminate such a crossing, the highway involved is not on any Federal-aid system, the Federal share of the cost of such project shall be 80 per centum and the railroad's share of such cost shall be 10 per centum and the remaining 10 per centum of such cost shall be paid by the State in which such crossing is located.

"(c) Before paying any part of the cost of the demonstration project authorized by this section, the Secretary shall enter into such agreements with the States and railroads involved to insure that all non-Federal costs will be provided as required by this section.

"(d) The Secretary, in cooperation with State highway departments, shall conduct a full and complete investigation and study of the problem of providing increased highway safety at public ground-level rail-highway crossings on a nationwide basis through the elimination of such crossings or otherwise, including specifically high-speed rail operations in all parts of the country, and report to Congress his recommendations resulting from such investigation and study not later than January 10, 1971, including an estimate of the cost of such a program. Funds authorized to carry out section 307 of this title are authorized to be used to carry out the investigation and study required by this subsection.

"(e) There is authorized to be appropriated not to exceed $7,000,000 from the highway trust fund to carry out paragraph (1) of subsection (b) of this section. There is authorized to be appropriated out of the general fund not to exceed $19,000,000 to carry out paragraph (2) of subsection (b) of this section."

(b) The analysis of chapter 3 of title 23, United States Code, is amended by adding at the end thereof:

"321. Demonstration project—high-speed rail crossings."

SEC. 6. Subsection (c) of section 402 of title 23, United States Code, is amended by striking out in the second sentence thereof "as Congress, by law, enacted hereafter, shall provide.", by striking out the third sentence thereof and by inserting in lieu thereof the following: "50 per centum in the ratio which the public road mileage in each State bears to the total public road mileage in all States and 50 per centum in the ratio which the population of each State bears to the total population of all States. Each State may expend not to exceed 5 per centum of the sums apportioned to it under this subsection for any fiscal year for planning highway safety programs and projects."

SEC. 7. (a) The President, acting through the Secretaries of State and Transportation, is authorized to undertake negotations with the Government of Canada for the purpose of entering into a suitable agreement authorizing paving and reconstructing the Alaska Highway from Dawson Creek, Canada (including a connecting highway to Haines, Alaska), to the Alaska border, including, but not limited to, necessary highway realignment.

(b) The President shall report to Congress not later than two hundred and seventy days after the date of enactment of this section the results of his negotiations under this section.

With the following committee amendment:

Page 4, line 6, insert "and private" immediately following the word "public".

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. FARBSTEIN

Mr. FARBSTEIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FARBSTEIN: Page 2, after line 21, insert the following:

"SEC. 5. Section 109 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"'(h) The Secretary shall not approve any plans or specifications for any proposed highway on any Federal-aid system if such project under conditions of normal use (as established by the Secretary) would, in the determination of the Secretary of Health, Education, and Welfare, result (1) in probable violations of applicable air quality standards established under the Clean Air Act, or (2) in any level of noise in excess of that determined by the Secretary of Health, Education, and Welfare to be reasonable and in the public interest.'"

Renumber succeeding sections and references thereto accordingly.

Mr. FARBSTEIN. Mr. Chairman, I offer an amendment which would, in effect, require the planner to choose the highway design which most completely minimizes air and noise pollution and gives the Secretary of Health, Education, and Welfare the right to set reasonable standards for highway building.

There has been a growing public concern over the long-term effects of air pollution on public health. Science has linked air pollution to cancer, heart disease, emphysema, chromosome damage, and even the common cold. A great part of this pollution, especially in our urban areas, comes from the automobile.

But almost forgotten in this concern are the immediate effects of the pollutants on the driver behind the wheel. Carbon monoxide not only has the long-term effect of causing or increasing susceptibility to cancer, it has the short term effects of impairing judgment, reducing eyesight and muscular coordination, and causing drowsiness, any of which can be fatal to the driver. In short, air pollution is a safety hazard; and the same can be said for noise pollution.

We are all familiar with the excessive levels of air pollution found in downtown Manhattan, Washington, D.C., or Boston during the rush hour as traffic is lined up bumper to bumper. And for the moment—at least until we do something about the level of pollution emitted by the individual automobile—there is little we can do about this phenomenon, except possibly to ban cars from downtown areas; for the designer of downtown streets has little choice as to where and how he routes his traffic. He simply has to go where the buildings are not.

The highway designer generally is more fortunate for he has a wide choice in most cases as to where he routes his highway and in what manner he does it. Unfortunately, in most instances we have chosen to ignore the dangers from air and noise pollution in the design of our highways.

The classic example of this failure is found in my own congressional district, in the now happily deceased Lower Manhattan Expressway. That roadway went through repeated designs and redesigns in the course of its long and inglorious history as a public controversy in New York City. In the course of these numerous designs and redesigns, the planner even started to take into account the social impact of the highway. However it was only after a group of private citizens called attention to the concentrations of air pollution which would result especially at one tunnel location that the highway designer began to take air pollution into account. As a result thereof the city authorities determined that the objectionable features of the expressway far exceeded the beneficial effects and decided to abandon it.

And as we begin to move more and more to the underground semidepressed expressways, the dangers from excessive concentrations of pollutants will become even greater.

Doing something about this situation is not, however, an impossible goal. There are a wide choice of design and techniques and locations available to the highway designer which allow him to minimize pollution. The National Air Pollution Control Administration currently has a research contract with the City of New York to establish criteria for these designs.

Unfortunately, the law is almost totally silent on this question. To my knowledge the only mention of any environmental factors is in the public hearings section of the Highway Act. But as we all know, the holding of a public hearing does not necessarily mean the Government highway official is listening.

Mr. Chairman, in the hope of correcting this situation, I offer this amendment.

Mr. KLUCZYNSKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment. I do want to thank the gentleman from New York for his comments and for all of the help which he has given us in the past. The gentleman is an expert on water and air pollution

and also on noise abatement. He is a good, conscientious Member of this body, and it is a pleasure for me to serve with the gentleman. However, in this case I am sorry that we cannot accept the amendment. Next year, when the Committee on Public Works considers the Federal-aid highway program, I hope that the gentleman from New York will be able to appear before our committee; at that time we will consider his amendment.

Again I thank the gentleman for his views, but we cannot accept this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. FARBSTEIN).

The amendment was rejected.

Mr. BINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I appreciate that this is not a major authorization bill in terms of the highway program, but I cannot let this opportunity pass without expressing once again my dismay at the disproportionate manner in which we are pouring money into our highways in this country and at the same time neglecting our mass transit facilities in the cities.

I feel that the highway trust fund should be open for use on a local option basis by States and communities who wish to have part of the funds used for improvement of mass transit facilities.

First, on this point I should like to read to the members of the Committee a letter I received just recently which expresses in a very vivid way the point I have been trying to make. The remarkable thing about this letter is that it comes from a trucker. He is my constituent, but his trucking concern is in Westchester County, N.Y.

Here is his letter:

CRIST TRUCKING, INC.,
Mount Vernon, N.Y., November 5, 1969.

Hon. JONATHAN BINGHAM,
Washington, D.C.

DEAR CONGRESSMAN: Congratulations on your attack against the use of the Highway Trust Fund for highways only.

I am paying $1800 a year into this pouring of concrete, and I am not getting my moneys worth out of it. It is really not so important that I make with my trucks five minutes better time on the run. What is important is that the cities that I run between are still there in another ten years.

Very truly yours,

WILLIAM CRIST, JR.

P.S.—My residence is at 2401 Davidson Ave.

Mr. Chairman, highway transportation is important to the growth and development of the United States but the key word should be "transportation," not "highway." Congress should consider the overall transportation problem, including the important area of mass transit.

In calendar year 1968, over $4 billion was spent on the Nation's highways out of the highway trust fund while in the same period the Federal Government spent less than one-twentieth as much for mass transit. In the last 5 years, over $20 billion of Federal money has been spent to pave the Nation while just slightly more than one-thirtieth of that sum was spent on mass transit.

The decay of the inner city is not only a much talked about problem today, it is a desperately serious problem. Transportation in New York City and other large metropolitan areas almost grinds to a halt twice a day as commuters clog the pavement. What is needed is an integrated transportation policy that encompasses automobile, bus, subway, and rapid rail transportation, rather than this annual homage to the cement industry.

I have argued repeatedly in the past that the highway trust fund should become a transportation trust fund with its moneys available on a local option basis for all of our transportation needs including mass transportation. I note that the Committee on Public Works will next year consider the future of the highway trust fund in consultation with the Committee on Ways and Means. I will take that opportunity to express in depth my conviction that this Nation needs an integrated transportation policy.

Each paved mile of our country adds more cars to our already crowded roads. We have the best highways in the world connecting our cities. Could the same statement be made about our public transportation facilities? One Chicago planner estimates that it takes 5 million square feet of off-street parking space to handle the additional auto traffic brought into the city by a single new expressway lane. The day is not far off when our major cities will become so clogged with traffic that driving downtown will be impossible and may have to be restricted to essential vehicles only. It will be too late then to recognize the importance of an integrated transportation system which includes modern and rapid mass transit.

The bill now before the House makes no major new commitments to the highway program and I therefore find that I can support this bill. However, I do want to endorse the dissenting view of my able colleague, Mr. MCCARTHY, which is published with the committee's report on this bill. The committee does the Nation an injustice when it finds it must spend around $4 billion annually on highways but must eliminate the modest sum of $30 million requested by Federal Highway Administrator Francis C. Turner for highway beautification for fiscal 1971. It is distressing enough that we lose more and more miles of countryside each year. The least we should do is include the sum requested by Mr. Turner to help insure that our highways are as attractive as possible.

I further want to express my serious reservations about the postponement from January 1, 1968, to January 1, 1971, of the date penalties may be imposed upon the States for noncompliance with the billboard and junkyard controls under the Highway Beautification Act of 1965. I am disturbed by the ambiguity of the committee's justification for this action, as expressed in their report on this bill.

AMENDMENT OFFERED BY MR. FARBSTEIN

Mr. FARBSTEIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FARBSTEIN: On page 5, after line 12, insert the following:

"SEC. 7. (a) Chapter 5 of title 23, United States Code, is amended by renumbering existing section 511, including any references thereto, as section 512 and by inserting immediately after section 510 the following new section:

"§ 511. Low-income housing

"(a) The Secretary shall not approve any project under section 106 or 117 of this title which will result in the destruction of any low- and moderate-income housing until he shall have provided, either directly or through the appropriate State agency, for the construction of an equivalent number of units of low-income housing to replace those destroyed.

"'(b) Notwithstanding any other provision of law, on and after the effective date of this section, any Federal agency which acquires real property for use in connection with a highway project authorized by section 107 and chapter 2 of this title or any other Federal law, which project will result in the destruction of low- and moderate-income housing, shall, in accordance with regulations issued by the Secretary, construct or provide for the construction of an equivalent number of units of low- and moderate-income housing to replace those destroyed. When real property is acquired by a State or local government for such a Federal project for purposes of this chapter, the acquisition shall be deemed an acquisition by the Federal agency having authority over such project.

"'(c) The Secretary shall make such rules and regulations as he determines necessary to carry out this section, including, but not limited to, the management, control, and operation of any low-income housing constructed under authority of this section.

"'(d) The Secretary shall approve as part of the cost of construction of a project under any Federal-aid highway program which he administers, the cost of constructing low-income housing required by this section. Any project agreement with a State highway department executed before the date of enactment of this section with respect to property which has not been acquired as of the date of enactment of this section under any such program shall be amended to include the cost of constructing low- and moderate-income housing required by this section.'

"(b) The analysis of chapter 5 of title 23, United States Code, is amended by renumbering existing section 511 as section 512 and by inserting immediately after section 510 the following:

"'511. Low-income housing.'"

Renumber the succeeding section accordingly.

Mr. FARBSTEIN. Mr. Chairman, this amendment would require the Federal Highway Administration to make arrangements for the replacement of low- and moderate-income housing stock that is destroyed as a result of highway construction.

The amendment would accomplish three objectives. First, it would establish the requirement that the Federal Highway Administration take responsibility for the replacement of the low- and moderate-income housing stock destroyed as a result of highway construction.

Second, it would authorize the Administration to acquire sites for housing for this purpose and construct same.

Third, it would authorize financing to carry out this purpose.

A short time ago this House approved an amendment to the Urban Renewal Act to require the urban renewal plan to

provide for the construction of at least comparable low- and moderate-income housing units for those destroyed by an urban renewal project.

I supported that amendment and I believe that offers a precedent which should be applied to highway construction as well.

The National Commission on Urban Problems headed by former Senator Paul Douglas of Illinois recommended this course more than a year ago.

I will quote from the committee recommendation as follows:

> The Commission recommends that highway funds be used to finance the construction of new housing for low and moderate income households in a metropolitan area where demolition for highway construction reduces the supply of such housing, with the requirement that definite commitments to construct the new housing concerned be made before existing housing is demolished.

Mr. Chairman, we know that these ribbons of concrete are being built throughout the Nation and in the course of this building there are destroyed and demolished numerous homes and multistory buildings without provision being made to replace this stock of housing.

It is estimated that in the period of 10 years from 1960 to 1969, housing for almost 1.2 million Americans will have been destroyed as a result of highway construction. Most of this will be in the low- and moderate-income price range.

The relocation program established by the 1968 Highway Act represented a step forward in the recognition that the Federal Government has a responsibility for finding suitable housing for those displaced by highway construction. But the persons who lose their housing as a result of construction of a highway project represent only a small fraction of those whose housing situation is directly affected by the destruction of housing units for highway purposes. The low- and moderate-income housing market in most urban areas is extremely tight. In some cities the vacancy rate is close to zero. Thus the demolition of low- and moderate-income housing units by a highway project not only affects those directly displaced by destroying the housing they occupy, it affects the other inhabitants of that urban area as well who live in low- and moderate-income housing. The destruction of a number of low- and moderate-income units diminishes the total supply of low- and moderate-income units available and means these people will pay more and enjoy lower quality accommodations.

To overcome this problem, I urge the adoption of my amendment.

Mr. Chairman, I yield back the remainder of my time.

Mr. KLUCZYNSKI. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I rise in opposition to the amendment. This is not the proper time to consider the amendment. Next week the full Public Works Committee will hold hearings on a uniform Federal relocation and land acquisition program. That is the time for a consideration of this amendment.

For this reason I oppose the amendment.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. KLUCZYNSKI. I yield to the gentleman.

Mr. BURKE of Massachusetts. Mr. Chairman, I would like to ask the gentleman for the purpose of establishing this in the RECORD, what provisions are in this bill to take care of the 32 railroad grade crossings of the Penn Central and the old New Haven Railroad between the city of Boston and the city of New York?

Mr. KLUCZYNSKI. We have in the bill a demonstration project to eliminate grade crossings on the route of the Metroliner between New York and Boston.

Mr. BURKE of Massachusetts. Are there any provisions here that will lead to the elimination of these railroad crossings?

Mr. KLUCZYNSKI. As to the other crossings the gentleman refers to a study in the bill by the Department of Transportation and the States will give us the basis for action on the other crossings at a later date.

Mr. BURKE of Massachusetts. I am glad to hear that.

Mr. Chairman, I want to commend the gentleman from Illinois (Mr. KLUCZYNSKI) and the members of his Subcommittee on Roads because at the present time the Government is spending a great deal of money on these turbotrains running between Boston and New York. An effort, and a real effort, is being made to eliminate these railroad crossings and lengthen out the time of travel between Boston and New York. Of course, our prayer and our hope is that in the foreseeable future, they will be able to run trains from the city of Boston down to Washington, D.C., in a period of about 5 hours. One of the first steps, of course, would be the elimination of these railroad crossings. I am pleased to hear that the chairman and the committee have taken steps to bring this about.

Mr. KLUCZYNSKI. I, too, am happy the legislation is about to receive action.

Mr. CRAMER. Mr. Chairman, will the gentleman yield?

Mr. KLUCZYNSKI. I yield to the gentleman from Florida.

Mr. CRAMER. I, too, oppose the amendment at this time because this is an issue we will be considering next week in connection with acquisitions by the Federal Government of property. Since that question is going to be considered at that time, the question raised by the gentleman should be considered then rather than piecemeal in this highway legislation.

Mr. KLUCZYNSKI. I invite the gentleman from New York (Mr. FARBSTEIN) to our hearings. He has always made a good witness, and we would be happy to listen to his request.

Mr. OLSEN. Mr. Chairman, will the gentleman yield?

Mr. KLUCZYNSKI. I yield to the gentleman from Montana.

Mr. OLSEN. I wish to compliment the gentleman from New York (Mr. FARBSTEIN) on his amendment and his approach to this matter. Like our chairman, I think we must consider the amendment next week in the context of the whole bill of which he is speaking. I agree with the gentleman from New York (Mr. FARBSTEIN) absolutely. We must plan housing and consider it equally important to ribbons of highway that destroy housing. I know our chairman, the gentleman from Illinois (Mr. KLUCZYNSKI), agrees, too, and we are going to write a comprehensive bill on the subject.

I join the chairman in inviting LEONARD FARBSTEIN to help us write it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. FARBSTEIN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. CRAMER

Mr. CRAMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. CRAMER: Page 4, strike out line 18 and all that follow down through line 23 and insert in lieu thereof the following:
>
> "(e) There is authorized to be appropriated, to remain available until expended, not to exceed $7,000,000 from the Highway Trust Fund to carry out paragraph (1) of subsection (b) of this section. There is authorized to be appropriated, to remain available until expended, out of the general fund not to exceed $19,000,000 to carry out paragraph (2) of subsection (b) of this section. The provisions of section 106(a) of this title relating to the obligation of Federal-aid highway funds shall apply to the funds authorized to be appropriated by this subsection."

Mr. CRAMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The gentleman from Florida is recognized.

Mr. CRAMER. Mr. Chairman, this amendment has been discussed with the majority. It is the amendment which the distinguished Chairman of the subcommittee has referred to. What it does is to give contract authority for the demonstration project relating to the Washington-to-Boston high-speed railroad, to eliminate public railroad grade crossings and give contract authority which we have in all other highway programs.

Mr. KLUCZYNSKI. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. I yield to the distinguished Chairman.

Mr. KLUCZYNSKI. We accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. CRAMER).

The amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. O'HARA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 14741) to amend title 23 of the United States Code to revise the next due date for the cost estimate for the Interstate System, to amend chapter 4 relating to highway safety, and for other purposes, pursuant to House Resolution

721, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 342, nays 1, not voting 89, as follows:

[Roll No. 292]

YEAS—342

Abernethy	Clausen,	Garmatz
Adams	Don H.	Gaydos
Addabbo	Clawson, Del	Gibbons
Albert	Clay	Gilbert
Anderson,	Cleveland	Gonzalez
Calif.	Cohelan	Goodling
Anderson, Ill.	Collier	Gray
Andrews,	Collins	Green, Oreg.
N. Dak.	Colmer	Green, Pa.
Arends	Conte	Griffiths
Ashbrook	Conyers	Grover
Ashley	Coughlin	Gubser
Aspinall	Cramer	Haley
Ayres	Culver	Hall
Baring	Cunningham	Halpern
Barrett	Daddario	Hamilton
Beall, Md.	Daniel, Va.	Hammer-
Belcher	Daniels, N.J.	schmidt
Bennett	Davis, Ga.	Hanley
Berry	Davis, Wis.	Hanna
Betts	de la Garza	Hansen, Idaho
Bevill	Delaney	Harrington
Biaggi	Dellenback	Harsha
Biester	Denney	Harvey
Bingham	Dennis	Hastings
Blackburn	Dent	Hathaway
Boggs	Derwinski	Hawkins
Boland	Devine	Hays
Bow	Dickinson	Hechler, W. Va.
Brademas	Dingell	Heckler, Mass.
Brasco	Donohue	Helstoski
Bray	Dowdy	Hicks
Brinkley	Downing	Hogan
Brooks	Dulski	Holifield
Broomfield	Duncan	Horton
Brotzman	Dwyer	Hosmer
Brown, Mich.	Eckhardt	Howard
Brown, Ohio	Edmondson	Hull
Broyhill, N.C.	Edwards, Ala.	Hunt
Broyhill, Va.	Edwards, Calif.	Hutchinson
Buchanan	Erlenborn	Ichord
Burke, Fla.	Eshleman	Jarman
Burke, Mass.	Evans, Colo.	Johnson, Calif.
Burleson, Tex.	Fallon	Johnson, Pa.
Burlison, Mo.	Farbstein	Jonas
Burton, Calif.	Feighan	Jones, N.C.
Burton, Utah	Findley	Jones, Tenn.
Bush	Fish	Karth
Button	Foley	Kastenmeier
Byrne, Pa.	Ford, Gerald R.	Kazen
Byrnes, Wis.	Foreman	Kee
Camp	Fountain	Keith
Carter	Fraser	Kleppe
Casey	Frelinghuysen	Kluczynski
Cederberg	Frey	Koch
Celler	Friedel	Kyros
Chamberlain	Fulton, Pa.	Landgrebe
Chappell	Fuqua	Langen
Clancy	Galifianakis	Latta
Clark	Gallagher	Lipscomb
Lloyd	O'Neill, Mass.	Snyder
Long, Md.	Patten	Springer
Lowenstein	Pelly	Stafford
Lujan	Pepper	Staggers
Lukens	Perkins	Stanton
McClory	Pettis	Steed
McCloskey	Philbin	Steiger, Ariz.
McClure	Pike	Steiger, Wis.
McCulloch	Pirnie	Stratton
McDade	Podell	Stubblefield
McDonald,	Poff	Stuckey
Mich.	Pollock	Sullivan
McEwen	Preyer, N.C.	Symington
McKneally	Price, Ill.	Taft
McMillan	Price, Tex.	Talcott
Madden	Pryor, Ark.	Taylor
Mahon	Quie	Teague, Calif.
Mailliard	Quillen	Teague, Tex.
Mann	Railsback	Thompson, Ga.
Marsh	Randall	Thomson, Wis.
Martin	Rees	Tiernan
Mathias	Reid, Ill.	Tunney
Matsunaga	Reid, N.Y.	Ullman
May	Reuss	Van Deerlin
Mayne	Rhodes	Vander Jagt
Meeds	Riegle	Vanik
Melcher	Rivers	Vigorito
Meskill	Robison	Waldie
Michel	Rodino	Wampler
Mikva	Roe	Watkins
Miller, Calif.	Rogers, Colo.	Watson
Miller, Ohio	Rogers, Fla.	Watts
Minish	Rooney, N.Y.	Weicker
Mink	Rooney, Pa.	Whalen
Minshall	Rosenthal	White
Mize	Roth	Whitehurst
Mizell	Roudebush	Whitten
Mollohan	Roybal	Wiggins
Monagan	Ruppe	Williams
Montgomery	Ruth	Wilson, Bob
Moorhead	Ryan	Wilson,
Morgan	St Germain	Charles H.
Morse	St. Onge	Winn
Mosher	Sandman	Wold
Murphy, Ill.	Satterfield	Wolff
Murphy, N.Y.	Saylor	Wright
Myers	Schadeberg	Wyatt
Natcher	Schneebeli	Wydler
Nedzi	Schwengel	Wylie
Nelsen	Scott	Wyman
Nichols	Sebelius	Yates
Nix	Shriver	Yatron
Obey	Skubitz	Young
O'Hara	Slack	Zablocki
O'Konski	Smith, Calif.	Zion
Olsen	Smith, N.Y.	Zwach

NAYS—1

Ottinger

NOT VOTING—89

Abbitt	Flood	MacGregor
Adair	Flowers	Mills
Alexander	Flynt	Morton
Anderson,	Ford,	Moss
Tenn.	William D.	O'Neal, Ga.
Andrews, Ala.	Fulton, Tenn.	Passman
Annunzio	Gettys	Patman
Bell, Calif.	Giaimo	Pickle
Blanton	Goldwater	Poage
Blatnik	Griffin	Powell
Bolling	Gross	Pucinski
Brock	Gude	Purcell
Brown, Calif.	Hagan	Rarick
Cabell	Hansen, Wash.	Reifel
Caffery	Hébert	Roberts
Cahill	Henderson	Rostenkowski
Carey	Hungate	Scherle
Chisholm	Jacobs	Scheuer
Conable	Jones, Ala.	Shipley
Corbett	King	Sikes
Corman	Kirwan	Sisk
Cowger	Kuykendall	Smith, Iowa
Dawson	Kyl	Stephens
Diggs	Landrum	Stokes
Dorn	Leggett	Thompson, N.J.
Edwards, La.	Lennon	Udall
Eilberg	Long, La.	Utt
Esch	McCarthy	Waggonner
Evins, Tenn.	McFall	Whalley
Fascell	Macdonald,	Widnall
Fisher	Mass.	

So the bill was passed.

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Corbett.
Mr. Hébert with Mr. Adair.
Mr. Waggonner with Mr. Kyl.
Mr. Thompson of New Jersey with Mr. Conable.
Mr. Henderson with Mr. Scherle.
Mr. Lennon with Mr. Cowger.
Mr. Blatnik with Mr. Bell of California.
Mr. Andrews of Alabama with Mr. MacGregor.
Mr. Carey with Mr. Cahill.
Mr. Eilberg with Mr. Esch.
Mr. Evins of Tennessee with Mr. Kuykendall.
Mr. Flood with Mr. Goldwater.
Mr. Giaimo with Mr. Brock.
Mr. Griffin with Mr. Utt.
Mr. Rostenkowski with Mr. Gude.
Mr. Pucinski with Mr. Whalley.
Mr. Sikes with Mr. King.
Mr. Mills with Mr. Gross.
Mr. William D. Ford with Mr. Reifel.
Mr. Macdonald of Massachusetts with Mr. Widnall.
Mr. McFall with Mr. Morton.
Mr. Long of Louisiana with Mr. Udall.
Mr. Jones of Alabama with Mr. Anderson of Tennessee.
Mr. Abbitt with Mr. Alexander.
Mr. Cabell with Mr. Fascell.
Mr. Dorn with Mr. Fisher.
Mr. Edwards of Louisiana with Mr. Flynt.
Mr. Fulton of Tennessee with Mr. Flowers.
Mr. Gettys with Mr. Sisk.
Mr. Hagan with Mr. Roberts.
Mrs. Hansen of Washington with Mr. Rarick.
Mr. Moss with Mr. Pickle.
Mr. Blanton with Mr. Leggett.
Mr. Caffery with Mr. Jacobs.
Mr. Corman with Mr. Hungate.
Mr. O'Neal of Georgia with Mr. Kirwan.
Mr. Brown of California with Mrs. Chisholm.
Mr. Scheuer with Mr. Powell.
Mr. McCarthy with Mr. Diggs.
Mr. Passman with Mr. Landrum.
Mr. Purcell with Mr. Stephens.
Mr. Smith of Iowa with Mr. Dawson.

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KLUCZYNSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 14227, ADJUSTMENTS OF RETIRED PAY TO REFLECT CHANGES IN CONSUMER PRICE INDEX

Mr. MATSUNAGA, from the Committee on Rules, reported the following privileged resolution (H. Res. 726, Rept. No. 91-692), which was referred to the House Calendar and ordered to be printed:

H. RES. 726

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14227) to amend section 1401a(b) of title 10, United States Code, relating to adjustments of retired pay to reflect changes in Consumer Price Index. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall

be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. MATSUNAGA. Mr. Speaker, I call up House Resolution 726 and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER. The question is, Will the House now consider House Resolution 726?

The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 726.

The SPEAKER. The gentleman from Hawaii is recognized for 1 hour.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) pending which I yield myself such time as I may consume.

Mr. Speaker, this resolution provides for an open rule with 1 hour of general debate for consideration of H.R. 14227 to provide military retirees with an improved formula for future adjustments in their military retired pay.

The purpose of H.R. 14227 is to modify the existing statutory formula under which military retired pay is increased upward to reflect changes in the cost of living.

The bill, as amended, is designed to insure that military retirees will have the same benefit afforded Federal civil service retirees with respect to the 1 percent added increase in cost of living adjustments provided by Public Law 91–93, which was enacted on October 20 of this year.

Federal civil service retirees received a cost-of-living adjustment on November 1, 1969 which included the 1-percent add-on. This bill would provide that military retirees will similarly benefit by this 1-percent add-on retroactive to the same date. Passage of this legislation will simply mean equity for the military retiree.

Mr. Speaker, I urge the adoption of this resolution in order that H.R. 14227 may be considered.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from Hawaii (Mr. MATSUNAGA) has ably stated, this resolution provides for the consideration of H.R. 14227 under an open rule, with 1 hour of general debate.

The purpose of the bill is to bring the formula covering retirement pay for the military into line with recent amendments to the formula used by the Civil Service Commission for civilian retirees.

Under the existing formula, whenever the Consumer Price Index increases by 3 percent over the index base, and remains at or above that level for a period of 3 consecutive months, military retired pay is increased on the 1st day of the third month following the 3-month period by the highest percentage of increase attained during that period.

The bill adds to this formula an additional 1 percent upward adjustment with each such cost-of-living increase. The reason for this is to make up for the time lag built into the formula. This same legislation was recently signed into law (91–339) for civil service retirees.

The Department of Defense supports the legislation and estimates the cost for 1 year at about $27,000,000.

The bill was reported unanimously.

Mr. Speaker, I have no further requests for time but I reserve the balance of my time.

Mr. MATSUNAGA. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

INCREASING PER DIEM ALLOWANCE FOR MEMBERS OF UNIFORMED SERVICES

Mr. MATSUNAGA, from the Committee on Rules, reported the following privileged resolution (H. Res. 727, Rept. No. 61–693), which was referred to the House Calendar and ordered to be printed:

H. RES. 727

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 944) to amend section 404(d) of title 37, United States Code, by increasing the maximum rates of per diem allowance and reimbursement authorized, under certain circumstances, to meet the actual expenses of travel. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. MATSUNAGA. Mr. Speaker, I call up House Resolution 727, and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER. The question is, Will the House now consider House Resolution 727?

The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 727.

The SPEAKER. The gentleman from Hawaii is recognized for 1 hour.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) pending which I yield myself such time as I may consume.

Mr. Speaker, this resolution provides for an open rule with 1 hour of general debate for consideration of H.R. 944 to increase per diem allowance for members of the uniformed services.

The purpose of H.R. 944, as amended, is to increase the maximum per diem in lieu of subsisistence and actual expense reimbursement to the same levels now enjoyed by the civilian Government employees, that is to $25 for the per diem allowance and to $40 for the actual expense reimbursement. At the present time, the maximum per diem is $16 per day and the actual expense reimbursement is $30 per day.

H.R. 944 would provide that all Government employees, military and civilian, will be treated equally.

It is estimated that the additional annual cost resulting from the increases will be approximately $80.8 million.

Mr. Speaker, I urge the adoption of this resolution in order that H.R. 944 may be considered.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from Hawaii (Mr. MATSUNAGA) has ably stated, this resolution provides for the consideration of H.R. 944 under an open rule with 1 hour of general debate.

The purpose of the bill is to increase the maximum per diem permitted to members of the uniformed services from $16 per day to $25 per day and the maximum amount which may be reimbursed when actual expenses are paid from $30 per day to $40 per day.

Public Law 91–114, recently enacted, raises the civilian Government employee allowances to $25 per day on a per diem basis and provides that when actual expenses are paid out, the top figure reimbursable is $40 per day. The bill proposes to bring the uniformed services in line with these recent amendments to statutory law covering civilian employees.

The Department of Defense estimates the annual cost resulting from this increase will be approximately $80,800,000. The Department of Defense and the Bureau of the Budget support the bill.

Mr. Speaker, I have no further requests for time, but I reserve the remainder of my time.

Mr. MATSUNAGA. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. PHILBIN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 944) to amend section 404(d) of title 37, United States Code, by increasing the maximum rates of per diem allowance and reimbursement authorized, under certain circumstances, to meet the actual expenses of travel, and ask unanimous consent that the bill be conisdered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the bill, as follows:

H.R. 944

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That section 404(d) of title 37, United States Code, is amended by striking out "$16" and "$30", respectively, and inserting in place thereof "$20" and "$35".

With the following committee amendment:

On page 1, line 5, strike out "$20" and insert "$25" and strike out "$35" and insert "$40".

The committee amendment was agreed to.

Mr. PHILBIN. Mr. Speaker, I move to strike out the last word.

Mr. Speaker, H.R. 944 is designed to amend section 404(d) of title 37, United States Code, by increasing the maximum rates of per diem allowance and actual expense reimbursement authorized to meet the travel expenses of service members within the contiguous 48 States and the District of Columbia.

H.R. 944 as originally introduced would have increased the per diem allowance from $16 to $20 and would have increased the actual expense reimbursement allowance from $30 to $35. However, Public Law 91–114, which was enacted recently, raises the civilian government employee allowances higher than those contemplated for the military under H.R. 944. As a result, civilians are now entitled to a per diem allowance of $25 and an actual expense reimbursement of $40. Figures on current costs of lodging and meals were presented to the Committee on Government Operations of the House of Representatives by the Assistant Director of the Bureau of the Budget during the hearings on the civilian bill. These figures caused that committee to conclude that a per diem allowance of $25 and a reimbursement allowance of $40 were necessary.

In light of these findings and in order that all Government employees, military and civilian, would be treated equally, the Committee on Armed Services amended H.R. 944 to increase the per diem allowance for military personnel to the same levels now received by their civilian counterparts, namely the bill's allowance was raised from $20 to $25 and the actual expense reimbursement was raised from $35 to $40. Based upon these increased allowances, the annual cost of H.R. 944 as amended would be $80.8 million. This dollar requirement can be financed within the revised Department of Defense budget for fiscal year 1970. The Department of Defense recommends enactment of the bill at levels that correspond to the civilian allowances. The Bureau of the Budget interposes no objection.

The SPEAKER pro tempore (Mr. BURKE of Massachusetts). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ADJUSTMENTS OF RETIRED PAY TO REFLECT CHANGES IN CONSUMER PRICE INDEX

Mr. PHILBIN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 14227) to amend section 1401a(b) of title 10, United States Code, relating to adjustments of retired pay to reflect changes in Consumer Price Index, and ask that the bill be considered in the House as in Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the bill, as follows:

H.R. 14227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of section 1401a(b) of title 10, United States Code, is amended to read as follows: "If the Secretary determines that, for three consecutive months, the amount of the increase is at least 3 per centum over the base index, the retired pay and retainer pay of members and former members of the armed forces who become entitled to that pay before the first day of the third calendar month beginning after the end of those three months shall, except as provided in subsection (c), be increased, effective on that day, by the per centum obtained by adding 1 per centum and the highest per centum of increase in the index during those months, adjusted to the nearest one-tenth of 1 per centum."

With the following committee amendment:

On page 2, after line 5, add the following new section:

"SEC. 2. The provisions of this Act become effective on October 31, 1969."

The committee amendment was agreed to.

Mr. PHILBIN. Mr. Speaker, the purpose of this bill is to modify the existing statutory formula under which military retired pay is increased upward so as to more adequately reflect changes in the cost of living.

EXPLANATION

Under the existing formula for adjusting military retired pay, whenever the Consumer Price Index—CPI—increases by 3 percent over the previous base index and remains at or above that level for a peirod of 3 consecutive months, military retired pay is increased on the 1st day of the third month following that 3-month period by the highest percentage of increase attained during that period.

This formula was designed by the Congress as a device to protect the purchasing power of military retired pay.

A similar formula is utilized by the Civil Service Commission to protect the purchasing power of retired Federal civil service employees. However, the formula for civil service retirees has recently been improved with the enactment of Public Law 91–93, October 20, 1969, by attempting to compensate for an evident deficiency in this formula.

Briefly, the Congress has provided that whenever an adjustment in Federal civil service employee's retired pay is effected, in addition to the percentage increase dictated by the CPI change, there will be added a 1-percent increase to compensate for the lag in the application of this formula.

Thus, since the established formula required a 4-percent increase in civil service retired pay effective November 1, 1969, there was also added an additional 1 percent as a result of Public Law 91–93, with the result that the net increase for civil service retirees was 5 percent.

Since military retirees are confronted with the same problem as civil service retirees, Mr. RIVERS introduced the legislation which would extend this improved formula to military retirees as well.

EXECUTIVE BRANCH POSITION

The administration has advised the Committee on Armed Services that it supports enactment of this bill.

FISCAL DATA

The cost of a 1-percent increase in military retired pay for 1 year will be approximately $27,000,000.

COMMITTEE ACTION

The Committee on Armed Services unanimously approved this bill with an amendment, which would make it effective on the same date as the similar provision for civil service retirees—November 1, 1969.

Mr. FLYNT. Mr. Speaker, I strongly support H.R. 14227.

The purpose of this bill is to grant military retirees the same cost-of-living adjustments now afforded Federal civil service retirees.

There was sound reason for adjusting the cost-of-living formula for Federal civil service retirees, and the same reasons apply with equal force to the bill now before the House.

In view of recent history of the rate of increase in cost of living and the rate which will pertain in the foreseeable future, the adjustment authorized in this bill will not fully compensate the retiree for the cost-of-living increase, nor is it intended to do so. It will, however, help to close the gap without adding to the inflationary pressures which cause the cost-of-living increase.

By passing this legislation we keep the faith with our retired military personnel by giving them the same consideration which we have already properly given to Federal civil service retirees.

Mr. PETTIS. Mr. Speaker, when Congress enacted Public Law 85–422 in 1958, it departed from a principle that had been practiced for almost 100 years: That of basing military retired pay on military active duty pay rates.

This legislation was followed in 1963 by Public Law 88–132 linking military retirement pay to the consumer price index. The practical result of this legislation was to introduce further confusion and inequality into the computation of retirement pay for military personnel. Members on the retired rolls or those due for retirement within the next few years almost without exception entered active service and served their careers under a more favorable retirement system.

Persons entering the armed services during that period had every reason to believe that the Government would carry out its end of the bargain by continuing to provide a favorable retirement system. Certainly if these retirement benefits were to be reduced, provisions should have been made to protect the equity of

those individuals who had entered the service under that system. Ironically, the action taken by Congress in enacting the two aforementioned public laws occurred during the very period that social security benefits and private pension plans were becoming much more liberal and active duty military pay was being increased.

Under the "cost-of-living" formula, the older retirees, who have less opportunity to supplement their retired pay by outside employment, and whose financial needs may well be greater, will continue to see their income decline in relation to their younger comrades. Such lowered standards at once broke faith with those persons on the active lists as to their own treatment in the years to come. Certainly the lowered standard of compensation arbitrarily imposed upon those already retired can cause little reason for hope for better treatment for those due to retire in the future.

I believe that military people, both active and retired, who entered the military service prior to June 1, 1958, when the recomputation principle was precipitiously suspended, have a moral right to have their retired pay computed no less favorably than was provided by law when they undertook the obligations of a military career in anticipation of such benefits.

Whatever the merits of H.R. 14277, I feel that the terms of my proposed legislation, H.R. 310 will improve the system by removing the inequities which I have just cited. In addition, it has the added attraction of ultimately reducing the cost to the Federal Government by eliminating the application of the legislation to those persons who entered the service after the system had been changed.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PHILBIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the two bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ADMINISTRATION ACTION NEEDED TO IMPROVE HOUSING MARKET

(Mr. BARRETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT. Mr. Speaker, in the Wall Street Journal of Wednesday, November 19, I saw two articles, side by side, which were of particular interest to me as chairman of the Subcommittee on Housing.

The first of these articles was captioned "Housing Starts in Month Fell 12 Percent, Most This Year." A reading of this article simply reinforces what all of us already know and have known for some time—that the housing industry continues to be in trouble—in deep trouble.

The second of these articles offers what I think is a glimmer of hope for the housing industry. Preston Martin, the new and dynamic Chairman of the Home Loan Bank Board announced that newly instituted actions will make more than $5.3 billion available in additional funds in 1970. This is a most welcomed piece of news.

But, Mr. Speaker, there was something in this latter article that causes me some concern.

There is nobody in the Congress who has a greater respect for the Bank Board than I. It has done in the past, is doing now, and will in the future, I know, continue to do an outstanding job in helping provide housing for all of our people. The Bank Board is offering to buy some $200 million in mortgage paper which will originate on HUD-subsidized housing projects. What concerns me, Mr. Speaker, is that the administration, in pushing forward in this area, is not really cognizant of what we in the Congress have intended, or if cognizant, it chooses to ignore our mandate.

One of the more important features of the Housing Act of 1968 was section 804 relating to mortgage-backed securities. In our report on the pending Housing and Urban Development Act of 1969, we said:

> When this legislation (i.e. the 1968 Act) was considered last year, the Committee understood that FNMA, using its experience and contacts in the capital market, would be the first issuer of these securities in order to establish their acceptability to potential investors. Other issuers then would be able to take advantage of FNMA's experience and expertise. This still seems to be a sound plan, and would seem to represent a reasonable procedure to initiate and establish a reliable market for this type of security.

It is unclear, at this point, Mr. Speaker, exactly what type of issue the Bank Board is contemplating. If it is the bond type mortgage-backed security. I would certainly expect that the administration will heed the words of our committee and will use that facility—FNMA—which has been ready and willing for some little time and able to move in this area.

If the security involved is not a bond type mortgage-backed security, then I think we must again ask the administration how much longer will it take for it to implement this mortgage-backed security program which still offers so much potential for the tapping of large sums of money so sorely needed by the housing industry.

The housing situation is daily growing more acute, and some 15 or 16 months, Mr. Speaker, seems to be long enough for the administration to perfect its regulations on this section of the law which still offers much promise.

AND I STILL DREAM ABOUT IT

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, every day for the past week, we have seen new evidence establishing that war crimes have been committed by members of our Armed Forces in Vietnam. A horrendous tragedy took place in the village of Songmy where Vietnamese civilians, men, women, and babes in arms, were massacred by American Army personnel.

If we did not know it before, we know it now, that the ability to commit war crimes is not restricted to the Germans. War brings out the beast in man. Every nation is capable of committing the kind of atrocity that took place in this small Vietnamese village.

War crimes in our lifetime have been committed by the Soviet Union which slaughtered tens of thousands of innocent Poles and other peoples in Eastern Europe; the Dutch committed similar atrocities in Indonesia before they left those islands; the French perpetrated comparable outrages in Algeria before they vacated that country. There is a litany of names which would include country after country, guilty of atrocities, when one nation sought to subjugate the people of another land. These war crimes are always committed in the name of freedom, liberty, and self-defense.

Almost every country sitting in judgment at Nuremburg has a historical record of having committed atrocities. There were some who made this point when the Nuremburg trials were being conducted, and some said that because there were others who had committed and would commit other atrocities that those Germans who had committed them in World War II ought not to be punished. I did not agree with that point of view then, nor do I now. Instead, we ought to make certain, indeed pledge, that whoever commits atrocities from whatever country, including our own, must and will be brought to trial. And that we pledge ourselves to evolve a worldwide rule of law and the mechanism to enforce it which will seek out those who violate that law and punish them.

It must have come as a shock to many Americans to learn that our people are as capable of committing these most abhorrent acts as were the Nazis of Germany. It is not enough to hang our heads in shame—we must do more. Man carries within him the most base animal instincts, as well as the divine spirit. When a man personally, or under color of governmental authority, permits those base bestial instincts to govern his conduct and commits acts which, as a result of the Nuremburg trials, now constitute acts, universally accepted as war crimes, such a man or men must be punished.

Whether war crimes are committed by North Vietnamese at Hue or by U.S. soldiers in Songmy, justice requires that those who perpetrate them be tried.

The confession of one of our young soldiers, Paul Meadlo, who participated

in the killing of men, women, and babies at Songmy, is a compelling statement and should be read by all of our colleagues. It follows:

TRANSCRIPT OF INTERVIEW OF VIETNAM WAR VETERAN ON HIS ROLE IN ALLEGED MASSACRE OF CIVILIANS AT SONGMY

(NOTE.—Following is a transcript of an interview with Paul Meadlo, Vietnam veteran, by Mike Wallace on the Columbia Broadcasting System Radio Network last night.)

MEADLO. Captain Medinas had us all in a group, and oh, he briefed us, and I can't remember all the briefing.

WALLACE. How many of them were with you?

A. Well, with the mortar platoon, I'd say there'd be about 65—65 people, but the mortar platoon wasn't with us. And I'd say the mortar platoon had about 20—25—about 25 people in the mortar platoon. So we didn't have the whole company in the Pinkville, no we didn't.

Q. There weren't about 40–45. . . .

A. Right.

Q. —that took part in all of this?

A. Right.

Q. Now you took off from your base camp—

A. . . . yes—Dolly.

Q. . . . Dolly. At what time?

A. I wouldn't know what time it was . . .

Q. . . . in the early morning . . .

A. . . . In the early morning. It was—it would have been a long time ago.

Q. And what had you been briefed to do when you got to Pinkville?

A. To search and to make sure that there weren't no N.V.A. in the village and "spectin" to fight—when we got there . . .

Q. To expect to fight?

A. To expect to fight.

Q. Uh-huh. So you took off and—in how many choppers?

A. Well, I'd say the first wave was about four of us—I mean four choppers, and uh . . .

Q. How many men abroad each chopper?

A. Uh, five of us. And we landed next to the village, and we all got on line and we started walking toward the village. And there was one man, one gook in the shelter, and he was all huddled up down in there, and the man called out and said there's a gook over here.

Q. How old a man was this? I mean was this a fighting man or an older man?

A. An older man. And the man hauled out and said that there's a gook over here and then Sergeant Mitchell hollered back and said shoot him.

Q. Sergeant Mitchell was in charge of the 20 of you?

A. He was in charge of the whole squad. And so then the man shot him. So we moved on into the village, and we started searching up the village and gathering people and running through the center of the village.

Q. How many people did you round up?

A. Well, there were about 40–45 people that we gathered in the center of the village. And we placed them in there, and it was like a little island, right there in the center of the village, I'd say. And—

Q. What kind of people—men, women, children?

A. Men, women, children.

"I WANT THEM DEAD"

Q. Babies?

A. Babies. And we all huddled them up. We made them squat down, and Lieutenant Calley came over and said, "You know what to do with them, don't you?" And I said Yes. So I took it for granted that he just wanted us to watch them. And he left, and came back about 10 or 15 minutes later, and said, "How come you ain't killed them, yet?" And I told him that I didn't think you want us to kill them, that you just wanted us to guard them. He said, "No I want them dead." So——

Q. He told this to all of you, or to you particularly?

A. Well, I was facing him. So, but the other three, four guys heard it and so he stepped back about 10, 15 feet, and he started shooting them. And he told me to start shooting. So I started shooting, I poured about four clips into the group.

Q. You fired four clips from your . . .

A. M–16.

Q. And that's about—how many clips—I mean how many—

A. I carried seventeen rounds to each clip.

Q. So you fired something like 67 shots—

A. Right.

Q. And you killed how many? At that time?

A. Well, I fired them on automatic, so you can't—you just spray the area on them and so you can't know how many you killed 'cause they were going fast. So I might have killed ten or fifteen of them.

Q. Men, women and children.

A. Men, women and children.

Q. And babies?

A. And babies.

Q. Okay, then what?

A. So we started to gather them up, more people, and we had about seven or eight people, that we was gonna put into the hootch, and we dropped a hand grenade in there with them.

Q. Now you're rounding up more?

A. We're rounding up more, and we had about seven or eight people. And we was going to throw them in the hootch, and well, we put them in the hootch and then we dropped a hand grenade down there with them. And somebody holed up in the ravine, and told us to bring them over to the ravine, so we took them back out, and led them over to—and by that time, we already had them over there, and they had about 70–75 people all gathered up. So we threw ours in with them and Lieutenant Calley told me, he said, "Meadlo, we got another job to do." And so he walked over to the people, and he started pushing them off and started shooting . . .

Q. Started pushing them off into the ravine?

A. Off into the ravine. It was a ditch. And so we started pushing them off and we started shooting them, so altogether we just pushed them all off, and just started using automatics on them. And then——

Q. Again—men, women, children?

A. Men, women and children.

Q. And babies?

A. And babies. And so we started shooting them, and sombeody told us to switch off to single shot so that we could save ammo. So we switched off to single shot, and shot a few more rounds. And after that, I just—we just—the company started gathering up again .We started moving out, and we had a few gooks that was in—as we started moving out, we had gooks in front of us that was taking point, you know.

Q. Uh-huh.

A. —and as we walked——

Q. Taking point. You mean out in front? To take any fire that might come.

STEPPED ON LAND MINE

A. Right. And so we started walking across that field. And so later on that day, they picked them up, and gooks we had, and I reckon they took them to Chu Lai or some camp that they was questioning them, so I don't know what they done with them. So we set up (indistinct) the rest of the night, and the next morning we started leaving, leaving the perimeter, and I stepped on a land mine next day, next morning.

Q. And you came back to the United States.

A. I came back to the United States, and lost a foot out of it.

Q. You feel——

A. I feel cheated because the V.A. cut my disability like they did, and they say that my stump is well healed, well padded, without tenderness. Well, it's well healed, but it's a long way from being well padded. And without tenderness? It hurts all the time. I got to work eight hours a day up on my foot, and at the end of the day I can't hardly stand it. But I gotta work because I gotta make a living, and the V.A. don't give me enough money to live on as it is.

Q. Veterans Administration.

A. Right. So——

Q. Did you feel any sense of retribution to yourself the day after?

A. Well, I felt that I was punished for what I'd done, the next morning. Later on in that day, I felt like I was being punished.

Q. Why did you do it?

A. Why did I do it? Because I felt like I was ordered to do it, and it seemed like that, at the time I felt like I was doing the right thing, because like I said I lost buddies. I lost a dam good buddy, Bobby Wilson, and it was on my conscience. So after I done it, I felt good, but later on that day, it was getting to me.

Q. You're married?

A. Right.

Q. Children?

A. Two.

Q. How old?

A. The boy is two and a half, and the little girl is a year and a half.

Q. Obviously, the question comes to my mind . . . the father of two little kids like that . . . how can he shoot babies?

A. I didn't have the little girl. I just had the little boy at the time.

Q. Uh-huh. How do you shoot babies?

A. I don't know. It's just one of them things.

Q. How many people would you imagine were killed that day?

A. I'd say about 370.

Q. How do you arrive at that figure?

A. Just looking.

Q. You saw, you think, that many people, and you yourself were responsible for how many of them?

A. I couldn't say.

Q. Twenty-five? Fifty?

A. I couldn't say . . . just too many.

Q. And how many men did the actual shooting?

A. Well, I really couldn't say that either. There was another . . . there was another platoon in there and . . . but I just couldn't say how many.

"JUST SITTING, SQUATTING"

Q. But these civilians were lined up and shot? They weren't killed by cross-fire?

A. They weren't lined up . . . they [were] just pushed in a ravine or just sitting, squatting . . . and shot.

Q. What did these civilians—particularly the women and children, the old men—what did they do? What did they say to you?

A. They weren't much saying to them. They [were] just being pushed and they were doing what they was told to do.

Q. They weren't begging or saying, "No . . . no," or—

A. Right. They was begging and saying, "No, no." And the mothers was hugging their children and, but they kept right on firing. Well, we kept right on firing. They was waving their arms and begging . . .

Q. Was that your most vivid memory of what you saw?

A. Right.

Q. And nothing went through your mind or heart?

A. Many a times . . . many a times . . .

Q. While you were doing it?

A. Not while I was doing it. I just seemed like it was the natural thing to do at the time. I don't know. It just—I was getting relieved from what I'd seen earlier over there.

"IT WAS . . . MOSTLY REVENGE"

Q. What do you mean?

A. Well, I was getting . . . like the . . . my buddies getting killed or wounded or—we weren't getting no satisfaction from it, so what it really was, it was just mostly revenge.

Q. You call the Vietnamese "gooks"?

A. Gooks.

Q. Are they people to you? Were they people to you?

A. Well, they were people. But it was just one of them words that we just picked up over there, you know. Just any word you pick up. That's what you call people, and that's what you been called.

Q. Obviously, the thought that goes through my mind—I spent some time over there, and I killed in the second war, and so forth. But the thought that goes through your mind is, we've raised such a dickens about what the Nazis did, or what the Japanese did, but particularly what the Nazis did in the second world war, the brutalization and so forth, you know. It's hard for a good many Americans to understand that young, capable American boys could line up old men, women and children and babies and shoot them down in cold blood. How do you explain that?

A. I wouldn't know.

Q. Did you ever dream about all of this that went on in Pinkville?

A. Yes, I did . . . and I still dream about it.

Q. What kind of dreams?

A. I see the women and children in my sleep, Some days . . . some nights, I can't even sleep. I just lay there thinking about it.

THANKSGIVING, 1969: PRODUCTION GAINS BUT DISTRIBUTION FAILS

(Mr. MELCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MELCHER. Mr. Speaker, General Sherman followed the basic and classic strategy of battle first enunciated by Gen. Nathan Bedford Forrest, of "getting there firstest with the mostest."

We won on the battlefields in World War II with logistics which carried out that strategy; we had the right equipment and firepower in the right places at the right time to overwhelm the enemy. The Marshall plan after the fighting followed the same logistical pattern: we speedily provided what was required to save Europe from starvation, economic collapse, and ruin.

Currently, we have mastered outer space to the moon with expert planning and scientific knowledge, coordinating the most complex instruments and harnessing power to have exactly what is needed at the right place at exactly the right time. With perfectly controlled accuracy over hundreds of thousands of miles, the three astronauts, Gordon, Dean, and Conrad, landed on this earth yesterday within yards of their return target after spending several hours at a preselected spot on the lunar surface.

Jefferson 200 years ago envisioned this country as a great agricultural nation, and he was right, but it was more than that. By the time of Sherman we had blended industrial development with an expanding agriculture. If Sherman's soldiers were hungry, it was a matter of logistics, or a failure of distribution.

Gen. George Marshall in the forties used logistics as the keystone for military success, and for the rescue of Europe with food and other goods when the fighting had ended.

With all these successes, why cannot we distribute an abundance of food so millions of our people need not be hungry? Why are millions of children in our land undernourished, and know hunger before they know the alphabet? Why are many elderly people unable to live comfortably in retirement with decent food, and in security without the ills of malnourishment?

Sherman's principle—getting there firstest with the mostest—would win this battle on hunger, and we have repeatedly demonstrated the logistical ability in war, peace, and in space, to carry out that principle.

Generations of farmers have undergone the sweat and the dust of spring plantings, summer cultivation, and fall harvests believing that the abundance of food they produced would satisfy the hunger of the Nation.

The Thanksgiving holiday is a celebration of the realization of this American dream, offering thanks to divine providence for plentiful foodstuffs.

Yet, to tell it like it is, is to admit that while productivity in agriculture flourishes, distribution of our abundance fails daily. Hunger is a constant companion of one-sixth of our population. Nearly 30 million Americans, a high percentage of them children and elderly, are not able to satisfy their daily nourishment requirements.

Our farmers are grinding out their production now in a squeeze that finds their costs exceeding prices and returns, partly because they must forego cultivation of a substantial part of their land. In the absence of adequate distribution and use of their products, they must take 20-year-ago prices while paying costs based on current inflated economic levels, boosted there partially by our huge investment in putting men on the moon.

Truth forces us to admit that while we have attained the knowledge and technology to master outer space, we have slipped backward in meeting human needs and that our Thanksgiving celebration, thanking the Almighty for an abundant harvest, is becoming increasingly deceptive and inappropriate.

Our farmers grow an abundance of food. That is their part, but their abundance becomes a price depressing burden on them. They are entitled to a fair return, but they do not get it because the rest of us are not doing our part—seeing that food is distributed to all those in need.

Hunger need not be a problem.

There should be no empty plates on Thanksgiving Day, and there will not be in future years if we solve problems of food distribution which are far less complex than General Marshall solved in the forties, and far less complex than those involved in sending a triumvirate of men through space to a small target on the moon and then bringing them back to a precise spot on this earth.

We should dedicate ourselves on this Thanksgiving Day, 1969, to seeing that Thanksgiving next year—not 5 years hence, or 10 years hence, but Thanksgiving in 1970—can be celebrated in completely good conscience.

NATIONAL SECURITY: ARE WE ASKING THE RIGHT QUESTIONS?

(Mr. PREYER of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PREYER of North Carolina. Mr. Speaker, one of the most impressive contributions made recently to the discussion on the size of our defense budget and the military-industrial complex is the article by Mr. Paul Warnke in the October Washington Monthly called, "National Security: Are We Asking the Right Questions?"

The distinguished former Assistant Secretary of Defense declares that—

> There are growing signs of a healthy willingness to question some of the items in the defense budget. But the absence of an over-all policy from which these individual items derive makes the debate revolve largely around tangential issues.

The article is a balanced exploration of how our military means may be kept consistent with our political objectives, and what those objectives should be. It follows:

NATIONAL SECURITY: ARE WE ASKING THE RIGHT QUESTIONS?

(By Paul C. Warnke)

(NOTE.—Paul C. Warnke was Assistant Secretary of Defense for International Security Affairs from August, 1967, until February of this year, and General Counsel of the Department of Defense from September, 1966, through July, 1967. He is now practicing law in Washington.)

In the area of national security, it is probably a good deal easier to raise questions than to supply answers. Anyone who has ever tried the latter can only hope that his successors will be better at it. But he may also find himself hoping that he, and the American public generally, can begin to do a better job of asking the right questions. Until we do, there is little purpose and even less justice in railing about the size of our defense budget. The military-industrial complex, with the soaring cost of its care and feeding and its dire consequences for the quality of American life, is the inevitable answer to the questions we have asked and the demands we have made in the name of national security. Our military-industrial complex exists because we have asked for it.

We can never cut it back to size and free up a fair share of our budget dollars for competing and compelling causes until we begin asking the right questions—about how our defense effort squares with the real world and with our genuine national security. Without the right questions directed to the right people we can never get answers that will permit us to design, or even to recognize, a defense budget commensurate with our over-all interests and objectives.

In not too oversimplified terms, the concept of security we evolved after World War II was to make sure that non-Communist countries stayed that way. During the years when "Who Lost China?" was the popular security questions, nobody in the national-security business, at least, craved identification as one who had "lost" some other strayed member in the non-Communist community.

The Eisenhower Administration pursued

the concept of security by adhering to the doctrine of "massive retaliation." As the answer to the question of how we could prevent Communist take-overs, we could point to our nuclear striking force. But this answer became less and less plausible as our monopoly in intercontinental missiles dissipated. Neither we nor our potential adversaries could continue to believe that the United States would react to any and every Communist provocation by initiating a nuclear exchange in which our own society would be devastated.

Nor could we accept an "all-or-nothing" doctrine of defense that would leave us bereft of any ability to respond with conventional force to conventional attacks on friendly nations. So "massive retaliation" gave way to the more common-sense notion of a "flexible response" adequate to counter, and hopefully to deter, instances of aggression for which we would be unwilling to risk a nuclear holocaust.

But the cost of the capability to respond flexibly can be immense if an American military response must be contemplated whenever an international development disfavors our national interests. And this expense can be infinite if the adequacy of that capability must be measured in terms of a clear superiority in every aspect of armed might.

In a world in which we are not the single "great power," any such total military versatility and invincibility is clearly unprocurable—at any price. Until we begin to refine our questions and direct them toward realistic and realizable security goals, we will continue to ask the impossible and get answers that are unacceptable.

In the broadest sense, we now ask our government: make us safe from any attack by any foe. The answer is a defense budget in the neighborhood of $80 billion a year. It is an answer that is increasingly unsatisfactory. It certainly does not satisfy the Joint Chiefs of Staff, who recognize that this amount is inadequate to buy the American people anything like full protection. The Armed Services Committees of Congress can prove that a lower budget means less overall military strength and less capacity to do things by military force, for a defense budget of $80 billion obviously provides the capability to meet contingencies that a budget of $50 billion must ignore. But before concluding that the $50 billion budget will leave us weaker and in greater danger, we need political judgments as to what unmet contingencies are apt to occur and—if they do occur and if they are unmet—what vital national interests may be adversely affected. We need the further political judgment of whether the $30 billion thus freed can be spent on problems of greater risk to our national security and in areas of greater benefit to the over-all quality of American life. We need the answers that will put in perspective any incremental gain in physical security.

In the age of intercontinental ballistic missiles, we cannot now, with any amount of money, buy physical safety from a Soviet attack of indescribable devastation. But the real pressures for a ballistic-missile defense—and perhaps even its lulling designation as the "Safeguard" system—derive from our unwillingness to accept emotionally what we have every factual reason to comprehend.

Nor can we curb the infinite expansion of the military-industrial complex by continuing to demand margins of superiority over our potential adversaries all across the spectrum of military armament. We should ask, instead, which leads are meaningful in terms of security or political advantage, and which are not. "Superiority" in nuclear missiles, for example, is too expensive if all it gives us is a status symbol. And "inferiority" is no cause for alarm or even embarrassment if what we have is enough to deter any Soviet effort at a pre-emptive strike.

We should keep in mind that what the Soviets themselves are doing may not always provide a useful measure for the appropriateness of our own defense expenditures. We sometimes seem to proceed on the assumption that we are not doing enough unless we more than match what the Soviets spend in every area of armed might. We rarely require whether the Soviets are spending too much. Instead, when there is criticism of our ABM deployment, we accept as valid the answer that, after all, the Soviets have already deployed an ABM of their own. Maybe we should ask whether theirs is a poor investment. While vaunting our superior sophistication in other things, both economic and social, we at times come perilously close to adopting Soviet answers when it comes to the allocation of our defense dollars on strategic weapons systems.

In the area of conventional forces, we waste the time and the talents of our military leaders when we leave them to prepare their budget requests on the basis of assumptions devoid of political validity. Our military planners, in fact, are major victims of our defective interrogatory technique. The problem is not that their advice is too often ignored. It is that their answers frequently don't matter because we've asked them the wrong questions. It's neither fair nor fruitful to ask them to develop a military machine that will help achieve a set of foreign-policy objectives which haven't been articulated—and which, when developed, can prove impervious to military solution.

In order to obtain the proper weapons systems—in the proper quantities and supporting the proper number of military personnel—we need a much clearer idea of the circumstances under which we will be willing to use them. The Systems-Analysis group within the Office of the Secretary of Defense serves an essential function in developing the most effective means of performing the various military missions. These civilian experts constantly discuss issues of relative cost effectiveness with the different Armed Services. But neither the civilian nor the military personnel of the Pentagon should be asked to speculate on the nature and number of instances in which they'll be asked to provide military force in furtherance of national objectives. Our current force posture—designed to fight two wars while handling another contingency somewhere else in the world—is the product of such speculation.

This "two-and-a-half war" concept did not arise from an informed prediction of international developments. It derived, during the last decade, from what Pentagon planners saw as the need to buttress conventional military forces neglected during our years of reliance on a nuclear strategy of "massive retaliation." But we lacked then, as we lack now, an accepted perception of our national-security interests; we had no measure for the adequacy of our conventional military capability. As a consequence, our forces are not shaped to fit a policy—and the risk always exists that the policy itself may be influenced by the military forces on hand. We need not conclude that our analyses of force requirements in the early '60's were wrong. But we do need to ask if, in today's world, our national scale of priorities justifies the expense of preparing to fight the Soviets in Europe, while we simultaneously fend off Chinese aggression in Asia and deal elsewhere with some lesser adversary.

It may be that I unduly discount the risk that Russia and China may resolve their differences to the point where they could even consider concurrently engaging us in large-scale conventional warfare. But it is difficult to imagine that either nation would deem the nuclear threshold sufficiently high to block an early resort to strategic forces. Before we commit ourselves to further funding against such an eventuality, we should ask the National Security Council to consider the likelihood of this kind of dispersed Armageddon, and to shun a policy that might make it thinkable.

A bumper sticker of the recent past read: "Support Mental Health or I'll Kill You." Sanity in foreign policy compels the recognition that we can't use military means to make the world behave the way we'd like it to behave. We can't use it to compel a country to be free and democratic. And we're aware, at least tacitly, that however we may deplore aggression and strife anywhere in the world, most of it cannot affect our national security and most of it does not call for an American military response. But I don't think we've told those who originate our defense planning enough to permit their reasoned response to our basic questions about how national security can best be assured.

When we ask them to define the necessary dimensions of our military forces, referring them to our existing treaty commitments is not enough. No treaty negates our right to determine the character of our reaction on the basis of our perception of the national interest. Our one absolute commitment is to the preservation of our own independence. And we might fairly ask whether that independence does, in fact, turn on the viability of every international basket case with anti-Communist credentials.

To accept the facts of modern life, we need not adopt the extreme position that no defense effort is availing and that no measure of security can be obtained through expenditures for weapons systems. What is required is that debate about the level of defense expenditures—and about the kinds of quantities of armaments that we can prudently purchase—focus on the real risks and on the means realistically available to meet them. In national defense, as in our personal finances, we can afford to carry just so much insurance—particularly against the rarer tropical diseases. Our present preoccupation with physical security may be anachronistic when only two nations in the world can pose a physical threat and when neither could carry it out except at the cost of its own existence as a modern society.

In posing new questions about our national security, we need not repudiate the expert witnesses on whom we have relied in the past. Granted, the results achieved have not been uniformly satisfactory. But we should resist the temptation to blame our Vietnam troubles, for example, on the advice of our military men. In my view, we've consistently been asking them the wrong questions about Vietnam. Such issues as measuring the pace and permanence of pacification involve political judgments that only an objective Vietnamese politician could make, if one could be found. Our commanders are probably right in thinking that a virtual U.S. military occupation is the best way to control an insurgency, but it does little to advance our announced political goal of self-determination for the South Vietnamese.

It has been suggested—by Candidate Goldwater in 1964 and by Senators on both sides of the aisle in years since—that victory in Vietnam requires only that we tell our military leaders that we have decided to win and then leave the war to them. This ignores, I think, our lack of an agreed definition of victory and our unwillingness to go all-out to achieve military conquest. Indeed, no satisfactory answer can be given to the question why we are in Vietnam, because we never asked the question in time. In late 1967, Secretary Rusk explained our presence as necessary to contain a projected one billion Chinese armed with nuclear weapons. But if the original purpose of American participation in Vietnam was to contain China, we never asked whether adoption of an attrition route to victory was consistent with that purpose. Certainly there are more

promising avenues to the close-in control of China than by killing off the Nationalistic North Vietnamese.

Much of the failure to examine the underlying political rationale stems from a fear of poaching on military preserves. But, in the absence of all-out war, our military means surely must be kept consistent with our political objectives. They can't be and they won't be unless we insist that our policymakers articulate these objectives.

Perhaps the first step toward useful answers in the realm of national security would be to abandon the partisan pose. "Missile gap" allegations from the 1960 campaign, like the outlandish charge of a "security gap" in 1968, have only made it more difficult for incoming administrations to pose the relevant questions. What should worry us is a "question gap" that leaves us without meaningful answers, both on national-security policy and on how it should be translated into military capability. In making decisions on defense planning we're constantly in danger of putting the hardware before the horse sense.

There are growing signs of a healthy willingness to question some of the arms in the defense budget. But the absence of an overall policy from which these individual items derive makes the debate revolve largely around tangential issues.

For example, in examining the request for additional attack carriers, it is sensible to ask whether one nuclear-powered carrier is preferable to the two that could be built with conventional power for the same price. It's important to note the age of some carriers in our fleet and the alternative possibility of land-based aircraft. But the real questions remain unanswered. They concern the relationship between our tactical air power and our security interests. Fifteen nuclear attack carriers will indeed permit the flexible application of that power anywhere in the world. But where in the world, and against whom, will we want to apply it, and what should we pay for this capacity?

Without an updated justification for our carrier fleet, we can make no value judgments on the need for new fleet defense aircraft. The mission intended for the F–111B (the Navy version of the TFX) was to stand well off from the fleet for hours with a highly sophisticated missile capable of shooting down hordes of enemy bombers at great range. But debate about the F–111B focused on its weight, its expense, and whether Boeing might have done it better. The Navy succeeded in substituting the F–14A, which on paper provides a superior dog-fighter but continues with the basic mission of fleet defense. The case for continuing this multibillion-dollar program should not rest on the merits of the airplane. The question we should ask is: what are the chances that our fleet will be sent to sea when there is a real risk of the kind of mass air attack that only the Soviets could mount? Perhaps we should be persuaded that this is plausible, but I think those responsible for our foreign policy should be asked to convince us.

The Senate, by almost a two-to-one margin, recently approved going ahead with the Advanced Manned Strategic Aircraft (AMSA). Supporters of a new nuclear bomber, while granting its redundancy, refer to the risk that our intercontinental ballistic missiles may work imperfectly. But no new bomber can provide the ability to destroy the Soviet missile forces and thus prevent nuclear retaliation. Nor, we are told, do we aim at any such "first-strike" capability. Our strategic forces are intended to deter and thus, in an age of sophisticated air defense, strategic missiles must remain our primary deterrent. How, we might ask, is that deterrent affected by a decision to proceed with a new manned aircraft on the premise that it is needed because the nuclear missiles may not work? Moreover, our continued expenditures for anti-bomber defense are rationalized as serving to discourage the Soviet Union from developing a new supersonic bomber. Do we expect our bomber to be that much better, the Soviet air defense that much poorer, or the Soviets that much smarter in deciding that manned bombers are obsolete?

Sound defense decisions outside the procurement area are equally impossible until we acquire a better sense of policy direction. In the military assistance field, continuation of our military advisors in Latin America obviously preserves a degree of United States influence. But shouldn't we ask, on a country-by-country basis, whom we are influencing, toward what ends, and how this serves our national interest?

As a military matter, reversion of Okinawa to Japanese administrative control primarily involves the question of our unrestricted freedom to use it as a military base. But politically we should ask whether there may ever be circumstances in which we will want to use Okinawa for military operations which the Japanese are unwilling to support. In situations where the Japanese conclude that such use is not in their security interests, can it be essential to ours?

British withdrawal from East of Suez will leave a "great-power" vacuum in the Indian Ocean. Do we need bases and boats to fill it or can we count on nature's abhorrence, and the people of the area, to do that job? The considerations that led to British colonialism in the Nineteenth Century, when empire was profitable, can't justify an American military presence in this century if it means little more than a bigger defense bill. The White House and State Department assert that we will not replace the British. But unless we tell our military planners to forget it, we may find ourselves continuing to pay for that possibility.

The asserted unavailability of a "peace and growth dividend" will be a self-fulfilling prophecy if we use the peace to catch up on every item of our defense arsenal stinted by Vietnam priority needs. Before we can fit our defense program to our national interest, we must decide when and where we may seek to advance those interests by the application of military force. If our national security in fact demands a kind of Western Hemisphere "Brezhnev doctrine," we need the means to enforce a non-Communist orthodoxy. If we plan to support regimes in Southeast Asia against overthrow by their internal political rivals, we have to face up to the budgetary consequences. And if we must conclude that our security requires us to resist and repel external aggression wherever it appears in the world, then our present defense budget is indeed too little and too late.

But I doubt that these are the premises on which our foreign policy will proceed in practice. And I think that the theory underlying our defense budget should be consistent with what we plan in practice to do. This violates, I recognize, the principle of ambiguity in the conduct of foreign policy. There are admitted disadvantages in tipping off a hostile power as to the circumstances under which we may go to war. A degree of uncertainty is undeniably a valuable factor in deterring aggression. But the gray area should not be so large as to delude those who, if under attack, would have our best wishes but might expect our armed support. A coherent defense program can never be constructed if we continue to leave the architects confused about the purposes we want it to serve.

LAWYERS FOR THE POOR

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, on October 19, 1969, the Senate passed an OEO authorization bill. Contained in this bill was an amendment offered by Senator GEORGE MURPHY, Republican, of California, which might, if enacted, kill the highly successful legal services program of OEO.

The so-called Murphy amendment gives the Governor of each State the power to veto periodically the funding of legal services programs under OEO. It removes the present authority of the Director of OEO to override such a veto.

Since its inception, the legal services program throughout the Nation has assisted thousands of poor clients gain equal justice under law. The program has attempted to assure that a poor person unable to pay legal fees will receive the same quality of effective legal assistance as his more affluent brother. The threatened or actual use of a Governor's veto power might destroy all the gains already achieved by the program.

In addition, legal services attorneys might be faced with serious ethical problems if the amendment bill is enacted into law. For example, a legal services lawyer might hesitate to represent a client properly or might hesitate to take all available legal measures in behalf of such client if the lawyer had reason to believe that the Governor would be unhappy with the results.

I oppose the Murphy amendment and any other amendment which would restrict the right of OEO attorneys to represent poor clients.

On November 6, 1969, the directors of the Onondaga County Bar Association adopted a resolution in opposition to the Murphy amendment. I include this resolution in the RECORD for the attention of my colleagues:

RESOLUTION ADOPTED BY THE DIRECTORS OF THE ONONDAGA COUNTY BAR ASSOCIATION ON NOVEMBER 6, 1969

Whereas the adoption by the United States Senate of an amendment to S. 3016 seeks to place in the hands of the Governors of the various States a power of veto over the activities of Legal Services Programs funded by the Office of Economic Opportunity;

And whereas, such power contravenes this Association's commitment to secure full and effective legal services to the poor by providing every person in our society with access to the independent professional services of a lawyer of integrity and competence;

And whereas, enlarging the scope and effectiveness of the power to veto legal services programs is highly undesirable because experience has shown that the power to veto may be used to circumscribe the freedom of legal service attorneys in representing their clients to address issues of governmental action or omission affecting the rights of their clients, and to discourage actions which are politically unpopular or adverse to the views of the majority;

And whereas, such limitations impair the ability of legal services programs to respond properly to the needs of the poor and constitute oppressive interference with the freedom of the lawyer and the client;

Now, therefore, be it resolved, that this Association reaffirms its position that the Legal Services Program should operate with full assurance of independence of lawyers within the program not only to render services to individual clients but also in cases

which might involve action against governmental agencies seeking significant institutional change, and opposes the adoption of said amendment.

POSTAL REFORM

(Mr. OLSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. OLSEN. Mr. Speaker, as I sit through session after session on the Post Office Committee on the subject of postal reform, I get the feeling the Post Office Department itself is totally disinterested in reform.

In years past, when there was important postal legislation before the committee, contacts from the Post Office were made on a daily basis. Though I do not think such frequency is always necessary, or even desirable, I do believe it would behoove the Postmaster General to send some word to the committee as to the desires and needs of the Department to be incorporated in postal reform legislation.

Not only have contacts not been made with the majority side, but from discussion, it appears the Post Office liaison has even failed to contact the ranking members on the minority side.

In a meeting last week, the General Counsel of the Post Office was quoted as saying that he had his "marching orders" not to give the committee any administrative assistance or expressions of desire on this extremely important legislation. It appears to me the administration might be attempting to hamper the committee's goal of turning out a model, progressive reform bill.

Why would this be so?

The only reasoning I can surmise is that the present postal administration wants the committee to grind out a lousy reform bill so it can say, "I told you so. Nothing short of our corporation will do the job."

Mr. Speaker, I, for one, and many of my colleagues are totally convinced that far-reaching, farsighted postal reform can be formulated within the present framework of the postal service and I would hope the postal administrators would join the Congress in this monumental and vital task.

Finally, Mr. Speaker, Vice President AGNEW said in Alabama the other night that Mr. Blount had exceptional courage to tackle all the problems of the Post Office. I agree with Mr. AGNEW, but I question the judgment of Mr. Blount in his evident decision of not permitting the top echelon of the Post Office Department to work closely with the House Post Office Committee in fashioning reform legislation that would be most beneficial to the future operation of his Department.

VIOLATION OF THE BASIC RIGHTS OF SCHOOLCHILDREN

(Mr. THOMPSON of Georgia asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. THOMPSON of Georgia. Mr. Speaker, shortly I will present to all the Members of this body a bill designed to protect the schoolchildren of all of America from some of the abuse which the schoolchildren of the South have been receiving at the hands of the so-called intellectuals in HEW.

I recognize, Mr. Speaker, that there is much prejudice among certain people against the South and they have no concern whatsoever as to what happens to education in our area of the country. But I do believe, Mr. Speaker, that there are many, many Members of this body who, if they will take the time to see the abusive tactics used against southern schoolchildren, will recognize that this may also happen in their own areas unless something is done. I am inserting in the RECORD immediately following this speech, Mr. Speaker, an article from the Washington Post of this morning and I wish to call attention to the fact that the chief civil rights enforcement officer in HEW plans to force the busing of students in all southern schools where he says he has the power to do so and is apparently dismayed that he does not have the same power as respects the northern schools.

I have had this very same individual, Mr. Panetta, sit in my office and tell me that the existence of all-black or all-white schools is unconstitutional in the South because of our past discrimination and they must be eliminated even if it requires busing of students, closing of schools, or by whatever means and incidentally we have had 356 schools closed so far.

It is interesting to note that he now states that affirmative measures must be taken to eliminate racially identifiable schools in the North as well, although he laments the fact that apparently he does not have the support at present to do so.

With the help of the Members of this body and if they will support the bill which will be sent around after the Thanksgiving holiday wherein I define a unitary school system as one in which no discrimination is present, we keep these pseudointellectuals from violating the basic rights of all of the schoolchildren in America.

The text of the article follows:

RACIAL ISOLATION ASSAILED

(By Peter Milius)

A top administration civil rights official urged yesterday that Congress outlaw all racial isolation in the nation's schools, in effect prohibiting Northern-style as well as Southern-style segregation.

The suggestion came from Leon E. Panetta, director of the Department of Health, Education and Welfare Office for Civil Rights, at a Senate hearing at which Sen. John C. Stennis (D-Miss.) again castigated the administration for enforcing current desegregation laws in the South but not in the North.

Stennis has been pressing the administration for some time to look North as well as South, partly in the belief that equal pressure will make the North stop voting for desegregation laws.

He has used HEW's figures to call attention to the massive segregation in most major Northern school systems, and has argued that segregation is as bad one place as another.

When he made the same argument yesterday, Panetta surprised him by agreeing, at least in part.

There is indeed little to choose between Northern and Southern segregation, Panetta said, and it is true that federal pressure has been greater in the South.

But Panetta said this is because of the law, not the administration. It is Congress that has "let the North off the hook," he said, and Congress ought to change the law.

The exchange at the hearing—an otherwise routine look at the HEW budget—was part of a spreading national debate over the desegregation laws.

The courts are as concerned as Congress and the Executive Branch.

The problem is what to do about urban areas, South as well as North, where school segregation is attributable at least in part to residential patterns.

Current law forbids school segregation when it is demonstrably deliberate, the result of official policy, past or present, tacit or declared.

In the South, where there was once segregation by law, this official intent is easy to establish, and the courts and HEW have thus confidently ordered Southern school districts to desegregate.

They have defined a desegregated district as one with no vestiges of the old dual system. Among other things, this has meant no more all-Negro schools.

The trouble is this doctrine has been developed in relatively simple, rural school districts. The courts are only now turning to the South's big cities, which have at least a fourth of its black pupils.

Southern cities are a lot like their Northern counterparts. Whatever the historical differences, both have all-Negro schools in the middle of large, all-Negro neighborhoods.

The only way to do away with the all-Negro schools is to bus students, often on a large scale and at some expense.

Federal judges in the South are now trying to decide whether and how much to make cities bus to desegregate, and whether city school systems, like the rural ones, must do away with every all-Negro school.

One of the arguments against busing is that there is just as much racial isolation in most major Northern school systems, where busing is not required.

It is hard to insist that situations now so similar in fact are that different in law.

This has been one of Stennis' points, and Panetta conceded it yesterday. He went further, suggesting that most Northern segregation is probably just as much due to official policy as the Southern variety is.

The only difference, he said, is that the Northern policies are subtler and harder to prove in court.

"It is possible, and indeed likely," Panetta observed in his prepared remarks, "that racial separation in the schools is the inevitable result of conscious decisions to achieve that result, however inarticulate in terms of present law."

"A separate education for minorities is a deprivation no less pernicious because constitutional rights are said not to be abridged," he went on. "We hold no brief for racial separation—wherever it may exist."

Panetta's prepared remarks were cleared through HEW Secretary Robert H. Finch's office. Panetta said yesterday, however, that he was speaking for himself, and that no racial isolation bill is being prepared by the administration.

The Civil Rights Commission proposed a national racial imbalance law two years ago. The proposal got nowhere.

Like the federal courts, however, Congress is dealing with the subject of desegregation this year. The House added a provision to the HEW appropriations bill in effect repealing HEW's power to cut off federal funds to school districts that refuse to desegregate.

REPRESENTATIVE MAY ON WHEAT INDUSTRY COUNCIL BILL

(Mrs. MAY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MAY. Mr. Speaker, I am pleased to join with my colleague on the House Committee on Agriculture, the gentleman from Texas (Mr. PURCELL), in the introduction of a bill providing for the establishment of a Wheat Industry Council. As chairman of the Livestock and Grains Subcommittee, the gentleman has devoted considerable effort to unifying the various elements of the wheat industry—producers, millers, and end-product manufacturers. I have shared this objective with him and believe it is being achieved.

We recently sponsored a joint resolution calling upon the President to proclaim October 28 as the Day of Bread. Following approval by Congress and the issuance of the proclamation by President Nixon, wheat growers, millers, and bakers jointed together in a most successful series of nationwide observances. Their purpose was—and will continue to be—to give proper recognition to the economic, nutritional, and even the social or cultural contributions made by wheat and its products the world over.

And now, Mr. Speaker, the wheat industry seeks our endorsement of a self-help program through which it can meet its obligations as a provider of one of our most basic foods.

For some 5 years, wheat producers, millers, bakers, macaroni manufacturers, and others have been trying to devise a mechanism through which the industry can raise funds through an assessment on themselves for research into the nutritional values of wheat and wheat foods and the possibility of new and improved wheat foods. This is but one of the activities the Wheat Industry Council would carry out, but in these times it is most critical.

Let me cite a pertinent example. Early this month the American Bakers Association and the Millers' National Federation, with the support of the Associated Retail Bakers of America and the Wheat and Wheat Foods Foundation, petitioned the Food and Drug Administration for a tripling of iron content in enriched flour, bread, and rolls. Virtually all leading nutritionists agree that this will be the best means of combating recently discovered widespread iron deficiency anemia in the U.S. population, especially among children, teenagers, and women of childbearing age. This step and others under discussion require a substantial input of research effort which could be provided very effectively by the proposed Wheat Industry Council.

Mr. Speaker, it is too late in the session to expect congressional action on this bill. I do hope, however, that next year we will be able to give early and favorable consideration to the establishment of a Wheat Industry Council.

NOW IS THE TIME FOR THE TENNESSEE-TOMBIGBEE WATERWAY

(Mr. EDWARDS of Alabama asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. EDWARDS of Alabama. Mr. Speaker, recent statistical figures published by the Shipbuilders Council of America indicate a growing use of gulf ports for shipbuilding and repair activity. The selection of these ports for maintenance and manufacture of vessels indicates the great interest of the maritime industry in the gulf coast region.

The gulf ports are becoming more active every day as the commerce of the Nation moves in ever increasing quantities through these year-round warm water gateways to the world. And sitting right in the middle of the gulf crescent is the booming Port of Mobile.

But there is great need for better access to these ports from the heartland of America. And the Tennessee-Tombigbee Waterway system is the answer. Men have dreamed of this development for generations and now everything is right to commence construction. The ports are ready, the Gulf Intercoastal Canal is ready, the Cross-Florida Canal will be ready at the appropriate time, the studies, plans and design are ready, the Corps of Engineers is ready, and the benefit-cost ratio is very good.

The waterway would not only provide swift access to and from the American interior, but would bring commerce and industry to one of the most economically depressed regions of our country.

Countless jobs will be created in areas where many of the residents depend on welfare checks, food stamps, and handouts for survival. It would turn areas that utilize more tax dollars than they collect into areas that are self-sufficient and productive.

Ten years ago, five States—Alabama, Mississippi, Tennessee, Kentucky, and Florida—banded together to urge completion of this project. These States are taking the lead, but 23 States will directly benefit from this project. As the coordinator of the efforts in Washington to get construction funds included in the next presidential budget, I urge all my colleagues in the House to become familiar with and support completion of this project. When completed, this vast water system will rank among the great projects to develop this wonderful country of ours. No singular waterway project will benefit so many people in such great need in so many widespread areas. One could hardly begin to compute the ultimate benefits to the country as a whole.

Now is the time for the Tennessee-Tombigbee Waterway. I urge President Nixon to include construction money in his fiscal year 1971 budget to get this project underway.

UNIFORM SYSTEM OF RELOCATION ASSISTANCE

(Mr. COHELAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. COHELAN. Mr. Speaker, I have today introduced a bill which will establish a uniform system of relocation assistance for all persons affected by a federally funded or federally assisted land development program.

This bill, originally drawn by myself, the gentleman from Oklahoma (Mr. STEED), the gentleman from Massachusetts (Mr. CONTE), and the gentleman from Connecticut (Mr. WEICKER), is cosponsored by 41 other Members of the House of Representatives.

For many years, we have recognized the great benefits brought to our urban and rural communities by urban renewal, highways and a multitude of federally assisted development programs. We have not, however, paid due attention to the side effects of this renewal. I refer to the dislocation of residents and small businessmen who are forced to move as a result of construction.

This year, our attention has been focused on this problem. Seventeen bills have been introduced this session to attack this problem.

The focus of our bill is slightly different, however, as it provides full relief for the displaced homeowner. The homeowner, often elderly or poor, generally has but one major asset—his house. This house has been laboriously purchased and represents the fruition of a struggle for a decent life. Often located in a depressed area of our cities, the market value of such homes is minimal. When the home is taken by a renewal agency or highway building program, the acquisition price—while often fair value—is far below what is necessary to purchase another dwelling.

This bill will attack this problem directly, by authorizing a grant to the displaced homeowner equal to the difference between the fair value of the acquired home and the cost of a comparable dwelling. This, I submit, is the only fair way to approach relocation assistance.

What we are proposing is a house for a house—fair treatment for those who need it most.

This is not entirely a homeowner measure, however, as it also provides monetary relief for the tenant, small farmer, and small businessman displaced by the Federal project.

For the benefit of my colleagues, I submit for the RECORD at this time a summation of the major provisions in this comprehensive relocation assistance act.

SUMMARY OF COMPREHENSIVE RELOCATION ASSISTANCE ACT

HOMEOWNERS

In addition to amounts otherwise authorized by this section, the head of the Federal agency shall make a payment to a displaced person who is the owner of real property which is improved by a single-, two-, or three-family dwelling actually owned and occupied by the owner for not less than one year prior to the initiation of negotiations for the acquisition of such property. Such payment shall be the amount (if any) which, when added to the acquisition payment, equals the price required for the displaced owner to purchase a decent, safe, and sanitary dwelling, reasonably accessible to public services and places of employment, which is commensurate with the acquired dwelling in terms of size, function, accommodations, and facilities and is substantially equivalent as a replacement of the acquired dwelling taking into account human considerations including the economic and social effects of moving into the new dwelling and living in the new location. Such payment (which shall in no case be less than the maximum pay-

ment which could be made to the displaced owner under subsection (a)(1) of this section if he were not eligible for the payment under this paragraph) shall be made only to a displaced owner who purchases another dwelling within one year after the date on which he is required to move from the acquired dwelling.

The Secretary of Housing and Urban Development, for all agencies making payments under this subsection, shall (A) determine the prices prevailing in the locality for dwellings meeting the requirements of paragraph (1) of this subsection, and (B) prescribe methods and standards for determining whether or not one dwelling is commensurate with and substantially equivalent as a replacement of another for purposes of such paragraph.

FARMOWNERS

In addition to amounts otherwise authorized by this section, the head of the Federal agency shall make a payment to any displaced person who moves or discontinues a farm operation, provided the average annual net earnings of the farm operation (but in no event less than $2,500 nor more than $5,000) in a case where the displaced person moves the farm operation, or in an amount equal to two times the average annual net earnings of the farm operation (but in no event less than $5,000) in a case where the displaced person discontinues the farm operations.

Notwithstanding the preceding sentence, in the case of a displaced person who is sixty years of age or over, this payment shall be in an amount equal to three times the average annual net earnings of the farm operation (but in no event less than $6,000).

SMALL BUSINESS OWNERS

In addition to amounts otherwise authorized by this section, the head of the Federal agency shall make a payment to any displaced person who moves or discontinues his business provided the average annual net earnings of the business are less than $10,000 per year. This payment shall be in an amount equal to the average annual net earnings of the business (but in no event less than $2,500 nor more than $5,000) in a case where the displaced person moves the business, or in an amount equal to two times the average annual net earnings of the business (but in no event less than $5,000) in a case where the displaced person discontinues the business. Notwithstanding the preceding sentence, in the case of a displaced person who is sixty years of age or over, this payment shall be in an amount equal to three times the average annual net earnings of the business (but in no event less than $6,000).

THE MILITARY AND POLITICS

(Mr. RYAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYAN. Mr. Speaker, in Sunday's Washington Post Bernard D. Nossiter wrote an article describing the way in which the Army is using a Vietnam war hero, an Army major, who is assigned to Army liaison.

As reported in the article, Maj. James Rowe has "filmed at least 20 television interviews and cut six radio tapes with as many representatives" in the past 2 weeks. These are then sent to stations in the Member's home district or used for Army "information" programs.

In addition, the major has made a 30-minute film for the Republican National Congressional Committee, which is being offered to legislators.

These programs stress support of the administration's policy in Vietnam and attack the media and Members of Congress who do not agree. In several of these shows, the major has attacked the position of several Senators including Senators FULBRIGHT, MCGOVERN, MANSFIELD, and former Senator Wayne Morse; and he has also questioned the patriotism of at least one Senator, according to the article.

These activities sanctioned and encouraged by the U.S. Army raise some serious questions in my mind.

The Army is using an active duty Vietnam war hero to criticize and attack critics of administration policy—the press, the media, Members of Congress, and others who disagree.

In our democracy the Military Establishment is supposed to be separate from the civilian Government. The obligation of the Military Establishment is to implement policy.

The traditional role of the military in the American system is the carrying out of policy made by the Congress and the President. It does not include partisan politics or attempting to play a political part in the system by influencing policy.

Ours is a system of checks and balances—separation of powers.

The Army's use of Major Rowe to support the position of the administration on the war and to attack its critics violates the doctrine of separation of powers and breaches the barrier between the military and politics which has existed in this country since its beginning.

I urge the appropriate committees of Congress to conduct full investigations of this matter, and I urge the Secretary of Defense immediately to direct the Army to halt such unwarranted interference in a major issue of policy.

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKINSON. Mr. Speaker, if I may in this 1 minute get the attention of the gentleman who just preceded me in the well to propound a question to the gentleman relative to the remarks he has just made, if the gentleman would be so kind as to respond, I have just listened with great interest to the statement which the gentleman has made.

I wonder if the gentleman is speaking from firsthand knowledge or newspaper accounts of this matter?

Mr. RYAN. Mr. Speaker, if the gentleman will yield, I stated that I was commenting upon a newspaper article by Bernard D. Nossiter printed in the Sunday edition of the Washington Post.

Mr. DICKINSON. I cannot sit here and remain silent while a great soldier, a valiant defender of our Nation, a man who has been awarded the Purple Heart twice, has been decorated for gallantry in action, a man who was a captive of the Vietcong for over 5 years and resisted them unrelentingly until he escaped—a true hero in the history of our armed services is maligned by the gentleman from New York (Mr. RYAN).

It is not unheard of that a Member of this body speaks on a subject in ignorance but it is a sad day when a person accepts as fact every statement from the Washington Post and then mistates that.

I do have personal knowledge of Major Rowe. It was at my invitation that he appeared before the House Armed Services Committee. He made a tremendous impression on all who heard him—so much so that he was invited to the White House for a visit with the President and later to discuss his captivity with the Chief of Staff, General Westmoreland. In fact, the major appeared on a television program with me and I hereby include a transcript of the interview that I had with him:

(The following is the complete text of an interview between Congressman Bill Dickinson of Alabama's 2nd District and Major James N. Rowe. Major Rowe was a prisoner of the Viet Cong for over 5 years. Major Rowe was a prisoner of war for longer than any other American in any war in the history of the United States.)

DICKINSON. Hi, I'm Bill Dickinson, Congressman from the 2nd District of Alabama. I have with me here on Capitol Hill (in the studio with me) one of the most remarkable fellows I have ever met in my life. Recently, I have been very active in the Prisoner of War problem of the American servicemen in Vietnam and those who are missing in action. As a result of my activities, I came in contact with Major Rowe who is with me today and he has a remarkable story to tell. So remarkable, in fact, that I think that you and all American citizens should hear it. As a result of my contact with him, I invited him to come to Washington and, at the request of Chairman Rivers, he spoke to the House Armed Services Committee. Major Rowe, as a result of your speaking to the Armed Services Committee, what's happened since then?

ROWE. Well, sir, I didn't really expect all that did happen. I had a chance to visit with the President of the United States; I've seen probably more Congressmen than I knew ever existed, and I had a visit yesterday evening with my boss, the Chief of Staff.

DICKINSON. Well, you went to the White House and visited with President Nixon first, is that correct and that was directly after your tremendous presentation to the House Armed Services Committee? How long did you talk with him, and were you able to get any point over with him? Were you able to really do any good, that you felt, to tell him what is going on with the POWs in Vietnam?

ROWE. Yes sir, I think he is very interested in this and I had the opportunity to spend about 20 or 25 minutes with him.

DICKINSON. Well, that's great because, you see, what I failed to tell the people is that you have one thing that nobody else can claim and that is you were held prisoner of war longer than any soldier has ever been held a prisoner of war in the United States. How long were you a prisoner of the Viet Cong?

ROWE. About 5 years and 2 months, sir.

DICKINSON. Five years and 2 months as prisoner and you were kept in the Delta all of this time?

ROWE. Yes sir, I was in the Mekong Delta, it was in the U-Minh Forest which is along the western border.

DICKINSON. And you met with the President, then you met with General Westmoreland, the Chief of Staff?

ROWE. Yes sir.

DICKINSON. And you had a long conversation with him, I understand. You were also invited, and did appear, on The Today Program, is that right?

ROWE. Yes sir, I did. I had an opportunity yesterday morning; I got up at 4 o'clock in the morning to appear on the program.

DICKINSON. Now as I understood it, you were going to comment on The Today Program on the peaceniks and beatniks and the other misguided people whose intentions are right in connection with the Moratorium;

were you asked anything about it on The Today Program?

ROWE. No sir, I think I made a mistake, I let my views be known before we went on camera.

DICKINSON. Well, you were supposed to go on for 14 minutes?

ROWE. We had 14 or 15 minutes initially, sir, and when we finally got on it wasn't that long at all.

DICKINSON. They never asked you one question about the Moratorium, is that correct? (Major Rowe nodded in the affirmative.) Well we'll get to that in just a moment. But in 5 years and 2 months of captivity tell me a little bit about your physical treatment, how were you treated and what did they do to you?

ROWE. Well sir, by American standards you're at a very low level, this is one thing you can't judge it by American standards, because by the Vietnamese standards, under those conditions and that environment, they don't feel that you're that far under them.

DICKINSON. What did you have to eat, for instance?

ROWE. We had rice two meals a day, sir.

DICKINSON. And what else?

ROWE. Nuoc Mam or salt. This is the standard diet, of course, they eat rice, this is the basis of their whole diet and they feel that an American can do the same thing, so it's rice 2 meals a day, seven days a week, month in and month out.

DICKINSON. Were you ever given any meat?

ROWE. Yes sir, when they could catch fish and had enough for them as well as an excess we got it, generally we got the dead ones.

DICKINSON. By dead, you mean rotten?

ROWE. Generally speaking, out of 20 we might get 2 or 3, that's for four Americans.

DICKINSON. Now you told our Committee that you might eat anything that swims, crawls or flies, is that right?

ROWE. Yes sir, you eat for nutritional value and not for taste. If there was anything that we could get our hands on that we could put on a menu, we put it on.

DICKINSON. What was the state of your health?

ROWE. Well initially, sir, in the first 6 months I went down from about 165 to about 115 pounds, and after that I started to learn to eat rice and build back up. The diseases I had, I had dysentery for five years, berri berri, hepatitis, and a fungus infection which is prevalent among Americans in that area.

DICKINSON. Are you all right physically now?

ROWE. Well sir, they got everything straightened out except dysentery and it will take a while with that.

DICKINSON. You say for 5 years you suffered with this illness?

ROWE. Yes sir.

DICKINSON. Well now, how could you keep going for 5 years? I understand they kept you in leg irons at night and you were caged; how could you keep going for 5 years living in these conditions?

ROWE. Well sir, you make up your mind not to die there. In other words, you have three things that get you through, and they're all faiths; one is faith in God, one is faith in the Country, and one is faith in the other POWs. And if you've got those three things, you can make it.

DICKINSON. Now you would really say that you contribute your life, then, to your faith in God, your faith in Country, and your faith in the other POWs?

ROWE. Yes sir, these are the three things.

DICKINSON. Well, did anything happen that would shake your faith in God, or your Country or the other POWs while you were there?

ROWE. Well, the faith in God I don't believe a VC can shake that because they don't understand it, they don't believe it so they don't understand it. Faith in Country was one thing that they did attack, probably more often than anything else. They took, well, I divided it actually into two periods of time, the first between 1963 and 1967, the latter part of 1967 as the first period and the second period between October of 1967 and December of 1968. The first period of time they drew strictly from communist sources for propaganda, in other words, to try and convince us that our efforts in Vietnam were wrong, that the American Government was not representative of the people, that there was a great rift between American people and the Government.

DICKINSON. Was this effective with you and the other POWs?

ROWE. No sir, it's a Vietnamese writing for American consumption and it's not really that effective; but in the latter part of 1967 and early 1968, they stopped drawing from their own sources and began to draw from AP, UPI, Time, Newsweek, Life, Look, Washington Post, New York Times. They picked statements from people within our own government, people within the United States, figures that are known and they quoted their statements opposing our efforts in Vietnam.

DICKINSON. Is this, then, the thing that was most effective in shaking your faith in yourself and in your Country and willingness to live?

ROWE. It was the only time during the entire period of time that I really doubted whether or not I was really right.

DICKINSON. Well, would you say they were principally government figures, or did the hippies and the yippies on the street, what did they quote that was most effective?

ROWE. Well, sir, they would say them all in one breath and you would have a whole line of people within the government, and then they would come up with Stokely Carmichael, Rap Brown, Eldridge Cleaver, Tom Hayden, Benjamin Spock.

DICKINSON. Now getting back to the Moratorium, the people who think they are going to affect a quicker peace by bringing about demonstrations. You were a captive for over 5 years, you learned to speak the language, you learned to know the mind of the Vietnamese, do you think the Moratorium demonstration and the people walking up and down the streets with the placards, is this going to hasten the day when the hostilities will cease or do you think it will strengthen the determination of Hanoi to fight 'til the bitter end?

ROWE. Two things, sir, the Viet Cong, this comes from one of their political cadre, a provincial level political cadre, a communist and member of the Lao Dong party; he said that we do not expect a military victory nor do we expect an immediate political victory, but through the demonstrations and disorder in the United States, the anti-war movement, the United States Government can be robbed of its support of the people and forced to withdraw from Vietnam. At that time we will have total victory. At the same time, considering this even further. If you take their attitude towards negotiations where they regard conditions as a sign of weakness, it's only going to bring further demands. And if they win in Vietnam, that will not be the end but the beginning. This is the thing that's important to the military, and I as a military man.

DICKINSON. You told us you were preached to daily, you were politically indoctrinated or attempt was made almost daily, and you became familiar with their overall plan. First, what do they expect to accomplish in Vietnam, are they up to or behind schedule, what can we expect from them?

ROWE. They're behind schedule, sir. They were supposed to over-run Vietnam and have total victory in 1965, but President Johnson averted this by putting in United States troops.

DICKINSON. And is it true that this is just one apple on the bush?

ROWE. It's a very large tragedy, sir, and it expands throughout Indo-China.

DICKINSON. Now, are you sure that if it had not been for our action in Vietnam that the South Vietnamese would have fallen by now and they would probably be into other countries, is this your feelings?

ROWE. Yes, sir, the NVA, they are the imbalance. The North Vietnamese are the imbalance and at that point they could have put enough men and enough communist equipment into South Vietnam to overrun the country.

DICKINSON. And you're convinced, as I am, having been there twice, that Thailand, Laos, Cambodia will all fall if we drew out and give in without securing South Vietnam?

ROWE. Sir, they will maintain the momentum of victory and it will carry through Laos and Thailand.

DICKINSON. And you're convinced that regardless of whether we should have been there in the first place or not, we're doing what is necessary now. Tell me, what do you think will be the effect if the demonstrators would have their way and we would just pull out right now, what would be the effect?

ROWE. It would be a blood bath. The communists promise in their political program, this is the political program of the Liberation National Front, and the way they state it, we will severely punish the diehard, cruel agents of the American imperialists and their lackies in Saigon, which is a blanket purge and it's going to be one of the bloodiest that they've ever seen in Asia, and they won't stop.

DICKINSON. Well, we saw that they killed over 3,000 at Hue during the Tet.

ROWE. That's one offensive, sir, and imagine if they take over the country.

DICKINSON. I'm convinced that what you say is right. Now there were two things that you told our Committee. First, that you were marked for execution and that you did escape. What made you think that you were marked for execution and how did this come about?

ROWE. Well sir, I had a period of time that I was going through documents of theirs while they were at lunch. I would just go to where they kept an ammunition box, a 30 caliber ammunition box where they had all their papers. I learned some bad habits in Special Forces and lock picking was one of them. I would go there and pick the lock during this period of time and check out their papers, and whatever I thought was important I would copy down and put it back. I found one paper in there, this was in the latter part of 1968, where a request had come from Zone for the name of an American POW from MR 3 and my name had been submitted and this is a one-way trip as far as that is concerned.

DICKINSON. When you were captured, you gave them what you call a cover story?

ROWE. Yes sir, I did.

DICKINSON. Was this effective and do you think it had something to do with keeping you alive?

ROWE. Yes sir, I maintained this for 4 years and it enabled me to say "I don't know" rather than "I can't tell you", and I think that this was most effective. In 1968, some group, I don't know what it was, but I was called in and the Viet Cong prevention cadre told me that the justice and peace loving friends of theirs in the United States had sent them a biographical sketch on me, which very effectively blew my cover story and marked me.

DICKINSON. Let me get this straight. American citizens, under the cover of being some peace group, had searched your biography and furnished this to the Viet Cong, so it blew your cover story, is that correct?

ROWE. Apparently so, sir.

DICKINSON. And finally, how did you get away?

ROWE. Well sir, I just took advantage of American B–52's and American helicopters and a very trusting guard that I got rid of.

broke away from them, signaled the choppers and had American underfire come in and pick me up.

DICKINSON. And escape?

ROWE. Yes, sir.

DICKINSON. And you're going back?

ROWE. Yes sir, I've volunteered to go back and I'll be back in 1970.

DICKINSON. You're the most remarkable man that I know. Thank you, Major Nick Rowe.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from New York.

Mr. STRATTON. I, too, not only had the privilege of hearing Major Rowe when he appeared before the members of our committee, but I was so impressed by the story he told that I too had a film made with him.

He never impugned the patriotism or integrity of any Member of this body or the other body. But he did, in fact, recall quite well many events during his captive period, the longest captive period of any American serviceman, with particular reference to certain statements presented to him by the Vietcong, made by various prominent leaders of our country, to the effect that we had no business in Vietnam and that we ought to get out. This, he told us, was the low point of his captivity. It really shook his morale. That is a statement of fact and it is a fact, I believe, that ought to be known to the American people.

Mr. FOREMAN. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from New Mexico.

Mr. FOREMAN. Mr. Speaker, I regret that the gentleman from New York (Mr. RYAN) had only the newspaper article about Major Rowe to which he referred, rather than knowing all the facts as they exist.

Earlier this month, Maj. James N. Rowe, U.S. Army Special Forces—for 5 years a prisoner of war of the Vietcong—testified before the House Armed Services Committee of his experiences and treatment by the enemy.

He suffered malnutrition, disease, and continuous abuse. Three of the eight in his prison "cage" died. The Vietcong worked on them continuously to try to make them admit and sign a confession of the "U.S. Crime of Aggression." Almost daily, the prisoners heard the reports of the riots, demonstrations, and disorder in the United States as reported by the news media. The words of a few dissident U.S. Senators condemning the United States in her role in the Vietnam conflict were aired regularly for the prisoners.

Major Rowe said:

The peace demonstrators and the disheartening words of these Senators made our life most difficult . . . it helped to break the spirit of Americans and boost the morale of the Viet Cong.

He was offered a release upon his demonstration of his sincerity to "admit his crime" and his pledge to return to this country and join in the leadership of the "peace demonstrators." Identified by background material and biography, furnished by an American "peace group," refuting his capture cover story to the enemy, Major Rowe was scheduled for execution. He foiled their plans by his daring escape on December 31, 1968.

A 30-minute, person-to-person, video and audio recording of my interview with Major Rowe is available to Members desiring to review it or use it. And as mentioned by the gentleman from New York, it is also my understanding that the Republican congressional committee also has a similar program available for the use of Members.

Mr. DICKINSON. I thank the gentleman for his comments, and I would again suggest to the gentleman from New York (Mr. RYAN) that he get his facts straight.

The SPEAKER. The time of the gentleman has expired.

TELEVISION APPEARANCE BY MAJOR ROWE

(Mr. BERRY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. BERRY. Mr. Speaker, the only reason that I have asked for this 1 minute is to advise the House that I placed in the RECORD today a portion of the transcript from the interview with Major Rowe. This happened to be between our colleague, the gentleman from North Dakota (Mr. ANDREWS) and Major Rowe. I placed only a portion of it in. But I would ask the Members to search in the body of the RECORD for the portion of the transcript that I put in the RECORD, because it is most interesting.

INTO SPACE—THROUGH COOPERATION

(Mrs. GREEN of Oregon asked and was given permission to address the House for 1 minute, to revise and extend her remarks and include extraneous material.)

Mrs. GREEN of Oregon. Mr. Speaker, not all great editorial writing being done in America is confined to the pages of big city newspapers, as the following written by Eric Allen of the Medford, Oreg., Tribune will attest. The excellence of its style and vision, I hope, will not prevent recognition of the eminently practical suggestion Mr. Allen is advancing in his distinguished and important essay on Soviet-American cooperation in space.

The timeliness of Eric Allen's statement, reminds us that the idea of this special cooperative venture need not continue to be paid only lipservice.

Our second moon landing just concluded clearly establishes that the race to the moon has been won twice over. Simultaneously, the start of those long-awaited Strategic Arms Limitation Talks, "SALT," in Helsinki clearly signals the time is ripe for fruitful cooperation as an alternative to debilitating competition in many fields. And there is undeniably a close enough affinity between modern armaments and space to make it entirely appropriate and germane to include both in an expanded SALT agenda at Helsinki.

The burden of paying for America's ventures in space has been onerous and it would be naive to assert that the exploration of space has not been conducted at the expense of other high priority needs of this Nation. I was reminded of this recently by the plaintive observation of a 63-year-old widow begging me to do something about her bare subsistence social security benefit. She asked incredulously:

Why are we going to the moon a second time? We know there's nothing there!

I would not denigrate the superb accomplishments of our astronauts. In fact, I can say that the happy chatter and infectious laughter of Astronauts Conrad and Bean, lighting up the cold night of the universe, was perhaps worth billions of dollars—but only in a figurative sense. How much more uplifting, inspiring, and comforting it would be to be hearing simultaneously the voices of astronauts and cosmonauts—formerly employed as fighter and bomber pilots to intimidate one another—encouraging one another across the landscape of the moon or Mars as a result of a joint venture by their governments. I cannot think of a better adjunct and aid to disarmament programs.

For these reasons, I commend Eric Allen's thoughtful and timely editorial to your attention:

INTO SPACE—THROUGH COOPERATION

When Congresswoman Edith Green was in town last weekend, a Jackson County couple presented her with a letter in which it was strongly suggested that the United States and the Union of Soviet Socialist Republics cooperate in future space ventures.

With irrefutable logic, they pointed out that the two nations have agreed that space should be off-limits for military ventures, that both would benefit financially and economically from jointly conducted space exploration, and that cooperation in this area would greatly minimize the chances that the "space race" could turn into something that would eat into the substance of both nations, and ultimately threaten the non-military-uses agreement.

There is reason to believe that the U.S.S.R. might be agreeable to such a cooperative endeavor, they pointed out. During the current visit of the two Soviet cosmonauts, they have suggested this very thing, and surely they would not voice such a suggestion in public unless it jibed with official opinion in the Kremlin.

Reduced appropriations for space, which could result from such cooperation, could then be applied to urgently-needed domestic programs, such as cleaning up the nation's air and water pollution.

The suggestion is eminently sensible.

It will, of course, meet with resistance from those who believe that nothing good can ever come out of Soviet Russia, no matter under what guise, and that cooperation, in such a case, would merely create an opportunity for Russia to gain American space "secrets" and know-how cheaply, perhaps with inimical intent.

This view ignores several things, first among them that is would be just as much to Russia's own enlightened self-interest as it would be to ours to decrease such massive expenditures through cooperative and shared knowledge.

Another fact is that in at least one instance, in Antarctica, Russia is already actively cooperating with American scientists and explorers, under a non-military-use treaty similar to the one governing the use of space. (Another similar treaty, governing the depths of the oceans, is now under negotiation.)

Still another fact that this negative attitude ignores is that, in reality, America really doesn't have any "space secrets." It has some know-how, and some hardware, that is not in the public domain, but so does Russia. Space exploration would be speeded, at less cost, if the two great technological giants were to pool their efforts, instead of to waste their substance in a further "race" based solely—or almost so—on prestige.

The plaque now resting quietly on the moon says "We came in peace for all mankind." The first human words uttered from the surface of the moon were "One small step for a man, a giant leap for all mankind."

The way to make these entirely appropriate and idealistic statements come true is through cooperation, not extravagant and potentially dangerous competition.

As for prestige, no one can take away the American moon landing. Would it not now add to our prestige to be willing to share the conquest of space with "all mankind"—starting with the only other spacefaring nation?—E.A.

SECRETARY STANS STACKS CENSUS PANEL

(Mr. BETTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BETTS. Mr. Speaker, the need for an objective and comprehensive review of decennial census procedures, particularly the continuation of the $100 criminal penalty applied to every question, became evident to Congress and the Secretary of Commerce earlier this year. Secretary Stans in testimony before the House Subcommittee on Census and Statistics on June 16 proposed a "blue ribbon" Census Advisory Committee which would include "Members of Congress, representatives of State and local governments, academicians and other professionals, representatives of minority, civil rights and other public interest groups and suppliers and users of census data from business and industry."

Yesterday Secretary Stans announced the formation of a Decennial Census Review Committee and appointment of its 17 members. I am not aware of anyone on the list, except the congressional appointees, who have ever favored census reform. As a matter of fact the list is loaded with advocates of compulsory responses carrying the full criminal penalties. In the interest of having some sort of a balanced Commission, I recommended to the Secretary the name of Prof. Arthur R. Miller of the University of Michigan, one of the most scholarly and articulate supporters of census reform in the country. His name does not appear on the list. Evidently no one who raised even a faint breath of criticism of the status quo was considered for this Commission.

After congressional prodding—two Members of Congress were added—Senator HIRAM FONG of Hawaii and the gentleman from California (Mr. CHARLES H. WILSON). I am particularly happy to see Mr. WILSON on this Commission. As chairman of the Subcommittee on the Census, I was impressed with his diligence, his fairness, and the vast know-how which he acquired on this subject. I am sure Senator FONG is also well informed on this issue. However, except for these two Members, I can, even now, predict a Commission report violently opposed to voluntary census questioning and firm in support of the status quo.

JUSTICE FOR THE POOR

(Mr. MIKVA asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MIKVA. Mr. Speaker, during my first term in office I have had the privilege of serving on the Judiciary Committee. My service on that committee has reinforced my strong belief that the American judicial system must be responsive to the needs of the citizens, whether those citizens be rich or poor. Unfortunately, it is now more difficult for a poor person to avail himself of necessary legal assistance than for a middle-income citizen. However, the Office of Economic Opportunity's legal services program has done much to narrow the legal assistance gap.

Recently the National Commission on the Causes and Prevention of Violence issued a report which underscores the desperate need for legal assistance to the poor. This distinguished and respected Commission, on which the distinguished ranking minority member of my committee serves, urged the expansion of the present legal services program of the Office of Economic Opportunity. I wholeheartedly concur in this recommendation of the Commission. I am deeply troubled, however, by the peril in which the legal services program has been placed as a result of the Senate-passed amendment which would allow the Governor of a State to have an item veto over a legal services program in his State. We are beginning to make progress with the legal services program and now, this amendment is threatening to deny equal justice for the poor. If we appear to offer hope and assistance to the poor, only to withdraw it when it begins to reach a point where meaningful assistance is being given, the certain consequences will be less, not more, respect for the principles of law and order and equal justice for all in a democratic society.

I for one applaud the Commission's firm stand on the need to provide legal assistance to the poor.

At this point I insert an editorial from the Chicago Sun-Times entitled "Justice for the Poor":

JUSTICE FOR THE POOR

The National Commission on the Causes and Prevention of Violence has underscored the desperate need for more legal assistance for the poor.

This is in sharp contrast to the ill-advised proposal before Congress that would give state governors the right to veto some federal legal-aid programs.

That move, in a Senate-passed amendment contributed by Sen. George Murphy (R-Calif.), should now be given short shrift by the House.

The thrust of the commission report is that inadequate police departments, overcrowded courts and harsh jails foster disrespect for the law. And this disenchantment is greatest among those "who feel they have gained the least from the social order and from the actions of government."

To place these failures in perspective, the commission noted that the criminal justice system—federal, state and local, including police, courts and correctional institutions—receives less government money each year than is spent on farm programs.

Among the chief recommendations of the commission was recruitment of more lawyers to aid the poor, in both civil and criminal cases. It also urged expansion of the present legal aid program of the Office of Economic Opportunity—the very program that the Senate has voted not to expand, but to cripple.

There is a pragmatic as well as humane reason for such expansion. Denial of justice to the poor increases disrespect for the law and the judicial system. Such disrespect can only lead to increased criminality, alienation and violence.

We urge the House to heed the commission's findings and to jettison the Murphy amendment. We urge the whole of Congress to set a course toward a responsive judicial system.

TAX RELIEF AND TAX REFORM

(Mr. VANIK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. VANIK. Mr. Speaker, I am today submitting to Senator ALBERT GORE, a member of the Senate Finance Committee, a petition signed by over 156 Members of the House of Representatives supporting his efforts to increase dependency exemptions from the present $600 to $1,000 per person.

My distinguished colleague, the Honorable PETER RODINO, of New Jersey, has obtained an additional 16 Members while my distinguished colleague from Pennsylvania, the Honorable JOHN SAYLOR, has advised me that he is submitting a list of over 50 Republican Members of the House, making a total of at least 222 Members of the House who support tax relief by way of increased exemptions and who have signed these petitions.

There is no doubt in my mind that over 300 Members of the House, an overwhelming number of its membership, concur in this approach to tax relief and tax reform.

Under the closed rule which prevailed when the tax reform proposal was considered in the House, it was impossible to get a House vote on the question of increased tax exemptions. If the Senate should adopt this approach and approve Senator GORE's approach for an increase in tax exemptions at the rate of $100 per year for the next 4 years, it seems to me that the conferees should be substantially affected by what clearly appears to be the preference of the majority of the Members of the House and the Senate.

It is clearly the feeling of the Members who have signed this petition that the present $600 dependency exemption is totally unrealistic and is not related in any fashion to the actual costs of dependency support. Increasing this tax allowance to $1,000 will reflect more accurately the burden of support which presently exists.

Following is the text of my letter to Senator ALBERT GORE who has indicated that he will lead the fight for increased exemptions along with the names of those Members of the House who have endorsed this approach:

Hon. ALBERT GORE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GORE: We, the undersigned Members of the United States House of Representatives, urge your support of an amendment to provide for an increase in the dependency exemptions from $600 to at least $1000.

We support an increase in dependency exemptions to take effect immediately or in several stages depending upon revenue effect to the Treasury. A meaningful increase in dependency exemptions is long overdue.

Sincerely yours,

Messrs. Abernathy, Adams, Addabbo, Glenn Anderson, William Anderson, George Andrews, Annunzio, Ashley, Aspinall, Blackburn, Baring, Barrett, Bennett, Bevill, Biaggi, Bingham, Boland, Brinkley, Brademas, Brasco, Brooks, George Brown, James Burke, Phillip Burton, Byrne, J. Herbert Burke.

Messrs. Caffery, Carey, Casey, Celler, Mrs. Chisholm, Messrs. Clark, Clay, Conyers, Culver, Daddario, Daniel, Daniels, Delaney, Diggs, Dingell, Dent, Donohue, Dorn, Dowdy, Downing, Dulski.

Messrs. Eckhardt, Edmondson, Don Edwards, Eilberg, Fallon, Farbstein, Fascell, Feighan, Flood, Flowers, Flynt, Friedel.

Messrs. Galifianakis, Gallagher, Garmatz, Gaydos, Giaimo, Gilbert, Gonzalez, Gray, Mrs. Edith Green, Messrs. William Green, Hagan, Hanley, Hamilton, Hanna, Hansen, Harrington, Hathaway, Hawkins, Hays, Hébert, Hechler, Helstoski, Hicks, Holifield, Hull, Howard, Hungate.

Messrs. Jacobs, Harold Johnson, Walter Jones, Karth, Kastenmeier, Kazan, Kee, Kluczynski, Koch, Kyros, Leggett, Speedy Long, Lowenstein, Lukens, Macdonald, Madden, Matsunaga, Meeds, Mikva, George Miller, Minish, Mrs. Mink, Messrs. Mollohan, Morgan, William Murphy, McCulloch.

Messrs. Nedzi, Nichols, Nix, Obey, O'Hara, O'Neill, Olsen, Ottinger, Patten, Pepper, Perkins, Podell, Powell, Melvin Price, Pucinski, Pickle, Randall, Rarick, Rees, Roberts, Byron Rogers, Paul Rogers, Rosenthal, Roybal, Ryan, Frank Rooney.

Messrs. Scheuer, Shipley, Slack, Neal Smith, Staggers, Steed, Stokes, St Germain, Taylor, Frank Thompson, Tiernan, Tunney, Vanik, Vigorito, Van Deerlin, Waggonner, Waldie, White, Charles Wilson, Wolff, Wright, Yatron, Zablocki, Blatnik, Button, Pollock, Ogden Reid, Sandman, Stratton, Rodino.

It is fiscally sound for Congress to enact a tax reform proposal which would increase the standard deduction to 15 percent with a $1,500 ceiling and increase exemptions at the rate of $100 per year beginning in calendar year 1971 until personal exemptions are increased to $1,000 per year. On the basis of projected revenue receipts, increasing at an annual rate of 7 percent and on the basis of expenditures increasing at a rate of $10 billion per year, the surplus for 1970 should reach $3.4 billion, $7.5 billion in fiscal 1971; $11.5 billion in fiscal 1972; $14.25 billion in fiscal 1973; $22.8 billion in fiscal 1974; and $27.7 billion in fiscal 1975.

The following table is an outline of the effect of increasing the tax exemption to $1,000 commencing 1971 through 1975:

[In billions]

	Fiscal years—					
	1970	1971	1972	1973	1974	1975
Revenue:						
1. From present law (with House-passed surcharge extension plus fiscal dividend)	$208.0	$222.0	$237.5	$254.1	$271.9	$290.0
2. Reform bill	+0.5	+2.0	+2.5	+3.0	+3.5	+4.0
Total revenue	208.5	224.0	240.0	257.1	275.4	294.9
Increase personal exemption ($650 in calendar 1969; $750 in 1970; $850 in 1971; $950 in 1972; and $1,000 in 1973)	0	−1.35	−3.35	−5.15	−8.45	−12.1
Increase standard deduction to 15 percent with $1,500 ceiling [1]	−1.8	−1.8	−1.8	−1.8	−1.8	−1.8
Net revenue after larger exemption and higher standard deduction	206.7	220.8	234.8	250.15	265.15	281.0
Expenditures (assumed $10,000,000,000 per year increase)	193.0	203.0	213.0	223.0	233.0	243.0
Surplus on unified budget	+13.7	+17.8	+21.8	+24.55	+32.15	+38.0
Trust fund surplus (assumed to be constant)	+10.3	+10.3	+10.3	+10.3	+10.3	+10.3
Administrative budget surplus	+3.4	+7.5	+11.5	+14.25	.....	+27.7

[1] Increase from the present 10 percent with $1,000 limit.

BIAFRAN RELIEF

(Mr. MORSE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MORSE. Mr. Speaker, the tragedy of starvation of the victims of the Nigeria-Biafra conflict has been deplored by Americans and the international community alike. It has long been the concern of private citizens, religious leaders, and Government leaders, both in the Congress and the administration.

Yet the tragedy continues.

Entwined as the hunger problem has become with complicated and difficult international considerations, effective solution has been defied primarily because of the parties to the conflict themselves. The inability of Nigerians and Biafrans to agree on a common relief delivery plan has thwarted the efforts of aid organizations, and eluded the humanitarian objectives to which the U.S. Government is committed.

The following statement by Secretary of State William Rogers speaks to the enormous efforts our Government has made, both in terms of relief contributions and diplomatic negotiations to devise a plan for the delivery of relief supplies that will be acceptable to both sides. It speaks to the frustrations that these endeavors have met to date.

It has been a disappointing and discouraging course, but I am indeed hopeful that our efforts will succeed, so that we will be able to move forward to relieve the anguish and suffering that this tragedy has wrought.

STATEMENT BY SECRETARY OF STATE WILLIAM P. ROGERS ON BIAFRAN RELIEF

Over the past nine months this Administration has made a major effort to help relieve the anguish and suffering of civilian victims of the Nigerian civil war. A further report on our efforts is in order.

From the beginning of this tragic event the United States has sought to support and insure an effective means of delivering relief to the sufferers on both sides.

Some of the steps this Government has taken include the appointment of a high-level Coordinator of all United States activities relating to Nigerian/Biafran relief, Ambassador C. Clyde Ferguson; the donation of over $65 million to the international relief effort; and sustained diplomatic efforts, both bilaterally and in concert with other concerned Governments, to obtain agreement on expanded international relief arrangements.

Nevertheless, relief into Biafran-held territory remains tragically inadequate.

Relief supplies now reach the Biafran enclave only at night, in insufficient amounts, by aircraft across Federally controlled territory lacking the approval of the Federal Government and originating outside Federal jurisdiction. Furthermore, following the shooting down of one of its aircraft on June 5, the International Committee of the Red Cross suspended its night flight operations which had provided roughly one half of relief supplies. ICRC flights have remained suspended since that time in view of the Federal Government's reiteration on June 30 that it could no longer permit such night flights across its territory. One major consideration cited by the Federal authorities was the intermingling at night of arms flights and relief flights into the enclave. The present arrangements for getting relief into the enclave are considered by the agencies involved to be both dangerous and inefficient.

In recent weeks, the United States has vigorously supported efforts of the ICRC to obtain agreement by both sides on a program of daylight relief flights.

On September 13, the ICRC, after extensive diplomatic efforts, concluded an agreement with the Government of Nigeria allowing an internationally-inspected and militarily-inviolable relief airlift during daylight hours for an experimental period with good prospects for renewal. The Biafran authorities, however, have refused to accept such flights—principally on the grounds that they believed they could not rely on either the Red Cross or the Federal Government to assure that the daylight airlift would not be violated by a surprise attack on the Biafran airfield, the vital terminus for their arms supply. They asked instead that they be given third party assurances as to the good faith of the Federal Government of Nigeria.

To meet this concern, at President Nixon's direction, we took the following initiatives designed to facilitate agreement on a safe and effective method of getting relief into the enclave:

(1) We sought and received the solemn assurance of the Federal Government of Nigeria that it would ensure that no hostile military action would be taken against the ICRC relief aircraft.

(2) After consultations with us, other governments agreed to offer impartial observers to accompany ICRC aircraft on their relief flights.

(3) Ambassador Ferguson went to West Africa to give the Biafrans the specific pledge of the Federal Government of Nigeria as to

the inviolability of the ICRC daylight relief flights.

On October 24, 1969, the Biafran authorities formally rejected this assurance.

On October 31, the Biafrans publicly announced their acceptance of an earlier U.S. plan for a surface route utilizing the Cross River in Eastern Nigeria. Under this proposal relief supplies would be delivered by ship to a mutually agreed neutralized distribution point. We have stated our willingness to resume discussions on this.

In our view however this Cross River route cannot substitute for the immediate resumption of ICRRC daylight flights. Even if the plan could be promptly implemented the capacity of the river route will be greatly reduced by a low water level for several more months. The agreement of the two sides to this plan is so far in principle only and there has been no meeting of minds on the specifics of inspection and guarantees. Nevertheless, our Relief Coordinator is continuing his efforts to bring about agreement on the Cross River proposal.

Daylight flights under agreed procedures therefore remain the only practicable scheme for an immediate and substantial expansion of relief operations.

We believe that the ICRC proposal is such a realistic and reasonable scheme. We consider that the Federal Government, in agreeing to the ICRC proposal, has acted constructively and in accordance with its humanitarian responsibilities. We also believe that the proposed arrangements for daylight flights meet in a reasonable manner the legitimate security concerns of the Biafran authorities.

Innocent civilians are in desperate need of food and medical supplies. The United States stands ready to continue its aid to these helpless victims of the Nigerian war. We earnestly hope that the Biafran leadership will reconsider its position regarding daylight flights.

Beyond these immediate measures, however, we clearly recognize that the ultimate solution to the problem of relief is an end to the war. The suffering and the fighting have gone on too long. As President Nixon has said, the United States earnestly hopes for the earliest negotiated end to the conflict and a settlement that will assure the security and peaceful development of all the people involved.

IMPEACHMENT—GOOD BEHAVIOR MEANS WHAT IT SAYS

(Mr. RARICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RARICK. Mr. Speaker, on several occasions this year, I have called to the attention of our colleagues the responsibility which is specifically reserved to this House by the express provisions of the Constitution.

I refer to impeachment—the constitutional vehicle whereby the people of the United States, acting through their elected Representatives in this House, indict and bring to trial public officers who have breached their trust.

From time to time I have called for the House to initiate such proceedings against William O. Douglas, whose personal and official conduct while occupying the high office of Associate Justice of the Supreme Court of the United States cries out for investigation.

His intimate associations with known criminals, subversives, and international conspirators is a matter of public record. His actions as a member of the highest court of the land in furthering the Communist conspiracy—of which the infamous Rosenberg stay is only one example—embarrass the Court and are a mockery to judicial ethics.

While a majority of the other body has mounted a zealous crusade for high standards of judicial ethics, Members of this body have announced an intention to initiate such proceedings against this bad apple in the judicial barrel.

Awareness of the need is present; the American people grow impatient. This House must initiate impeachment proceedings forthwith.

It is appropriate to call to the attention of our colleagues—who may soon have the opportunity to vote on a bill of impeachment—some of the conclusions regarding the relevance of impeachment and the constitutional requirement of good behavior reached by the U.S. Senate sitting as a court of impeachment in the trial of the last Federal judge so removed, whose offenses were trivial compared to the public record of Douglas.

I include in my remarks selected opinions in the impeachment trial of Halsted L. Ritter, U.S. district judge for the southern district of Florida, as published in the official record of that proceeding:

EXCERPTS FROM PROCEEDINGS OF THE U.S. SENATE IN THE TRIAL OF IMPEACHMENT OF HALSTED L. RITTER, U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA

[Seventy-fourth Congress, second session, March 10 to April 17, 1936]

STATEMENT OF SENATORS BORAH, LA FOLLETTE, FRAZIER, AND SHIPSTEAD IN THE MATTER OF THE IMPEACHMENT OF HALSTED L. RITTER

The Constitution of the United States provides:

"The President, the Vice President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors" (art. II, sec. 4).

"The judicial power of the United States shall be vested in one supreme court and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office" (art. III, sec. 1).

As early as 1688 the good-behavior standard for the judiciary was adopted by the English Parliament, nearly 100 years prior to the adoption of our Constitution. And as early as 1693 the English courts construed the meaning of good behavior in relation to its effect on the tenure of office of a judge.

In one of these decisions may be found the following language: "It is an estate for life determinable upon misbehavior; for 'during good behavior' is during life; it is so long as he doth behave himself well; i.e., if he behaves himself well in it so long as he lives he is to have it so long as he lives, during life and during good demeanor."

This principle was adopted by the framers of the Constitution, and is found in section 1, article III.

It is our view that a Federal judge may be removed from office if it is shown that he is wanting in that "good behavior" designated as a condition of his tenure of office by the Constitution, although such acts as disclose his want of "good behavior" may not amount to a crime.

Our Federal judges are appointed for life, conditioned upon their good behavior, and if they fail in this respect they may be impeached and removed from office. This, we feel, is a wise provision of the Constitution and that its enforcement is necessary in order to maintain respect for and the integrity of our courts. If a judge is guilty of such conduct as brings the court into disrepute, he is not to be exempt from removal simply because his conduct does not amount to a crime.

We therefore did not, in passing upon the facts presented to us in the matter of the impeachment proceedings against Judge Halsted L. Ritter, seek to satisfy ourselves as to whether technically a crime or crimes had been committed, or as to whether the acts charged and proved disclosed criminal intent or corrupt motive; we sought only to ascertain from these facts whether his conduct had been such as to amount to misbehavior, misconduct—as to whether he had conducted himself in a way that was calculated to undermine public confidence in the courts and to create a sense of scandal.

There are a great many things which one must readily admit would be wholly unbecoming, wholly intolerable, in the conduct of a judge, and yet these things might not amount to a crime.

If judges could not be removed from office for misbehavior or misconduct or the want of "good behavior", then, notwithstanding such conduct upon the part of the judge, he could continue indefinitely if he succeeded in avoiding those things which would amount to a crime, although the things less than a crime might make the administration of justice a matter of universal distrust.

Believing, therefore, that the evidence established beyond doubt the want of "good behavior", we felt constrained to so vote, without passing upon the question of whether his acts constituted a crime or crimes.

WM. E. BORAH.
ROBERT M. LA FOLLETTE, Jr.
LYNN J. FRAZIER.
HENRIK SHIPSTEAD.

MEMORANDUM OPINION IN THE IMPEACHMENT TRIAL OF JUDGE HALSTED L. RITTER—SUBMITTED BY SENATOR ELBERT D. THOMAS

I disagree with those who maintain that the phrase "During good behavior" refers only to tenure. The phrase is not synonymous with "for life." Its expanded meaning is that a judge may serve for life, providing his behavior is good. Misbehavior, therefore, is a cause for removal, and in an impeachment trial that is all that need be proved, for conviction calls for only removal from office, which in turn may lead to a bar from future office holding. That is not a punishment for wrongdoing in the ordinary sense but mere removal from office because of unfitness. This is the only conclusion proper when one reads further in the Constitution that "The party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law."

Fitness for office is the test, tenure for life is the result. Life tenure follows in the wake of good behavior. The aim of the fathers in setting up the Constitution was to create a Government by law; therefore those who were to be the custodians of the law, the judges, were to be granted every safeguard. Their compensation was not to be diminished, and later, by the interpretation of the judges themselves, not to be diminished even by an income tax. The guaranteed continued compensation was given that they might be free from the worries of ordinary citizens and other governmental officials as far as the world's goods were concerned and therefore economically independent of their fellow men. Their very appointment presupposed their fitness as to knowledge, ability, and civic virtue. Under our Constitution the judge is set apart in a class by himself with a tenure that is denied all other officials. But this tenure is not "for life"; it is "during

good behavior." Tenure during good behavior means, so far as life is concerned, only that it may extend through the period of the incumbent's life time. It is in no sense a guaranty of a life job, and misbehavior in the ordinary, dictionary sense of the term will cause it to be cut short on the vote, under special oath, of two-thirds of the Senate, if charges are first brought by the House of Representatives.

Can anyone imagine that the framers of the Constitution thought for a minute of giving anyone under the American system a life tenure as such? It must never be forgotten that the influences of Harrington and his theories about office holding, especially the theory of rotation, as expressed in his Oceana, were constantly in the minds of those who wrote our Constitution. The most casual study of the history of the fears of the founders of the new Government, fears of aristocracy, fears of heredity, fears of princes, fears of title, fears of life tenure, is convincing in this respect. The founders of this Government condemned the life idea, did they not? Did they not provide specifically that a republican form of government should be guaranteed to all the States? The whole theory of the Constitution denies the notion of life tenure.

To assume that good behavior means anything but good behavior would be to cast a reflection upon the ability of the fathers to express themselves in understandable language. Moreover, historically there can be no doubt of what the words "good behavior" meant in the minds of the framers of our Constitution, because historically they had the phrase not only from English law but also from colonial experience.

Under our Constitution, all civil officers may be impeached. If the aim is to remove from office because of infidelity to trust or to the oath of office, the standard of judgment is not the same in all cases. With administrative officers the idea of discretion may be very wide. Usually these are subject to removal by order of the Executive, who has himself a limited, definite term. In Congress each House is judge of its own Members, so the question as to whether a Senator or Representative is a "civil officer", as used in relation to impeachment, need not be raised. The Constitution prescribes quite clearly the method to be employed where a member of the judiciary, holding tenure "during good behavior", is concerned. The standard here is good behavior. It was no doubt felt that anything less than good behavior from one charged with upholding the sanctity of the bench is reprehensible, impeachable, and, yes, criminal if you will.

As there is no appeal from a conviction after impeachment, the House of Representatives has wide latitude in selection of reasons for impeachment. The Senate, too, makes its own rules, and the individual Senator votes in accordance with his own opinion, without instruction from the court in the sense that an ordinary jury receives instructions. These provisions, too, stress the theory that the real question before the Senate in the trial of judges is their fitness to maintain the trust which the people must have in their courts.

In the case just considered a defense for an act in allowing a fee was advanced that as the fee was satisfactory to the attorneys for all parties concerned, that the judge felt that he need not be further interested. A judge is not a mere referee between litigants; he has a responsibility to the State and the people. Thus we see that an attitude may constitute a serious misbehavior.

Civic virtue may be assumed as a qualification for all officeholders, the theory that public office is a public trust is universal, but in the case of judges it is made a matter of emphasis in written law by the use of the phrase "good behavior."

In a recent opinion of the Supreme Court, these words are used: "Arbitrary power and the rule of the Constitution cannot both exist. They are antagonistic and incompatible forces, and one or the other must of necessity perish wherever they are brought into conflict." Accepting this theory of our Constitution, the high Court struck down the action of an administrative officer. If arbitrariness, which is merely a characteristic of behavior, is fatal to our Constitution when exercised by an administrative officer, who can be removed from office by his superior, how much more fatal would it be to our Constitution if exercised by a judge who is protected from removal excepting upon conviction after impeachment. If arbitrariness in an administrative officer is incompatible with the Constitution and citizens are to be protected from it by the judges, the arbitrariness on the part of a judge must be considered doubly reprehensible. Incompatible with the Constitution and also reprehensible, yet it could hardly be called criminal in the legal sense. Thus misbehavior must be considered as a justifiable reason for conviction after impeachment.

The constitutional expression, "shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors", gives rise to the theory that conviction should follow only after proof of crime committed. The expression quoted seems to be a limitation upon the phrase, "during good behavior." But this does not follow. Crime is a matter of degree. Crime, too, depends upon time, place, circumstance, effect, and the persons party to it. Conspiracy is always hard of proof. In a judge, a nod from the bench or a gesture in the chamber may constitute a crime. Crime by those who are the guardians of the law need not be measured on the score of indictability. Furthermore, in the case of judges an impeachable crime need not be an indictable one.

Impeachment, though, must be considered as a criminal proceeding. Under the American Constitution an impeachment trial comes only after long investigation, condemnation, and after formal vote of the House of Representatives. Serious as is the impeachment and the consequent trial there are definite limitations upon the Senate's power to punish after guilt has been established. Thus while the proceeding is criminal the decision does not have the usual resultant punishment which ordinarily follows conviction for crime. That is left to the courts after indictment. This, as mentioned above, emphasizes the fact that the trial is primarily to pass upon the fitness of the person impeached to continue in office.

Impeachment is by definition a criminal accusation brought in a legislative body. The idea is old. It was used in the Greek city states, where a Greek citizen could be impeached before a political assembly, and public officers were in this way tried for misconduct in public service. Impeachment, though, as we know it today, is a modern institution. While its use is not general, provisions for its use are found in the constitutions of several European states and in most of those of Latin America. That it is still considered an effective institution is proved by the fact that it found a place in the Weimar Constitution of Germany in 1919.

Impeachment as we have it in our American Constitution is American in origin. One need not go outside the constitutional experiences of our own land for an interpretation of the intents of the fathers in inserting the impeachment provision in the Constitution. Impeachment in America is limited to the President, Vice President, and civil officers of the United States. In England, according to English law at the time our Constitution was brought into being, "All the King's subjects were liable to impeachment, whether officials or not, and for any offense." (See Thomas, The Law of Impeachment in the United States, American Political Science Review, vol. 2, p. 378). The history of impeachment in England, though, shows that it was used mostly to enforce the theory of the responsibility of the higher officers of the Crown to Parliament. Its use as we have it expressed in the American Constitution had become discredited and almost discontinued in England at the time our Constitution was formulated. That American impeachment theory had its origin in America need not be questioned. To illustrate, we find the immediate antecedents to the theory of impeachment as we have it in the Constitution in Thomas Jefferson's proposal in 1783 for the constitution of Virginia: "There shall be a court of impeachments * * * . Before this court any member of the three branches of government * * * may be impeached * * * for such misbehavior in office as would be sufficient to remove him therefrom; and the only sentence they shall have authority to pass shall be that of deprivation and future incapacity of office, * * * two-thirds of those present must concur in the sentence * * * ." That impeachment of officials to correct their misbehavior was the prevailing American thought is reflected in another quotation from Jefferson written in the same year as the Declaration of Independence, "For misbehavior, the grand inquest of the Colony, the House of Representatives, should impeach them before the Governor and the council * * * and if convicted, should be removed from their offices" (from a letter to George Wythe written in 1776).

That good behavior should be the prevailing test of fitness is questioned by those who claim that if the charges are not specifically for "treason, bribery, or other high crimes and misdemeanors" impeachment might be used for political purposes. If the English thought had been the prevailing one in America in 1787, this might be a proper deduction. For British law made it possible to impeach a minister for being guilty of bad judgment in that he had ill-advised his King. But, as stated above, the Constitution makers did not follow English law; they followed American theory, and it was proper that they should, for such British text writers as Blackstone and Woodeson, who were both extensively read by the Colonists, had taken stands in advance of English law and even then maintained that impeachment proceedings must be for serious offenses and the trial in the nature of criminal proceedings, and not for political purposes. In the American Constitution the two-thirds vote required for conviction is a sufficient safeguard against a political abuse.

American history has proved this to be true in that the inability to obtain an impeachment conviction even for serious offense caused Americans in the first quarter of the nineteenth century to assert that, so far as the judges were concerned, "impeachment is scarcely a scarecrow."

That Americans considered the institution of impeachment as being an insufficient protection, especially against misbehavior of judges is proved by their State constitutional provisions in regard to the tenure of judges. As a result American State constitutional writers turned from the theory of indefinite terms during good behavior to short terms of definite limits. Had the early tendencies in impeachment trials not proved the extreme difficulty in gaining conviction, the "scarecrow" criticism would not have developed, and the appointment of judges for indefinite tenure might have become the common practice as newly created States were set up and their constitutions adopted.

ELBERT D. THOMAS.

MEMORANDUM OPINION OF SENATOR MCADOO IN THE MATTER OF THE IMPEACHMENT OF HALSTEAD L. RITTER

I do not take the view that an impeachment proceeding of a judge of the inferior

Federal courts under the Constitution of the United States is a criminal proceeding. The Constitution itself has expressly denuded impeachment proceedings of every aspect or characteristic of a criminal proceeding. This is made clear in article II, section 3, which provides:

"Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law."

Upon conviction, removal from office is the sole punishment unless the Senate shall, by vote, add to it "disqualification to hold and enjoy any office of honor, trust, or profit under the United States." The last sentence of this same article II, section 3, expressly provides that the convicted party "shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law."

Obviously, the purpose of the framers of the Constitution was primarily to remove from office and disqualify from holding office a judge found guilty of misbehavior, or a want of good behavior within the meaning of the Constitution; but, if, as elements of misbehavior, it was shown in the trial that the accused had been guilty of crimes or misdemeanors under the laws of the United States, he could be punished therefor in a criminal proceeding in the courts of proper jurisdiction. It was not, therefore, necessary to prove the respondent guilty beyond a reasonable doubt, as is the rule in cases where persons are accused of crimes or misdemeanors involving loss of life, liberty, or property.

I approach this subject from the standpoint of the general conduct of this judge while on the bench, as portrayed by the various counts in the impeachment and the evidence submitted in the trial. The picture thus presented is, to my mind, that of a man who is so lacking in any proper conception of professional ethics and those high standards of judicial character and conduct as to constitute misbehavior in its most serious aspects, and to render him unfit to hold a judicial office.

Among other things, the impeachment charges that the Respondent Ritter allowed his former law partner, A. L. Rankin, a fee of $75,000 in the Whitehall Hotel receivership case; that out of said fee Rankin paid Ritter $4,500 in cash—$2,500 on December 24, 1930, and $2,000 in April 1931. The fact that these payments were made in cash instead of by check and that they are the only transactions between Ritter and Rankin where cash passed between them, Rankin having given Ritter checks for all other payments made to him, evidences a guilty stain which no explanation can erase. The explanation advanced is that Rankin owed Ritter $5,000 for the purchase, some 2 years previously, of the interest of said Ritter in the partnership firm of Ritter & Rankin. It is significant that no payments were made on account of the alleged sale to Ritter by Rankin out of any moneys received during that period except from the $75,000 fee allowed by Judge Ritter to Rankin.

It is significant, too, that when Judge Akerman, at Judge Ritter's request, allowed Rankin a "conservative fee" of $15,000 in the spring of 1930, not one dollar of this amount was paid to Judge Ritter. This appears to have been clean money. Would not an honest debtor have hastened to pay Judge Ritter out of this $15,000 fee at least a substantial sum on account of the $5,000 debt? He did not do it. He waited until the $75,000 fee, fixed by Judge Ritter, had been paid, and then, within the secret walls of the Judge's chamber, where each expected that the transaction would never become known, actual cash, amounting to $4,500 was handed to Judge Ritter by Rankin. It is incompatible with any theory of the high judicial integrity, which I concede to be essential in a judge on the bench, to have been a party to such a transaction. The explanations are not convincing. Upon reading the evidence one is impressed with the suspicion, if not the belief, that the alleged $5,000 debt of Rankin to Ritter was an afterthought and that it was presented as a means for justifying this cash transaction of such a questionable and incriminating character. Would not, in the circumstances, an honest judge have said to Rankin when the cash was tendered: "I will not accept cash, because it invests the transaction with a quality which I cannot endure. You honestly owe $5,000, and if you wish to make a payment on account, let it be made by check, as is usual between men of honor in transactions of this nature."

I am impressed with the fact that the commendable considerations which Judge Ritter advanced in his letter of July 2, 1930, to Judge Akerman when he asked that judge to relieve him of any embarrassment in fixing "the total allowance to be made Judge Rankin in the Whitehall receivership case" did not prevail with Judge Ritter when he fixed the final fee of his former law partner, Rankin, December 24, 1930. In view of the fact that Rankin owed him at that time $5,000, that its payment might be made out of the fee he might allow Rankin, that Rankin was his former law partner, would not any judge have seen clearly the impropriety, at least, of his rendering judgment in favor of Rankin in such circumstances? The explanation that all of the attorneys had agreed upon the fee does not satisfy because a judge should look beyond the agreements of attorney in matters of this sort when they are administering great trusts in their courts. That the part of this fee which went to Rankin was grossly excessive, in view of the services performed by him, is clear to my mind from the testimony adduced in the case.

I shall now pass on to the failure of Judge Ritter to report this $2,500 cash payment in his income-tax return for the calendar year 1930. This return was filed March 14, 1931. It is not a complicated income-tax return. On the contrary, with the amount of income Judge Ritter had, it is a simple matter to have made a full and correct return. He willfully, or intentionally, omitted to include the $2,500 cash payment. I cannot account for this omission on any other ground than that he knew that these were stained or tainted dollars, and that he did not wish to attract the attention of the revenue agents to this item when his tax return was being audited. Judge Ritter swore that his tax return for 1930 was "a true and complete return made in good faith for the taxable year stated, pursuant to the Revenue Act of 1928 and the regulations issued thereunder." Judge Ritter cannot claim ignorance of the law. It is a well-established rule that ignorance of the law excuses no man. Certainly ignorance of the law cannot excuse a judge, who must know the law in order that he may perform his duty to enforce it. Part V, section 51(a), of the Revenue Act of 1928 requires "every individual having a gross income for the taxable year of $5,000 or over, regardless of the amount of his net income" * * * to "make under oath a return stating specifically the items of his gross income and the deductions and credits allowed under this title."

Section 146 of the same act provides (a) that "any person required under this title * * * by law or regulations made under authority thereof, to make a return, keep any records, or supply any information for the purposes of the computation, assessment, or collection of any tax imposed by this title, who willfully fails * * * to make such return, keep such records, or supply such information at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and upon conviction thereof be fined not more than $10,000 or imprisoned for not more than 1 year, or both, together with the costs of prosecution."

That Justice Ritter, a district judge of the United States, should have willfully and intentionally filed a false return under oath to the Bureau of Internal Revenue is to me incomprehensible. This fact alone would, in my judgment, warrant his impeachment, Judge Ritter's explanation is as follows:

"In 1930 I had a loss of $4,874 and some cents, which is fully explained in my income tax return * * * I made out that report on the 14th of March, just the day before it was due, and I put down that loss and I did not in my report put down $5,300 (this includes the $2,500 cash payment from Rankin) that I had taken in because after taking out my exemption, it left only $1,800 over against $4,800, which showed no income payable. * * *

"There would not have been one dollar due if I had put in that money that I had received, and my loss was O. K.'d by the Department and was accepted and marked 'paid'."

This explanation is wholly untenable. He was, under the mandate of the statute, required to make a true and complete return of all of his income in order to enable the Bureau of Internal Revenue to audit his account and to make "the computation, assessment, or collection" of any tax that might be due from him to the United States. No taxpayer is permitted to audit his own return and determine for himself whether his losses outbalance his income, and therefore omit to make "the true and complete return" required by law. If every taxpayer was permitted to do what Judge Ritter did in this instance, the Government would be defrauded of hundreds of millions of dollars in income taxes. Judge Ritter attempts to justify his false return by saying: "My loss was O. K.'d by the department and was accepted and marked 'paid.'" This, of course, means nothing. If the "Department," or Bureau of Internal Revenue, O. K.'d his incomplete return without having made any effort to discover whether or not the judge had made a complete return of his income, this endorsement is of no value and does not signify that the Bureau of Internal Revenue approved a false return, which it did not know was false. It perhaps presumed that a judge of the United States court would not, under oath, falsely state the amount of his income.

In the matter of the appointment of a receiver for the Whitehall Hotel property in the suit of *Bert E. Holland et al.* v. *The Whitehall Building & Operating Co.*, I cannot find any justification for the assertion by Judge Ritter of jurisdiction in that case. Holland had the required amount of bonds ($50,000) to maintain a foreclosure suit against the property. Upon the solicitation of Rankin, and in collusion with Richardson, Metcalf, Sweeny, and Bemis, Holland had been induced to employ Rankin to bring an action in Judge Ritter's court.

Before the suit was actually filed, namely, on October 10, 1929, Holland telegraphed Rankin to "withhold filing foreclosure bill until further advice." The next day, October 11, Rankin telegraphed Holland: "Foreclosure bill mailed clerk court Miami yesterday afternoon."

On October 10, the same day that he received Holland's telegram, Rankin wrote the clerk of the court at Miami, enclosing bill of complaint in the Whitehall case, naming Holland et al. as complainants and requesting the clerk to "lock up this bill as soon as it is filed and hold it until Judge Ritter's return, so that we will not have any newspaper publicity before our application is heard before the judge." This unquestionably re-

flects an evil purpose. Rankin was about to lose his prey. He could easily have withdrawn the bill from the clerk, as requested by Holland, but instead of doing that, he busied himself in an effort to secure intervenors in the case so that he might, if possible, file the bill in spite of Holland's directions and make it stick upon the interventions.

Why should the bill be held until Judge Ritter's return? This brings out in bold relief the pattern of the design which was to carry out the plan predetermined by Richardson, Rankin, Metcalf, and others to secure a receivership of the Whitehall Hotel. Ritter was essential.

In reply to further telegrams from Holland, dated October 14 and October 16, Rankin wired Holland October 17: "As requested, will not make application for you for receiver Whitehall pending instructions"; and on October 18 Rankin again wired Holland, saying: "Other first-mortgage bondholders Whitehall have intervened and will apply court tomorrow 10:30 a.m. for appointment of receiver."

Holland was in Miami on October 28, 1929, and testifies that he "met Mr. Rankin in the courthouse corridor" before the case was called for hearing. He testifies further that he said to Rankin that he "was there in person" * * * and that he "desired to appear for" himself, and "did not want his (Rankin's) services longer." On the same day, October 28, 1929, the case came on for hearing before Judge Ritter. Rankin had been discharged as attorney for Holland and had been told by Holland not to prosecute, in his behalf, the application for a receivership.

Holland, who is a lawyer of reputation in Boston, Mass., appeared in person in Judge Ritter's court and, according to Ritter's own testimony, Holland said: "I am a lawyer; I reside in Boston; I am the plaintiff in this case, and I do not desire anything done in this case." This was tantamount to a request by Holland for a dismissal of the action. Judge Ritter testified before the Senate that he said, in reply to Holland: "Well, have you been paid?" Ritter further stated: "Naturally, the inference occurred to my mind that the plaintiff had been bought off, or that he was instituting this case and wanted to keep it on the books as a sort of a hold-up proposition. I could not tolerate such a thing of that kind in my courts; and I told him that I did not think that a nonresident should come into my court and start a case, when he had counsel present; and if he was to control the case, it occurred to me, when he had lawyers present, and I should act upon what he said, I did not see how we could ever make progress in the case and get it to final conclusion. If a nonresident had to be notified about the case, and was conducting his own case, I did not see how we could ever push the case through."

In the first place, Judge Ritter was, without justification, insulting to Holland when he asked, "Well, have you been paid?" There was certainly nothing in the record to warrant such an assumption on the judge's part. Moreover, why did the judge say to him that he "did not think that a nonresident should come into my court and start a case and then stand up when it came up on this important matter of a receivership and say that he did not want anything done in the case when he had counsel present"?

Holland is an American citizen. It is true that he was a resident and citizen of the Commonwealth of Massachusetts, but one of the distinct reasons for the jurisdiction of the United States courts is diversity of citizenship. Holland, as a nonresident, had as much right to the protection of Judge Ritter's court as a citizen of the State of Florida. He was particularly entitled to courteous treatment by the court, especially in view of the fact that he did not have lawyers present, since he had discharged Rankin as his attorney and was, of necessity, forced to appear in his own behalf.

I think that Holland was entitled to a dismissal of the proceeding, without regard to technicalities. Apparently the suit was not dismissed because the proceeding would have failed since Holland was the only complainant who could qualify the action with the required amount of bonds; namely, $50,000. It appears that an effort had been made to introduce, hastily, intervenors in the action, representing, in the aggregate, some $7,500 of bonds; but with Holland out, the court could not take jurisdiction. The assertion of jurisdiction in this case seems to me to have been essentially arbitrary and tyrannical.

As recently as April 6, 1936, the Supreme Court of the United States, in the case of *J. Edward Jones, petitioner,* v. *Securities and Exchange Commission,* rendered a decision which is directly in point:

"The general rule is settled for the Federal tribunals that a plaintiff possesses the unqualified right to dismiss his complaint at law or his bill in equity unless some plain legal prejudice will result to the defendant other than the mere prospect of a second litigation upon the subject matter (*Pullman's Palace Car Co.* v. *Transportation Co.,* 171 U.S. 138, 145–146). In announcing the rule, this Court approved and cited as authority the decision rendered by Chief Justice Taft, then circuit judge, in *Detroit* v. *Detroit City Ry. Co.* (55 Fed. 569). The opinion in the latter case, reviewing the English and American authorities, states the rule as follows:

" 'It is very clear from an examination of the authorities, English and American, that the right of a complainant to dismiss his bill without prejudice, on payment of costs, was of course except in certain cases. * * * The exception was where a dismissal of the bill would prejudice the defendants in some other way than by the mere prospect of being harassed and vexed by future litigation of the same kind.'

"*Chicago & A. R. R. Co.* v. *Union Rolling Mill Co.* (109 U. S. 702, 713–715); *Barrett* v. *Virginian Ry. Co.* (250 U.S. 473, 476); *McGowan* v. *Columbia River Packers' Assn.* (245 U.S. 352, 358); *Veazie* v. *Wadleigh* (11 Pet. 55, 61–62); *Confiscation Cases* (7 Wall. 454, 457–458). The foregoing decisions, together with others, are reviewed in an opinion delivered by Chief Justice Taft in *Ex parte Skinner & Eddy Corp.* (265 U.S. 86), and the conclusion stated as follows:

" 'The right to dismiss, if it exists, is absolute. It does not depend on the reasons which the plaintiff offers for his action. The fact that he may not have disclosed all his reasons or may not have given the real one cannot affect his right.

" 'The usual ground for denying a complainant in equity the right to dismiss his bill without prejudice at his own costs is that the cause has proceeded so far that the defendant is in a position to demand on the pleadings an opportunity to seek affirmative relief and he would be prejudiced by being remitted to a separate action. Having been put to the trouble of getting his counter case properly pleaded and ready, he may insist that the cause proceed to a decree.' "

The law and the testimony in this case convince me that the plaintiff had the unqualified right to dismiss the bill. None of the categories described in the foregoing decisions of the highest court of the land were present in this case, but a receiver was appointed, nevertheless. The weight of evidence seems to me to establish the fact of a conspiracy because each man who was a party to the effort to promote the receivership was recognized in the particular position which he expected to receive if the court took jurisdiction. Richardson was receiver; Metcalf was his attorney; Sweeny and Bemis ran the hotel, and Rankin continued to represent Holland, who had dismissed him as his attorney. Ritter had functioned perfectly.

One must judge these matters by the effect of men's actions in order to determine the motive. All that happened in this case was not mere coincidence. It was designed.

The gift from Francis was not explained to my satisfaction. No honest judge should, for one moment, accept gifts of large amounts of cash or valuable things of any sort. The donor in this case may not have had an evil purpose. I grant that he had not, but that does not alter the standard which I think should govern the judges of every court in the land. He got a picture of the mind of this respondent by one answer he gave. Senator Reynolds propounded this question to Judge Ritter: "Why did you accept a $7,500 gift from Mr. Francis?" Judge Ritter replied: "Why I accepted it because it was a gift—he was a friend of mine—*just the same as I would accept a gift fom anybody.*" (The italics are mine.) Does not this answer betray a perverted state of mind for any man who wears the judicial ermine? Does not this give an illuminating view of the ethical standards which governed him? Would not the general acceptance of the practice of taking gifts "from anybody", which by every implication of Judge Ritter's answer, he considers proper, destroy all confidence in the administration of justice in our courts? I cannot, myself subscribe to any such theory or practice. If Judge Ritter would accept a gift "from anybody", how could he impartially discharge the duties of his high trust?

The Good Book says: "A gift doth blind the eyes of the wise and pervert the words of the righteous." (Deut. 16: 19.)

This great truth from Holy Scripture has come down to us through the ages and is as definite a guide for human conduct as it was when first uttered.

Good behavior, as it is used in the Constitution, exacts of a judge the highest standards of public and private rectitude. No judge can besmirch the robes he wears by relaxing these standards, by compromising them through conduct which brings reproach upon himself personally, or upon the great office he holds. No more sacred trust is committed to the bench of the United States than to keep shining with undimmed effulgence the brightest jewel in the crown of democracy—justice.

However disagreeable the duty may be to those of us who constitute this great body in determining the guilt of those who are entrusted under the Constitution with the high responsibilities of judicial office, we must be as exacting in our conception of the obligations of a judicial officer as Mr. Justice Cardozo defined them when he said, in connection with fiduciaries, that they should be held "to something stricter than the morals of the market place. Not honesty alone, but the punctillio of an honor the most sensitive, is then the standard of behavior" (*Meinhard* v. *Salmon,* 249 N.Y. 458).

W. G. McADOO.

FRANCIS L. LOWENHEIM CHARGES THAT FRANKLIN D. ROOSEVELT LIBRARY WITHHELD OFFICIAL DOCUMENTS AND LATER GAVE THEM TO A PRIVATE COMPANY

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Texas (Mr. BUSH) is recognized for 5 minutes.

Mr. BUSH. Mr. Speaker, Francis L. Lowenheim, associate professor of history at Rice University, has charged that the Franklin D. Roosevelt Library, an instrument of the Federal Government, withheld official, unclassified documents from him and later gave them away to a

private company which tried to copyright them. Professor Lowenheim recently wrote me detailing the facts behind his charges and I would like, at this time, to insert excerpts from his letter in the RECORD:

HISTORY DEPARTMENT,
RICE UNIVERSITY,
Houston, Tex., November 11, 1969.

Hon. GEORGE BUSH,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN BUSH: * * *

The story of this case is briefly as follows. In the fall of 1966–1967 I was on sabbatical leave from Rice University, where I have been on the faculty since 1959 (I received my Ph. D. at Columbia in 1952, was at Princeton from 1951 to 1957, and served in the Department of State in Washington in 1958–1959). I went to the Roosevelt Library at Hyde Park, N.Y., and wanted to put together in book form the correspondence of President Roosevelt and Professor William E. Dodd of the University of Chicago, the famous American historian who served with such distinction as U.S. ambassador to Nazi Germany 1933–1937.

* * * * *

Despite numerous visits and the most careful search (according to government records I was at Hyde Park more than twenty times), I was unable however to find all the letters that passed between the President and Professor Dodd; in particular, I was unable to locate the first letters dating from 1933–1934. This was especially frustrating since, after considerable effort, I had finally found all the remaining correspondence, down to the end of 1937, when Professor Dodd left for home. I repeatedly asked for all the missing letters—so that I could finish my book—but I was always told that I had been given everything there was, and there was nothing more to be found in the Hyde Park files.

Still I did not give up. In the fall and winter of 1967–1968, when I was back at Rice, I made a number of trips up to the Manuscripts Division of the Library of Congress, where the Dodd Papers are deposited (there are about 20,000 items), but despite weeks of searching there, I never found the missing letters. Thus while I had transcribed and edited all the correspondence 1934–1937 and had it ready to go to press, the fact that I did not have the 1933–1934 letters made it impossible for me to publish my book, in which several leading publishers had expressed an interest. In the spring of 1968, therefore, I laid the whole manuscript aside.

In late June 1968 I discovered that the Harvard University Press was planning to publish in the fall a three-volume compilation entitled "Franklin D. Roosevelt and Foreign Affairs 1933–1937", edited by Edgar B. Nixon, the Assistant Director of the Roosevelt Library (which by the way is operated by the National Archives, a part of the General Services Administration), and when I immediately telephoned Mr. Nixon at Hyde Park to ask what Dodd-Roosevelt letters he had in his own collection, I received from him, a few days later, a listing that showed that all the missing letters that I needed for my book were in his volumes.

But the worst was still to come. Before long, I learned that the Nixon volumes had in fact been prepared years before, had been sitting in a vault at the Roosevelt Library, and had been simply concealed from me and, as it turned out, many other scholars. But what I did not know in July 1968, and did not find out until November 1968, when Dr. James B. Rhoads, the Archivist of the United States, told me personally in his office, was that the Nixon volumes were in fact an official United States Government publication, which Mr. Nixon, a government employee, had put together as part of his official duties on government time.

Then followed weeks and months of trying to get the rest of the story and get some sort of remedial action. In December 1968 I learned that the Harvard galley proofs carried a Harvard copyright notice, and early in 1969 I got in touch with the Copyright Office of the Library of Congress, which twice turned down the application of the Harvard University Press to copyright these volumes. In February I approached Congressman Eckhardt, and in mid-March * * *.

I shall not trouble you with a detailed chronology of what has happened since then. The main developments may be summed up as follows:

1. It has become known that the Nixon compilation, substantially completed in 1961, had been systematically concealed from countless scholars working at the Roosevelt Library over many years, including such leading Roosevelt biographers as Professor James MacGregor Burns of Williams College, such top authorities on recent American history as Professor E. David Cronen, Chairman of the History Department at the University of Wisconsin, and such leading diplomatic historians as Professor Gerhard L. Weinberg of the University of Michigan. Indeed, Dr. Rhoads has not been able to furnish my attorney the name of a single scholar who was shown and used the Nixon edition—which, of course, was an absolutely indispensable guide or finding aid to the thousands of Roosevelt foreign policy documents at Hyde Park.

2. It is now known that I was by no means the only person from whom documents were withheld at Hyde Park. For example, the same thing—only much worse—happened to Professor Richard P. Traina, Dean of the Faculty of Wabash College, who was working at the Roosevelt Library on a book on American diplomacy and the Spanish Civil War. Dean Traina had three time as many documents withheld as I did. The withholding in his case went on for over five years. And the withholding was done by Mr. Nixon personally.

3. My attorney, Mr. William D. Zabel, of Baer & McGoldrick, 345 Park Avenue, New York City, has established that there is a fifty-year old Act of Congress, which clearly and specifically prohibits the publication of such official government volumes by anyone save the Government Printing Office, unless permission for private publication had been granted by the Joint Congressional Committee on Printing. Such permission was neither sought nor granted.

* * * * *

4. On September 7, 1969 twenty historians—including numerous internationally known scholars in the field—signed a statement in The New York Times Sunday Book Review arraigning the government for what had happened, and asking for a congressional investigation. Since that statement appeared, other scholars have come forth to report that they have had the same or similar experiences at the Roosevelt Library, including withholding of documents, concealment of the Nixon compilation, gross favoritism to certain scholars.

* * * * *

5. After I submitted to the National Archives in late December 1968 a 23-page memorandum of complaint (which was never acknowledged), the National Archives in January–February 1969 made an investigation of its own, and found that the Hyde Park records of which I had seen and copied agreed completely with my story. In other words, they knew from their own investigation that I was telling the truth when I said that I had not seen or copied these crucially important letters.

* * * * *

Now, Congressman Bush, I am a reputable and reasonably well-known historian, and scholars such as myself cannot make false charges and survive professionally. If it were discovered that *I* had lied, I would doubtless lose my position at Rice and would be completely destroyed professionally. But what happens if I have told the truth? How do I get a hearing? What I am asking, therefore, is an opportuntiy to tell my story before a congressional committee under oath, and that Dr. Rhoads and all the other people involved in this case can be similarly called.

* * * * *

Most respectfully yours,
FRANCIS L. LOWENHEIM,
Associate Professor.

Through his able Congressman, the Honorable BOB ECKHARDT, Professor Lowenheim has been working to obtain a congressional investigation of the concealment of these papers. I, too, would like to see such an investigation and have written the Honorable JACK BROOKS, chairman, Government Activities Subcommittee, Government Operations Committee.

Mr. Speaker, Congressman ECKHARDT has done a masterful job in bringing the facts of Professor Lowenheim's case to public attention and I hope we will see a fair, open, and extensive investigation in the near future.

NEW YORK CITY CONGRESSIONAL HEARING ON AUTOMOTIVE AIR POLLUTION

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. FARBSTEIN) is recognized for 30 minutes.

Mr. FARBSTEIN. Mr. Speaker, 20 Members of Congress from New York and New Jersey have joined with me in inviting the heads of the big four automotive producers to testify at a public hearing on auto air pollution we have scheduled in New York City for early December.

Auto critic and consumer advocate Ralph Nader is scheduled to testify at the hearing, which is to be held Monday, December 8, at 10 a.m., at the Customs Court House Building, 1 Federal Plaza, New York City.

In addition to Nader, witnesses will testify on the health implications of automotive pollution and on low pollution technology. Into the latter category fall the questions of what the auto industry can be doing now to lower pollution levels from the internal combustion engine and how desirable and feasible alternatives to the current automobile propulsion system are.

The level of urban air pollution is reaching disastrous proportions. The public is becoming increasingly skeptical over what the industry is doing to reduce air pollution levels.

This is demonstrated by a recent national study which found 62 percent of the public willing to force industry action to reduce pollution by outlawing the internal combustion engine. In July, I introduced H.R. 13281, legislation to ban the internal combustion engine after January 1, 1978, unless new and stricter standards for controlling air pollution can be met by the auto industry.

Much of the industry's efforts of late appear to have gone into attempting to keep the public from finding out its past

efforts to prevent the development of antipollution devices. With the Justice Department's suit against the auto industry now terminated in a consent decree, we want to know what the companies are doing to improve existing engines and develop new ones, and we want to learn this information from the men who make and can justify the industry's policy—the presidents and chairmen of the boards of General Motors, Ford, Chrysler, and American Motors.

Among those testifying on automotive technology are members of the Federal Panel on Electrically Powered Vehicles, headed by Dr. Richard S. Morse of the Massachusetts Institute of Technology. That panel, which included industry members, concluded in 1967 that the automobile manufacturers were capable of reducing pollution far below levels required for 1970 model cars. Witnesses scheduled to testify on health implications include Dr. Stephen Ayres of St. Vincents Medical Center in New York City, and Dr. Leonard Greenberg, former New York City Air Pollution Commissioner.

Those sponsoring the hearing are:
LEONARD FARBSTEIN, of New York;
BENJAMIN S. ROSENTHAL, of New York;
SHIRLEY CHISHOLM, of New York;
BERTRAM L. PODELL, of New York;
JAMES H. SCHEUER, of New York;
WILLIAM F. RYAN, of New York;
JOSEPH P. ADDABBO, of New York;
EDWARD I. KOCH, of New York;
JAMES J. DELANEY, of New York;
PETER W. RODINO, JR., of New Jersey;
SEYMOUR HALPERN, of New York;
JONATHAN B. BINGHAM, of New York;
ADAM C. POWELL, of New York;
RICHARD L. OTTINGER, of New York;
HENRY HELSTOSKI, of New Jersey;
ALLARD K. LOWENSTEIN, of New York;
JOSEPH G. MINISH, of New Jersey;
MARIO BIAGGI, of New York;
DOMINICK V. DANIELS, of New Jersey;
EDWARD J. PATTEN, of New Jersey; and
FRANK J. BRASCO, of New York.

The following is the text of the letter we sent to the presidents and chairmen of the boards of the four major automobile companies:

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 7, 1969.

GENTLEMEN: We are writing you today as Members of Congress, representing the New York-New Jersey-Connecticut metropolitan region, concerned about air pollution.

We are sure you will agree that air pollution has become a matter of grave concern to every American and that the automobile industry has the responsibility to make every effort to alleviate this problem.

It is our intention to hold hearings to examine the impact of the automobile on the air of the New York-New Jersey-Connecticut metropolitan region. These hearings will be held in the Ceremonial Court Room, U.S. Customs Court Building, One Federal Plaza, New York City at 10 a.m. on December 8.

You, as the head of one of the major American industries, are in a position to exercise your responsibilities for helping to solve this severe environmental problem by appearing before our panel at that time.

We are anxious to become acquainted with what your company is doing, or plans to do in the future, to overcome the adverse effects on the atmosphere of pollution from automobiles. We are not so much concerned with the details of how your company is meeting specific governmental requirements. Rather, we are interested in the broader context of what steps you are taking for the improvement of the internal combustion engine and the exploration and developement of alternative means of propulsion.

Thus, we are more desirous of hearing from you, the people at the highest policy-making level of management, than from technical or other laboratory personnel. You are, of course, welcome to bring such personnel to advise you.

We would appreciate your favorable reply to this invitation at your earliest convenience. Please contact Congressman Leonard Farbstein at (202) 225-5635.

With sincere regards, we are ——— ———.

Letters sent to the following:

Mr. Roy D. Chapin, Jr., Chairman of the Board and Chief Executive Officer, and Mr. William V. Lunburg, President and Chief Executive Officer, American Motors Corporation, 14250 Plymouth Road, Detroit, Michigan 48232.

Mr. James M. Roche, Chairman of the Board; and Mr. Edward N. Cole, President, General Motors Corporation, General Motors Building, Detroit, Michigan 48202.

Mr. Lynn A. Townsend, Chairman of the Board; and Mr. V. E. Boyd, President, Chrysler Corporation, 341 Massachusetts Avenue, Detroit, Michigan 38231.

Mr. Henry Ford II, Chairman of the Board; and Mr. L. A. Iacocca, Executive Vice President and President of the North American Automotive Operation, The American Road, Dearborn, Michigan 48121.

JOHN F. KENNEDY

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Texas (Mr. GONZALEZ) is recognized for 10 minutes.

Mr. GONZALEZ. Mr. Speaker, 6 years ago, a cold November 25, 1963, this Nation reeled in grief as we laid to rest the 34th President of the United States, John F. Kennedy.

For those of us who were in Dallas just 3 days before when we horror-strickenly learned that the President was dead from an assassin's bullet, November 25 is a particularly sad day to remember. For most of us who went to Dallas, it took at least 3 days for the full impact of the reality of that awful event to flood our hearts and minds.

Although 6 years in a life span is a relatively short time, 6 years is also a long enough time to heal at least partially some wounds.

To be sure November 22 and 25, 1963 will always be sad to recall for those of us who were alive and aware of the world around us at the time, but what is most remembered after the healing balm of time is not the heavy sadness, but what John F. Kennedy evoked in the hearts of Americans and in the hearts of citizens of goodwill in every nation throughout the world.

John F. Kennedy left us suddenly and without warning, but his legacy to us could not be destroyed by the single act of a deranged man.

His legacy was one of vision and courage and determination, and a new vigor in statesmanship and leadership which have resulted in our sending the first men to the moon, while at the same time making us look for the first time at the complex economic problems which cause some people to go hungry in a land of plenty.

Countless writers, political scientists, and historians have pointed out that at the time of his death, President Kennedy's program for the United States and the world of growth and progress was completely stymied.

Yet, Mr. Speaker, and my distinguished colleagues, without his listing straightforwardly the goals and basic issues we must face and have, at least, partially faced since his death, where would we be now?

TAKE PRIDE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Ohio (Mr. MILLER) is recognized for 60 minutes.

Mr. MILLER of Ohio. Mr. Speaker, we Americans have been extremely busy in recent years coping with crises and worrying about our problems at home and abroad, to give much thought to what we have to be thankful for—to what makes all the coping and worrying worthwhile. It is good, and necessary, for a nation to subject itself to self-criticism and to set ever-higher goals. But self-criticism can too easily degenerate into cynicism and despair. Americans everywhere will soon be commemorating the first Thanksgiving celebrated by the colonists of Plymouth Bay. To me, Thanksgiving is not merely a harvest festival or an occasion for a family reunion. It is an ideal time and opportunity to renew our faith and confidence in ourselves as individuals and as a Nation.

Some of us might ask today: Just what have we got to be thankful for? Daily we see stories in the news media of riots and crime, we face economic peril, some say a war drains our money and kills our fine young men and the end is not yet in sight. Our campuses are aflame with disorder and disruption. Black is pitted against white in some cities—it would seem to some that we have little to be thankful for.

There are those who say the American dream is dead or dying, poisoned by self-interest, rotted by indifference, maimed by violence. The great aspiration is ended, they tell us, and America is now only another crowded nation, not even able to maintain order: a power, but not a society, not a culture. We have gone, almost directly, they would have us believe, from primitiveness to decline, a far poorer record than that of Rome.

Today we seem to be living in an age of revolution, protests, and demonstrations—an age of rebellion and criticism against things conventional—indeed, even against those very ideals, values, and traditions upon which our Republic was founded, and which, through the years, has made ours the great Nation that it is.

On every hand, we see confusion, doubt, mistrust and fear—all compounding the many problems spawned as man seeks to live with himself.

But this cry is as old as the Nation. It was sounded in the earliest days of our Republic, when the States seemed ready to drift apart; during the Civil War, when they did split apart; in the

great depression, when millions of unemployed shuffled in soup lines.

But this is not it—this does not signify our demise, not the great day of judgment for America. For America is change, and the changes have come, often enough, with great upheavals. This country is the vast experimental laboratory in human relations for the 20th century; it is, in a sense, defining and creating the 20th century; for much of the world.

This is not a "sick society." It may be a deeply unsettled and bewildered society, and the reason is not merely the extraordinary changes in this last generation, but the speed of these changes. It is the rate of change that is new. The life of Americans today resembles that of say, Lincoln's time not much less than life in Lincoln's time resembled life in ancient China.

We are part of a constantly changing world—a modern, complex, and highly technological world—a world sometimes characterized by man's insensitivity to man, and fraught with the danger of man's eventual destruction of himself.

But despite these uncertain, disturbing, chaotic times, there still exist those sound values and principles which have sustained America since its inception.

We Americans are a peace-loving people. We believe in liberty, justice, freedom of spirit, the dignity of man, and all of the principles enunciated so eloquently in our Constitution.

We are an impatient people, a zealous people in defense of freedom, an energetic people in meeting the challenges of peace, and pursuing a better life for Americans and other peoples throughout the world.

America has her idealism—though it is sometimes unrealized; she has her courage—though it may sometimes seem misguided; and she has her freedom of spirit—which, though sometimes trampled upon, always remains undaunted.

America has a strong sense of unity during crises, and the grit and determination to see a difficult job through. She likes to root for the underdog, and has a basic love of fellowman and a sense of fair play. She has ingenuity and creativity in abundance.

Americans are the most natural workers—together in the world. We live by the system of individual enterprise, while at the same time being the supreme cooperative society. Totalitarian countries say they are cooperative societies, but they must force their people to work. It is absurd to believe that the races of men who turned an empty, forbidding continent into the most efficient engine of production and distribution ever seen, who created the first mass democracy with essential order and essential freedom, will not solve the problems of crowding, poverty, pollution, and ugliness. The solutions will create new problems, after which there will be new solutions, then new problems, and so our life will go on. Were human problems ever totally solved, change would come to a stop, and we would begin to die.

In some areas of endeavor, America has drawn criticism—especially in the field of foreign policy. But this should come as no surprise to us. Any nation which accepts as part of its foreign policy the responsibility of major assistance to other nations defending their freedom, is bound to be criticized by others who live by an opposing philosophy.

America today has many problems. But dedication and strict adherence to the sound principles we believe in have brought us a long way since that day back in 1620 when our Pilgrims landed on Plymouth Rock. I have faith that continued adherence to these principles we hold so closely will see our great Nation emerge with even more strength and dignity.

To be sure, we Americans are not perfect—far from it. We have made many mistakes, and undoubtedly will make many more. The only nation which makes no mistakes is one which does nothing—and even this may be a mistake.

But the important thing is that we in America are moving forward. We are trying to improve—we are tackling our problems, and making progress in many areas—for example, in civil and human rights, and in science and technology—technology that has carried us to the moon and will carry us beyond.

We are also making progress in dealing with pollution, housing, education, health, labor, inflation, and other complex problems of urban development. And though some may doubt it, I think we are meeting the challenge of international diplomacy.

If I sound somewhat optimistic today about our country, it is because I am. Mr. Speaker, America has a great past, and it has an even greater future. We are the beneficiaries of a rich heritage—a heritage that dates back roughly to the landing of our forefathers in Plymouth, Mass.

Americans are spiritually geared to the past, as well as to the future. We are constantly seized with concern for our children more than for ourselves. Yet it is not possible to see our society in perspective without these backward glances to what we once were, with the consequent realization that we are using different scales of measuring well-being today.

At the turn of the century, a newborn child could expect to live about to the age of 50; today, the expectancy is about 70. Once, a mother had sound reason to fear giving birth; today, death in childbirth has been all but eliminated. Once, a full high school education was the best achievement of a minority, today it is the barest minimum for decent employment and self-respect.

One could cite hundreds of similar examples of how our standards of expectancy have risen, as they should, along with our standard of life. The truth is that we Americans are perfectionists, which simply means that we were not, are not, and never will be satisfied either with the quantities or the qualities in our life.

By the year 2000, we will look back upon these present years not only as one of America's periodic convulsions, but as a rather backward period. By then, the typical American family will have an income of around $20,000 a year or more; the typical American adult will have had at least 2 years of college, with far broader intellectual and cultural horizons. By then, the old urban centers will have been rebuilt, and many millions will live in satellite "new cities," part urban, part rural. The incurable diseases like cancer and arthritis will be under far better control.

The present explosion in books, theater, music, and art will have transformed tastes and comprehension to an enormous degree. And already, according to the Englishman, C. P. Snow, something like 80 percent of the advanced study of science in the Western World is going on in the United States of America. This is the real reason for the "brain drain" from abroad to the United States, not merely the higher pay. The facilities, the action, the creative excitement are increasingly here. None of this guarantees a single new Shakespeare, Rembrandt, Mozart, or Einstein, but it will help guarantee a great lifting of the massive center, of the "ordinary" people. This is the premise and the point about America—ours is the first organized dedication to massive improvement, to the development of a mass culture, the first attempt to educate everyone to the limit of his capacities. We have known for a long time that it can be done only through the chemistry of individual freedom.

The popular passion of Americans is not only politics, baseball, money, or material things. It is also education. Education is now our biggest industry, involving more people even than national defense. The percentage of youth in college climbs steeply upward. Today, even a poor boy in the South has a better statistical chance of getting into college than an English youth. And there are about 44 million full- and part-time adult students pursuing some kind of formalized learning on their own.

We still do have poverty in America, but it will be overcome. What makes this poverty an issue in America is not so much that it exists amidst affluence. Today, poverty is an issue because for the first time in all mankind's history, it may truly be possible for one society to eliminate poverty—as a result of its affluence.

Our Nation is the strongest and richest on earth. With only 6 percent of the world's population, we produce more than a third of all the world's goods and services. We spend billions each year to erase poverty. Our Nation has brought more dignity and equality to mankind than any other nation in history. Luxuries undreamed of by princes and potentates a generation ago are now routinely available to most Americans.

Perhaps we Americans today have not scored as high as we had hoped. But we have scored higher than ever before—and we are not through yet.

Just think of it. In less than one generation, Americans have conquered scores of diseases from smallpox to polio.

We have built more schools and hospitals than all generations since the beginning of time. Within two generations, we have made the automobile, the radio, TV, and the telephone available to virtually all of our citizens.

We have the highest wages and the shortest workweeks. Barriers to jobs and education are crumbling everywhere. Even our lower income groups

live far better than the above-average citizen in most countries of the world.

We should take special note of the form and structure of our Government which has made these material and social gains possible. Ours is a government which is responsive to dissent, conscious and concerned about the individual.

Although our critics, foreign and domestic, may point at flaws and inefficiencies in our political system, it cannot be disputed that the American citizens govern the most powerful and affluent nation in the history of the world—a nation with a maximum of individual rights and freedoms.

The answer to those who criticize and want to destroy is for them to become involved with the system as millions of other concerned Americans do and thereby publicly test their ideas under the proven democratic processes. Worthwhile and lasting change can come about only through legitimate procedure. Our political system has undergone great changes in the past; we remain flexible for necessary improvements in the future.

Probably no other country criticizes itself as frequently, or as openly, as we do. This has been healthy. Americans are always facing up to their problems, seeking new and better solutions to them. We set national goals and when one plateau is reached, new levels of excellence are sought.

It is a remarkable fact that great numbers of very ordinary people in distant lands understand the American dream better than some Americans. If, by some magic, all barriers to emigration and immigration around the world were lifted tomorrow, by far the single biggest human caravan would start moving in one direction—our way, toward the United States.

This is living testimony, not abstract argument, from men who know the meaning of America in their bones and marrow. The dream lives on, and we are the keepers of the dream. That is what is right with America, and the reason for our Thanksgiving in 1969, a special day to take pride in America.

Mr. Speaker, I want to announce that I intend to insert in the CONGRESSIONAL RECORD each business day a specific fact illustrative of our Nation's great economic, cultural, and spiritual achievements, to serve as a daily reminder of the success of the American way that is emulated throughout the world.

Mr. SMITH of New York. Mr. Speaker, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from New York (Mr. SMITH).

Mr. SMITH of New York. Mr. Speaker, I compliment the gentleman from Ohio for bringing before the House and before our country the great things we have here in this country to be thankful for. I think the gentleman is doing a distinct service by entering in the RECORD every day at least one of the great things we have to be thankful for.

Mr. Speaker, I compliment the gentleman also for bringing again to the attention of all of us and to the attention of this House the fact that one of the things that makes this country great is, that although we make mistakes and although we are human, we seem to have a genius for keeping on trying—and trying to make the American dream live, the dream of equal justice and equal opportunity for all.

As long as this country will go on trying, as the gentleman says, we shall achieve that American dream.

Mr. MILLER of Ohio. Mr. Speaker, I thank the gentleman from New York for his comments.

Mr. RANDALL. Mr. Speaker, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Missouri.

Mr. RANDALL. Mr. Speaker, I congratulate the gentleman from Ohio for taking the special order today on such a very important subject as "Take Pride in America."

Along with other Members our office received a "Dear Colleague" letter, giving notice of his intention to speak today and inviting participation. Because I was out of the city yesterday. I found this invitation on my desk this morning. I am proud to join him to discuss such a subject.

As we near Thanksgiving Day there could be no more appropriate time to take note of what we in the United States have to be thankful for. We have problems, true, but none of them are insoluble. We enjoy the highest standard of living in the world. We are a prosperous country. But our greatest asset is our freedom. This freedom throughout all of our history has ensured to every child on maturity the right to succeed in this great country of ours, if only they are determined to use their talents to persevere, which simply means a willingness to work at their chosen job.

Not only is our productive capacity the greatest of any country in the world, but we are a country that because of our firm belief in the several different freedoms, such as freedom of speech, freedom of worship, and freedom of choice in all we do, we have become the best educated, best informed, best nourished, and most blessed country in the world.

With all of these material and spiritual blessings on the asset side of the ledger there is no reason to conceal that our country is under attack by its critics, foreign and domestic. That is all the more reason why at this time of the year it is important that we set aside a few minutes to be thankful for our great ideals, the values and the traditions that have made our Nation the greatest in the world. If such a description of our country would seem to be self-praise, I feel confident we would be granted forgiveness even by our neighbors, because it is these same ideals and standards of conduct within our country that have contributed to our success as a producer of the good things of life, which have inspired the rest of the world to emulate us.

The subject of this special order bears a considerable measure of similarity to the discussion on the floor of the House on the eve of the November moratorium. The gentleman from Indiana, a former national commander of the Veterans of Foreign War, and myself lead a bipartisan discussion on the topic "Operation Speak Out." In that discussion we emphasized that for too long we have listened to those who would tear down our country rather than those who would build it up. For too long the great silent majority have listened to a small, vocal minority insist that everything was wrong in America. These detractors and pessimists urged everyone to join the new mobilization for a quick solution to everything that plagued our country. But as we pointed out in that special order and as the gentleman from Ohio is doing today, those who insist that America is sick as they put it, and argue she is so ill that there is no hope for recovery, are not the least different from the pessimists of other periods in our history.

One of the best causes for optimism and for true hope and faith that we will come through our present difficulties and go on to higher levels of economic, cultural, and even spiritual accomplishment, is the fact that a person can visit a room in any library in America where the shelves are filled with books on American history. In this room a person can close his eyes or walk blindfolded over to a shelf, and pull down a book. On opening that book of some period of American history he can pick at random without any preconceived selection a chapter from our history. Then the reader will find there has never been a time in our history that we have not been able to work out our problems and dissolve our hinderances. He will also learn there has never been a single instance in all of our history when, after we have resolved our complications, we have failed to go on to greater achievements. These are facts which can be proven by reference to almost any book on American history.

As we near this Thanksgiving Day we should not only give thanks for our well-being, but recall our destiny as leader of the free world. We should once again revive in ourselves faith in the ideals, values, and traditions that have made us great.

As we discuss today the topic "Take Pride in America" I am reminded that this week in southwest Missouri our colleague and my fellow Missourian, Dr. Durward Hall, is starting an effort described as "We Love America." This effort will begin in Joplin, Mo., and will undoubtedly be emulated in other Missouri cities. It is the kind of spirit that has led to the thousands of admonitions appearing on the front of motorcars near the front license plates, which reads "Get Your Heart in America—Or Get Yourself Out."

I look forward with interest to the series of insertions the gentleman from Ohio says he intends to put in the CONGRESSIONAL RECORD each day reciting a specific fact indicative of our national achievements. I am proud to associate myself with his effort. At this Thanksgiving season it is a time not only to give thanks for our material blessings, but to be thankful for our national spirit of optimism and faith in the future rather than gloominess of a small minority of wretched pessimists who have forgotten the facts of our glorious history, and would underestimate, underrate and undervalue the positive aspects of our great nation.

Mr. MILLER of Ohio. Mr. Speaker, I thank the gentleman from Missouri for his comments.

VOLUNTEER FIREMEN

(Mr. WOLFF asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WOLFF. Mr. Speaker, throughout our Nation there are numerous dedicated persons who devote many man-hours and risk their lives so that communities will be protected against the tragedies of fires and other disasters. These men are our volunteer firemen.

As I have stated on several previous occasions, too often these courageous men remain unsung heroes. It is for this reason that I recently filed two bills which would afford these men some of the acknowledgement which they certainly deserve. One of my bills would provide compensation for those firemen injured while protecting Federal property, while the other bill affords these men second- and third-class mailing privileges similar to those enjoyed by other service oriented non-profit organizations.

Although both these bills, in my estimation, are important recognition of the tireless efforts of volunteer firemen, I feel that we still do not totally acknowledge volunteer firemen's contributions with these two bills alone.

These men expend incredible amounts of man-hours protecting our communities. Often they incur considerable financial expense to themselves in the pursuit of maintaining such associations, and just as often they must sacrifice time they might have spent with their families, in order to insure that the lives and hopes of their neighbors do not go up in smoke.

With this as a consideration, I feel that we owe them much more than just thanks. That is why I am introducing a bill which would amend the Vocational Education Act of 1963 to provide funds for the training of volunteer firemen. In this way, we will be eliminating some of the excessive expense that these organizations have had to carry themselves in order to insure that their volunteers are adequately trained.

This bill would also go a long way in demonstrating how great is our concern for the safety of all citizens and how very grateful we really are for these fine men who insure safer lives for all of us.

DEPOSITION OF W. A. BOYLE

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous material.)

Mr. HECHLER of West Virginia. Mr. Speaker, the Congress is deeply concerned with strong and effective coal mine health and safety legislation. There has been considerable discussion concerning the origin, interpretation and future administration of the coal mine health and safety laws. There is a direct relationship between the effectiveness of this legislation and the general attitude of the United Mine Workers of America.

Recently, Joseph A. Yablonski obtained a temporary injunction to keep from being fired as director of the UMW Labor's Non-Partisan League. The following text of the deposition of UMW President W. A. Boyle contains some useful material relating to the pending legislation and its future. This deposition was taken on August 21, 1969 in connection with the civil action filed by Mr. Yablonski in the U.S. District Court for the District of Columbia, and is a public document which contains material relating to legislation and other matters:

[In the U.S. District Court for the District of Columbia]

CIVIL ACTION No. 1799–69

Joseph A. Yablonski, Plaintiff, v. *United Mine Workers of America, W. A. ("Tony") Boyle, International President thereof, George J. Titler, International Vice President thereof, and John Owens, International Secretary-Treasurer thereof, Defendants*

(Washington, D.C., Thursday, August 21, 1969)

The deposition of William A. Boyle, was called for examination by counsel for the plaintiff in the above-entitled action, pursuant to notice and date as ordered by the Court, before Frank P. Shelburne, a Notary Public in and for the District of Columbia, in Suite 410, 1001 Connecticut Avenue, N.W. Washington, D.C., commencing at 10:00 a.m. on August 21, 1969.

APPEARANCES

On behalf of the plaintiff: Joseph L. Rauh, Jr., esq.

On behalf of the defendants: Edward Carey, Esq., Willard P. Owens, Esq., Harrison Combs, Esq., and Susan V. Richards.

Also present: Beverly Moore.

PROCEEDINGS

Whereupon, William A. Boyle was called as a witness by counsel for the plaintiff, and having first been duly sworn by the Notary Public, was examined and testified as follows:

Examination by counsel for the plaintiff

By Mr. Rauh

Q. Will you please state your full name?

A. My name is William A. "Tony" Boyle.

Q. And your address, please?

A. Business or residence?

Q. I will take both, please.

A. My business address is 900 15th Street, United Mine Workers Building, Washington, D.C., area code 20005.

My residence, 4422 35th Street, Northwest, Washington, D.C., area code 20008.

Q. Have you been known by any other name?

A. The nickname of Tony.

Q. Nothing else?

A. No, sir.

Q. Would you please describe the functions of the Labor's Nonpartisan League?

A. The principal function of the Labor's Nonpartisan League—they have many functions, numerous functions—the principal function, of course, is promoting our legislation as enunciated by the United Mine Workers Convention and its international executive board, or between sessions of the board and the convention by the international officers, on all matters pertaining to legislative matters, that is their principal duty.

They have other assignments.

Q. What are the other assignments, please?

A. Well, they assist when they can, especially if Congress is not in session, and there is no labor legislation that we may be interested in, in formalizing their reports for the coming conventions, in building up their records as to how the Congressmen and the Senators cast their votes on legislation that was necessary in the opinion of the United Mine Workers, in promoting the candidacy the best they can and the election of our friends and the defeat of our enemies, things of that nature.

Q. Anything else?

Mr. CAREY. That you can remember.

The WITNESS. I just can't think right now. But I guess I use them on other assignments like I use the other departmental heads from time to time.

By Mr. Rauh

Q. Do you recall on June 6 of this year addressing a letter to the plaintiff, Mr. Joseph Yablonski, the last paragraph of which reads as follows:

"It is obvious from your schedule in the League that you have been unable to adjust your efforts to spend more than an hour or so on the job. Your international officers have an obligation to the membership to demand a full-time director. Accordingly, you are being relieved of this assignment as acting director effective immediately so a full-time director can be appointed. You should report to District 5, president Budzanoski, for a reassignment."

Do you recall that letter?

A. Yes, I do—I recall dictating a letter. I suppose you are reading verbatim, but I haven't seen the letter.

Mr. CAREY. I presume you will have no objection to allowing only the president, deponent, to look at the letter.

Mr. RAUH. Certainly.

The WITNESS. Yes, sir, I dictated this letter to Mr. Yablonski.

By Mr. Rauh

Q. Now, is it customary in the United Mine Workers to give a warning to someone prior to removal?

A. I don't quite follow your question, Mr. Rauh. What do you mean by warning, that I notify them in advance that I am going to remove or discharge them or something of that nature?

Q. My question is this.

Isn't it customary before you remove somebody to warn them what they are doing wrong so that they can correct it?

A. He knew what he was doing wrong.

Q. Had you at any previous time made any suggestion to him what he was doing wrong?

A. If my memory serves me correctly, I think the answer to that question recall some detail as to how it came about.

In February of this year Mr. Yablonski contacted officials and officers and representatives of the United Mine Workers to intercede with me because he was desirous of becoming the director of Labor's Nonpartisan League because of Mr. Howe's retirement.

And I forget whether—I don't recall whether it was in March or April that Mr. Yablonski asked the Safety Director, Mr. Louis Evans, to intercede for him. And Mr. Louis Evans came to my office and asked me if I had decided on anyone to replace Mr. Howe, who was the director.

And I told him no. And I happened to be thinking about it.

He said that Mr. Yablonski had been in to see him, and he would like to have the job very much, would you consider him.

I said, "I will think about it, Lou."

Then the next contact that I had was—I forget whether it was in this sequence or not, but it happened that Mr. Carey, our general counsel, interceded for Mr. Yablonski and asked me if I would give him a try as director of Labor's Nonpartisan League.

At which time I told Mr. Carey that he had little or no experience in legislative matters, that this was a pretty heavy job, that Lou Evans had been in to see me, and that I was weighing it, considering it, and I would give it further thought.

Mr. Carey left.

And following that some time later International Secretary-Treasurer of the United Mine Workers of America John Owens asked for a meeting with me. He came to my office and told me that in his office presently was Mr. Yablonski. And he said:

"He is asking me to come down and talk

with you because he would like to be made director of Labor's Nonpartisan League."

And I said:

"Well, John"—speaking to Mr. Owens—I said: "John, I haven't made up my mind on anyone yet. I would have to talk with Mr. Yablonski, because of the constitutional requirements of the president of this international union, I would have to talk with him."

He said:

"Well, he is in my office now. Would you talk with him now?"

And I said:

"Yes, send him down."

So he came down.

At which time we went into great details as to the responsibilities of the office.

First, I told Mr. Yablonski, I said:

"Joe, I think that you would want to give serious consideration as to whether you want to leave your home or your estate that you have in Pennsylvania. I understand that you have a nice estate up there, a nice home. You have lived there for some time. This job requires a full-time man seven days a week the same as I work, the same as the safety director works, and maybe you want to give consideration before you make that move by contacting or discussing it with Mrs. Yablonski. She may not want to move to Washington. This job requires that you be here and live in Washington."

At which time Mr. Yablonski said to me:

"That is not necessary. I have discussed it with Mrs. Yablonski. And she will be glad to move to Washington."

I said that is one of the requisites of being a director or the head of these departments that we have in Washington, that you live here.

He asked for one favor, and that was that—I said:

"You will have to resign as international board member, because you cannot hold two jobs under the constitution at the same time."

He said:

"That I understand fully." "But," he said, "if you make me the acting director I could serve out my term as international board member and be the acting director and then take over the full responsibility of the directorship after my term as international board member expires."

Well, I could see no harm in that. And I said I thought we could work that out.

Then he asked another favor. And that was that I make no announcement that he was going to be connected with the League because it would affect the property value of this farm and estate, or whatever he called it. That he has in Pennsylvania, that if they knew that he was coming to Washington to live permanently that the value of the property would depreciate.

And I told him:

"I will make no announcement to that effect, I will do what you want to do because I don't want you to lose any money on the sale of your property up there." But I said, "Joe, you know you have got to move to Washington."

He said:

"There is no question about that, I will move to Washington, my wife will move to Washington, we will make our home in Washington. But let me sell the property for the most money that I can get out of it."

I agreed with that.

Well, no arrangements were made by Mr. Yablonski to carry out his promises to me.

You see, Mr. Rauh, I have to have a full-time safety director, I have to have a full time director of organization, and I have to have a full time director of Labor's Nonpartisan League at Washington. I want to be able to put my hand on any of it at any hour of the day or night if necessary in the interests of the United Mine Workers organization. That I can't do if someone is in Pennsylvania or Ohio or somewhere else.

Q. Now, will you answer the question. Did you ever give him——

Mr. CAREY. Wait a minute. Let him determine whether he has answered the question. Are you finished, Mr. Boyle?

The WITNESS. Well, I just wanted to point out that Mr. Yablonski was only on the job—he was appointed May 1st, and he had other assignments that he wanted to clean up, and some that I wanted him to clean up. So if my memory is correct, it was in the middle of the month, somewhere around the 19th, I believe, that I asked the vice president of the organization, Mr. Titler, to locate Mr. Yablonski and tell him that I would appreciate it if he would get to Washington as soon as possible, that I understand that our legislation on behalf of the United Mine Workers organization, both safety, black lung legislation and our pneumoconiosis bill were in difficulty, and I wanted him to come to Washington, it was making it difficult for me to be contacting and meeting with these people, that the director of the League should be contacted.

He arrived in Washington, I believe, the following day. And I was out of the office. And because of other commitments, on the 21st I wrote him a letter—I believe it was the 21st, I will stand corrected if that isn't the date, but I believe it was the 21st—I wrote him a letter and advised him what was necessary on the Hill, that he was unfamiliar with the lobbying procedure over there, that his associate officer should take a walking tour with him to acquaint him with all of the Congressmen and all of the Senators, even on those that we couldn't depend upon in promoting our legislation, to meet them all.

Knowing full well that Mr. Yablonski had not been on the hill, I wanted these fellows that had been over there for years to take him around and get him acquainted with everyone in their offices.

That I understand they did. I don't know to what extent, because I never got the complete report on it. But I understand that they carried that out.

I believe that more or less answers your inquiry, does it not, Mr. Rauh?

By Mr. Rauh

Q. Have you finished?

A. Yes.

Q. Now, answer the question. I asked you if you ever gave him a warning. You can go ahead and filibuster here if you want, but I asked you if you ever gave him a warning. You could have said yes or no. Did you ever give him a warning?

Mr. CAREY. I move the word "filibuster" be stricken, because there is no evidence to support that because of that particular comment.

Mr. RAUH. That is up to the judge.

Mr. CAREY. I move to strike it to support the record.

By Mr. Rauh

Q. Did you ever give him a warning between May 1 and June 1st?

Mr. CAREY. Warning as to what?

By Mr. Rauh

Q. A warning that he was going to be removed, did you ever give him a warning between May 1 and June 6?

A. He got the warning when he got the letter telling him he was removed. It is not necessary under the constitution of the United Mine Workers to give people advance warning that you are going to be removed six months from now or eight months from now or a week from now or a day from now, that is uncalled for in the constitution of the United Mine Workers, it has never been recognized.

Q. Did you ever discharge anybody else without a warning?

A. I have never discharged anyone.

Q. Did you ever remove anybody else without a warning?

A. Why yes.

Q. Who?

A. I have removed several people.

Q. Will you state them for the record?

A. Well——

Mr. CAREY. If you can recall.

The WITNESS. Yes, if I can recall them. I am trying to think—it happens so seldom that people don't carry out—these people were not removed because they wouldn't carry out the functions of the president of the organization as Mr. Yablonski refused to do, these people were removed or changed for other reasons, because of age, infirmity, and things of that nature, retirement, all of those things entered into it.

By Mr. Rauh

Q. Will you state the name of one person you removed without a warning, please.

Mr. CAREY. If you can recall.

The WITNESS. I don't recall anyone where there was any warning—I don't understand what you mean by warning.

Mr. CAREY. May I refresh his recollection?

Mr. RAUH. No. And I wish you would stop interrupting. At the end of the deposition you are free to do anything you want on the record. You have used already, Mr. Carey, very unfair tactics. You said "if you can recall." I am asking the questions. I wish you wouldn't interrupt, you may object, but you may not interrupt by prompting the witness to use the word "recall," which you just did about two minutes ago.

Mr. CAREY. I suggest vis-a-vis on your part.

Mr. RAUH. I don't understand your point.

Mr. CAREY. You take the same position that I am taking, you behave and I will behave.

Mr. RAUH. I have done nothing except behave perfectly here. I have not said one word that was wrong. You have tried to trip the witness. Now, I am going ahead with this as best I can. It will end up in court as everything we do does.

Now, I have a question, which I haven't got a satisfactory answer to.

Have you ever at any time discharged or removed any person without a warning, and if so, can you name him?

The WITNESS. The answer to that, Mr. Rauh, would be that if you have evidence that I have done that, why I would like to look at it, I would like to have the opportunity to verify it. I don't recall of any.

By Mr. Rauh

Q. That is exactly my point. So Mr. Yablonski is the first person removed without a warning, is that correct?

Mr. CAREY. You may ask a question, but you cannot make a statement.

The WITNESS. No, that is not so.

By Mr. Rauh

Q. Please name the person you removed without a warning?

A. These people who are removed from office get the same kind of letters, call them letters, or notifications, that Mr. Yablonski did.

Q. Can you, Mr. Boyle, name one person you ever discharged or removed without a warning?

A. You are trying to ask me if I quit beating my wife, I am telling you, Mr. Rauh, I am telling you that—you are not going to try to box me in to when I quit beating my wife, because I never beat my wife.

I am telling you now that these men who have been removed from office for any reason whatsoever or cause got the same notification that Mr. Yablonski got.

Q. I must ask you again, can you name one man removed who didn't have a previous indication that he was doing something wrong, could you name one man?

Mr. CAREY. That you can recall at this particular time.

The WITNESS. I would have to look my record up to find out, because there have been so many of those things that have trans-

pired I don't know, I would have to look my record up.

By Mr. Rauh

Q. At this moment you cannot recall a single person you have ever removed without a warning, is that correct?

A. No, that is not my answer.

Q. Will you name one you can recall?

A. There have been several men that have been removed by letter.

Q. Will you name them, please?

A. But I would have to go into my records to recall now, it has been so long ago since that happened, I would have to go to my records.

Q. How long ago was the last case where you removed somebody without a warning?

A. I didn't remove anyone in the terms that you want to put it without a warning. Mr. Yablonski was on notice, plenty of notice. He gave his own warning on May 29.

Q. I didn't understand that. What did you mean by that?

A. You know what I mean by it, Mr. Rauh. You are not trying to be naive with me as an attorney, are you? You sat at the press conference and guided him through the press conference as to what to say and what not to say and when to say it and when not to say it, at a closed press conference down at the Mayflower Hotel the day after he had been in my office for four hours. He was in my office on the 28th day of May, and on the 29th day of May you sat at a table with him advising him and counseling him for the press as to what to release and what not to release.

And after release of, I don't know, 29 pages or whatever it was of a press release, Mr. Yablonski certainly knew then from that, with all of his experience that he claims he has in this organization, that he was in violation of the constitution.

Q. What was the violation of the constitution on May 29?

A. Because he wasn't carrying out the policies of the international organization or its convention.

Q. In what way?

A. By the statements that are in that 29 page, or whatever it is, release that I presume you put together, by that statement which in itself—which speaks for itself—is in violation of the principles and policies enunciated by the organization down through the years since 1890.

Mr. RAUH. Would the counsel for Mr. Boyle care to show him the statement of May 29 to which Mr. Boyle referred?

By Mr. Rauh

Q. Mr. Boyle, do you have in front of you now the statement of May 29 to which you have just referred?

Mr. CAREY. He has it before him now. Do you wish to proceed with your question?

Mr. RAUH. I asked Mr. Boyle if he now had the document before him to which he had referred. He has not answered.

The WITNESS. I would judge that this is the statement to which I referred, the May 29 statement. It is lengthy, I don't know how many pages. But it appears to me to be the same one that I read.

By Mr. Rauh

Q. Will you please state where in that document violates the constitution and policies of the United Mine Workers since 1890?

A. It doesn't only violate the constitution of the United Mine Workers organization, without going through the formality of the organization, in so doing it doesn't only violate the organization's principles and policies enunciated since 1890, but there are references in there that are most incorrect, you can't put your finger on every one of them, but there are, to my information—and I am advised by people that are supposed to know—the statement, for example, that his father was killed in a coal mine. His father didn't die in a coal mine, I am told, at all, he died in the hospital from pneumonia. It is in here somewhere. I don't know where it is. And things of that nature. That has nothing to do with the violation of the constitution, I understand that. But I am just pointing out all these frivolous things that are in this thing that you had little knowledge about when you put it together for him that are in violation of the constitution, violation of policy.

And no better proof of that—no better proof is that at a meeting of the international executive board on June 23 every member of the international executive board who spoke—and most of them spoke—said that it had been the principle and the policy of the international union—all of which all of a sudden Mr. Yablonski has objected to, in that he as an international board member had previously carried out those very principles of the constitution.

Q. You just said on the record, Mr. Boyle, that the question of where his father died was not the answer to my question. Will you answer my question. What in that document violates the principles and policies and constitution of the Mine Workers since 1890?

Go through it carefully and name the paragraphs that constitute the violation of the principles and policies of the constitution.

A. The whole document, the document in its entirety. That is the answer that you will get from me, Mr. Rauh, the document in its entirety.

Q. You refuse to point to a particular thing in there that violates the policies and principles?

A. For the simple reason that every one ties in with the other, yes.

Q. Well, let's go through it sentence by sentence, since you won't point to it.

Mr. CAREY. Just a moment. I am going to object to that. And don't you answer those questions, Mr. Boyle.

By Mr. Rauh

Q. Does it violate the principles and policies of the United Mine Workers for Mr. Yablonski to have said:

"Today I am announcing my candidacy for the presidency of the United Mine Workers of America?"

Mr. CAREY. Let me object, and state the reason for our objection.

The WITNESS. It has already been told.

Mr. CAREY. Mr. Boyle says that he took the statement as a whole. You don't extract a sentence out of its context and try and place an interpretation on it. The position of Mr. Boyle is that the document speaks for itself. He says he read it in toto, and having read it in toto he concluded that this is in violation of the constitution. And that is a legal determination. And he will not answer any further questions as to specific sentences in that document.

By Mr. Rauh

Q. Is that your position, Mr. Boyle?

A. That is my postion.

Q. Do you have any union contracts, Mr. Boyle, which would permit the discharge of any employee without a warning for what he is doing wrong?

Mr. CAREY. Objection to that. When you say "employee," you mean an employee of the United Mine Workers?

Mr. RAUH. No.

By Mr. Rauh

Q. Do you have any union contract with an employer that would permit them to discharge someone or remove them from a job without a warning of what they are doing wrong?

A. I don't think that has anything to do with the purposes that I am here for.

Q. Are you refusing to answer that question?

A. Certainly we know what our workng agreement is and so do you.

Mr. RAUH. If you are objecting——

Mr. CAREY. Our objection is that it is irrelevant and immaterial and has nothing to do with the issue.

The WITNESS. It has nothing to do with the deposition. As to whether Mr. Yablonski was removed from the office properly or improperly, it has nothing to do with what the contract provides for between operators and mine workers.

By Mr. Rauh

Q. Is it your position, Mr. Boyle, that the personnel policies inside the United Mine Workers are not as fair as those you put on the employees with whom you have contracts?

Mr. CAREY. I object to that question, because we are not drawing conclusions between a contract and the personnel policies of the organization. Do not answer the question.

By Mr. Rauh

Q. You indicated earlier that there were some duties that you wanted Mr. Yablonski to carry out after May 1 prior to coming here. What were those duties, Mr. Boyle?

A. Let me see if I understand the question. From May 1 until he arrived here, is that the question?

Q. Yes, sir.

A. I had some work for him to perform in West Virginia on a commission. I had an international commission. Mr. Yablonski was one of them. And he was working on that. He had some personal matters that he wanted to take care of. I suppose they pertained to his estate in Pennsylvania, I don't know. And when the vice president that I mentioned previously got ahold of Mr. Yablonski, to my understanding he was in West Virginia.

Q. And that is where you had sent him?

A. That is right.

Q. Now, Mr. Yablonski states in his letter to you of June 10:

"From that date, May 1, for the next two and one half weeks I was engaged in various activities in the field, all of them specifically at your direction."

Is that a correct sentence?

A. I wouldn't say that that was correct in its entirety, because I think he was taking care of some personal matters too—all of which is not important—a man is entitled to take care of some personal matters if he wants to. I don't think the court is concerned about the man trying to get more money for his property or something of that nature.

Q. You have no complaint, then, to what he did from May 1 to May 19?

A. Not as far as this deposition is concerned, but I have got some complaints that will come out in time, yes.

Q. What are those complaints?

A. It is not necessary for the purpose of this deposition.

Q. I think that anything is relevant here to your complaints against Mr. Yablonski. Will you please state them for the record?

A. I didn't know about them at the time he was called to Washington. I know about them now.

Q. Tell me what they are.

A. In the newspaper—like this morning's newspaper article by Joseph Rauh. We don't want them in for publicity purposes. If that is what you brought me over here for is to get in the newspapers again, Mr. Rauh, you are just wasting your time.

One thing I understand, properly or improperly, is that you have got plenty of money and plenty of time, that your client is so pleased, but I am not, I have neither. But I have got a lot of work to do for the United Mine Workers in trying to get this legislation passed while he is running around the country right now. And there are calls in my office I will venture now ask-

ing me to come to the Hill on this legislation and do something about it.

And I want to do the best job I can for the United Mine Workers.

And you are just dilly-dallying along here asking these silly, super-silly questions so that I can't get back to my work. Because it makes no difference to you. I don't know who pays your fee, but I suppose you get paid by the hour. But I get paid by the month. And I have got a job to do for the United Mine Workers, and I want to get back to it.

Now, if you are going to play games here as to what Mr. Yablonski did or didn't do to dissatisfy me and all of these different things that are not relevant as far as this deposition is concerned, we will tell you that we don't want it in the newspaper tomorrow morning under the heading of what Joe Rauh had to say. I am not headline seeking. I am not in the newspaper every day, as you know. But Joe Rauh was in there this morning, in case you haven't read it, and what you had to say.

You are in there every day, practically.

Q. What are you referring to about this morning, Mr. Boyle?

Mr. CAREY. I would suggest, forget about that phase of that. You said the matters that occurred between May 1 and May 21 were irrelevant to the matter which is the cause of this specific legislation. Now, you have said you are not going to answer the question. And I advise you to cease talking at this particular moment on that particular matter.

By Mr. Rauh

Q. Mr. Boyle, you brought up the question of something that I said in this morning's papers. Will you kindly state what it is?

A. Yes, sir.

Mr. CAREY. It is immaterial. I would object to your answering.

By Mr. Rauh

Q. You referred earlier to certain complaints you had against Mr. Yablonski for the period May 1 to 19. Will you state what they are?

Mr. CAREY. You have asked that question before. Mr. Boyle says he is not going to answer it. I object to it. I advised him not to answer it, and I suggest we not be repetitious.

By Mr. Rauh

Q. Mr. Boyle, on May 26 you directed Mr. Yablonski to go to Capitol Hill and retrieve a letter—a copy of a letter from Senator Williams which was sent to Senator Randolph. Is that correct?

A. That is correct.

Q. What was the letter that you had sent to Senator Randolph?

A. Senator Randolph had introduced a bill. The Mine Workers Union through me had taken some objections to the bill. It wasn't as strong a bill as what the United Mine Workers' president was advocating be passed on the Hill. Senator Randolph took exception, I believe, to two words in the letter that I addressed to the Chairman of the Committee, a copy of which went to Mr. Williams—I addressed the letter to Randolph, and a copy of it went to Senator Williams.

And the language seemed to disturb—two words in the letter, as I recall, seemed to disturb Senator Randolph. They didn't mean that much one way or the other. And in the light of Senator Randolph's work performance in the past on behalf of the United Mine Workers' legislation, and always being a staunch supporter of the Mine Workers' legislation in the past, and working diligently in the interests of the coal miners of his state in particular, as long as two words in the letter were offensive to him, why I raised no objection to changing those words.

And I asked Labor's Nonpartisan League, I believe, if my memory serves me correctly, I asked the assistant director——

Mr. CAREY. Who was that, Mr. Boyle?

The WITNESS. Mr. James Kmetz to discuss with Joe Yablonski and see if that letter could be retrieved so that I could satisfy the Senator by the changing of two words. That is all it amounted to. And Joe Yablonski was successful, and his associate, I presume, in getting the letter. And he returned it to me. And the letter was rewritten. And we took out the words that were objectionable, two in number, and sent it to the Committee.

By Mr. Rauh

Q. Yablonski was then successful in what he did for you in recovering that letter from Senator Williams?

A. With the assistance of James Kmetz. James Kmetz is the one—or Harrison Combs—one of those associates of his went in and got the letter and gave it to Joe Yablonski, as I understand, and Joe Yablonski gave it to me.

Q. You are certain that Mr. Yablonski was in your office for four hours on May 28, the day he announced his candidacy for president?

A. Yes, sir.

Q. Do you have records of who was in your office, or does your secretary?

A. Yes.

Q. You do?

A. Yes.

Q. Will you produce those, please, at the next deposition?

A. I would be glad to. He was there by invitation of the president of the International Union.

Q. What was the subject discussed on May 28 during those four hours?

A. Well, the safety director—who was a full-time man who resided in Washington and had to leave the state of Pennsylvania and had to sell his home and move here because of a full-time seven day job the same as the Labor's Nonpartisan League directorship is, he sold his home and moved to Washington. He lives here. He is on the job seven days a week like I am. He called me, and in the light of the United Mine Workers having experts from Europe and elsewhere testifying in behalf of the Mine Workers' legislation before Mr. Yablonski became the acting director of Labor's Nonpartisan League, and while we were pushing for this legislation, we brought these various witnesses in.

Mr. Evans told me that he had a knowledgeable man from Wales who, as I understand it, acquainted with the Dr. Googh that we had brought over from Wales to testify on behalf of our black lung legislation at the expense of the United Mine Workers, because the Congress of the United States wouldn't do it. And he told me that this man would like to see me and talk with me.

At which time I told him that that would be all right, I would meet with him at X hour.

And I advised my office to have Labor's Nonpartisan League safety director—I believe you were there, Mr. Carey.

Mr. CAREY. Yes, sir, I was.

The WITNESS. And the officers of the union present to hear the discussion and the analyses of this expert man from Great Britain—all in furtherance of our legislation. And if I recall, it consumed some four hours of our time.

During those discussions everyone was privileged to speak freely. The safety director, Mr. Evans, asked numerous questions. I asked several questions, all in the promotion and the interest of our mine worker's safety legislation.

As the meeting was drawing to a close, I shall always remember that I asked Mr. Yablonski, your client, if he as the acting director of Labor's Nonpartisan League had any questions whatsoever that he wanted to ask this man that would help us in the promotion of our safety legislation.

And everyone who was present, I am satisfied, will testify that the fact that his answer was no. And he never asked a question. And we asked questions for four hours trying to promote our safety legislation.

I was more than astounded that someone that was supposed to be pushing our legislation wouldn't have one question to ask.

We will be glad to supply the list of those who were present, and you can discuss it with them if you care to do so.

That was on the 28th day of May, if my memory serves me.

Then what happened—I arrived at the office between 8:15 and 8:30 on the morning of the 29th. Around 9:00 o'clock, or shortly after 9:00 o'clock, several calls came in with respect to the Mine Workers position on legislation. Which prompted me, as I looked at the clock, at 9:00 on the morning of the 29th, to call Mr. Yablonski's office. And I was apprised by his secretary that he hadn't shown up, and was not there.

I said:

"Well, maybe he went directly to the Hill, because this legislation is in trouble. Maybe he is over on the hill."

I tried to locate him, because there were several people that I wanted to contact on the Hill in regard to what the Mine Workers will or will not do on this legislation.

She was unable to locate Mr. Yablonski, but she did locate Mr. James Kmetz, the assistant director of Labor's Nonpartisan League. And I asked him where Mr. Yablonski was, I wanted to talk with him, because there was some maneuvering and hanky-panky going on over there with respect to our bill, and I wanted to talk to him about it—I don't mean by Mr. Yablonski, I mean by certain groups of Congressmen, as I recall.

Mr. CAREY. What date was this?

The WITNESS. What date was this? The 29th of May.

Mr. Kmetz informed me that Mr. Yablonski was not on the Hill.

I said:

"Well, how can I locate him?"

He said:

"I don't know."

Then I did the best I could to delay and satisfy the peoples' inquiry with respect to what the Mine Workers could or could not do on this legislation.

The reason that Mr. Yablonski was not over on the Hill was because when the teletype came in, the first knowledge I had of it, it said on the teletype that a private press conference was held at the Mayflower Hotel at which you were present announcing his candidacy for the office of president of the United Mine Workers of America.

It was reasonable on my part to understand why he wasn't over on the Hill, because he was in the Mayflower Hotel with you and others.

By Mr. Rauh

Q. Have you finished?

A. Yes.

Q. Who were these several calls from that you referred to that morning?

A. Several of the aides, whatever their names were, I don't recall their names, that were calling in behalf of the Congressmen and the Senators over there.

You are familiar with legislative matters, quite familiar. As I understand it with legislative matters, when the Congressmen or Senators are busy with other work or on the floor or something, their aides take over. And these fellows wanted to know if the Mine Workers could adjust themselves to thinking along the lines of weakening of the bill, and things of that nature, all of which I wouldn't be a party to.

Q. Will you state which offices called you, please.

A. There were several of them. I don't recall them right now. I talked with so many Congressmen, and I have talked with so many AAs, administrative assistants, in the short length of time that Mr. Yablonski has

been the acting director of Labor's Nonpartisan League, that it would be humanly impossible for me to recall how many of these people have called me, because I was never confronted with that while we had Mr. Howe on as director of Labor's Nonpartisan League, it was very seldom that I would get a call from anyone over there as to the position of the United Mine Workers. But after he got on the job, because he was inexperienced, why I was constantly being called by offices of not only the Committee of Mines and Mining or whatever they call it over there, or Education and Labor, but I was being called by other people that were interested in the Mine Workers' legislation.

I just can't recall, Mr. Rauh, how many calls that I got, and from whom I received all of those calls. You are asking for something that is almost a physical impossibility for you or anyone else to recall since May, all of the different calls and who gave them to me and what hour I got them and who gave them to me and who didn't call me and things of that nature, I just can't recall.

Q. Do you recall in what manner these people wanted to weaken the bill?

A. Oh, yes. They wanted the Mine Workers to compromise their position in some respects, all of which they had lost interest in.

Q. In what way did they want you to compromise your position?

A. Well, as you well know, perhaps, the United Mine Workers, after a lengthy study by experts, and knowing the industry as well as we know it, and realizing that coal miners are facing these hazards daily, both from dust and the other hazards incident to coal mining, our experts, after long study about the displacement of men and their employment and forcing these coal companies to reduce the dust hazard in coal mining—it was unlimited, in quantity and quality—they decided that we would be quite fortunate if we could force through the legislature, with the experience that we had with the legislative bodies since 1890, a three milligram requirement of the dust level in coal mines.

Personally, as a coal miner, I am not familiar with three milligrams, two milligrams, six milligrams, those are technical terms that are used by experts. Those are things that are picked out by other people as well as myself as being the proper terms. But after great consultation by the international executive board and the officers of the union and the experts that we hired, we felt that we would be very fortunate indeed if we could reduce the dust hazard to three milligrams, whereas the administration bill was calling for 4.5 milligrams, and then later reduced to coincide with the Mine Workers three milligrams.

Some Congressman, as I understand it, had 4.5 milligrams in his first bill, and when he found out that the Mine Workers had made a study of it he reduced his thinking to three milligrams.

We want the record to show that this union will never be satisfied until we have zero milligrams in the coal mines of this country, if that is physically possible, and we think it is, we think it can be accomplished. It may take some time. And that is what Congress is now considering.

That is why they wanted to know—we couldn't go for 4.5 milligrams, is my understanding, for a limited time. And when they found out that the Mine Workers—the president of the international union would not compromise, neither did he have the authority to compromise that position, that three miligrams was the set figure, and I didn't have the authority as chief executive officer of the union to arbitrarily reduce it or increase it—that had been agreed upon.

Then, after May 29——

Q. The question is about the morning of May 29, Mr. Boyle, which you have brought up. You said you had several calls between 9:00 and 9:30. You cannot recall who made them. Now, what specific compromise were they asking?

A. I had so many—let the record show that I have had so many calls since the time that Mr. Yablonski has been the acting director over there, because of his inexperience in handling matters of that nature, that I can't recall how many, and neither could you, if you were in the same position as I am in, as to how many of those offices and secretaries and assistants called me concerning the Mine Workers' legislation over there. I don't recall.

Q. You brought out the calls the morning of May 29 between 9:30, I didn't bring them up, you brought them up. You cannot recall who made them to you?

Mr. CAREY. That question has been answered. He says he can't. This is repetitious, Mr. Rauh.

By Mr. Rauh

Q. And you cannot recall what was said about the compromises?

A. No. But, you see, they were working diligently that day, particularly on mine safety legislation, and the record will so disclose. But Mr. Yablonski was not there, he was with you, attending a press conference in the Mayflower Hotel when he should have been over on the Hill promoting the safety legislation for the United Mine Workers of America.

As far as making his announcement of his candidacy was concerned, it could have waited to a more opportune time when our bills weren't in trouble, he could have waited until a weekend if he wanted to. He could have waited until some other time. But we worked it out, Mr. Rauh, we worked it out without him.

Q. You referred to a three milligram requirement of dust level. Could you explain that, please?

A. No, it is a technical thing that was arrived at by the experts. And they have agreed among themselves that in order to keep the coal mines, so I am told, and told by the safety director, and told by experts in the field of safety, told by the experts in health, and told by the experts that we contacted, that if we could reduce this dust hazard to three milligrams, and then work from that point on to zero milligrams, that we would have made a great accomplishment with this Congress over here, something that we have had great difficulty with. And I think you are aware of the fact that during the years gone by that the United Mine Workers were very unsuccessful in getting the legislation that they proposed for health and safety of coal miners of this country.

And it always required, it seemed, some major disaster to waken the Congress and waken the public and waken everyone to the fact that they ought to do something for coal miners. As soon as that cooled off, then we didn't get any legislation. That has been the history, before I became president, and to a degree since I became president.

Now, those bills need the constant attention. I don't mind telling you that that while your cilent is out of the city presently, it is my intention to go over on the Hill in his absence while he is on the campaign trail and further the legislation, when the office over there that I think in my judgment needs recontacting. And I am going to do it. Because I am vitally concerned and vitally interested, and paid, as he is, to promote the safety legislation that has been enunciated by this union.

Q. My question, Mr. Boyle, is, what does the three milligram figure mean? I don't undertsand it.

A. Well, like the man from Wales that we brought over here, it is a technical term. A lot of people figured that they use a three milligram arrangement in Wales and England. And much to the surprise of the committee, and much to the surprise of us, they don't use a milligram arrangement in measuring the dust quantity in the mines at all, they weigh it. I don't know that.

The committee didn't know it. Others didn't know it. The people that I had discussed it with, doctors and others, didn't know that they weighed it instead of using a milligram arrangement in determining the amount of dust. That is not a satisfactory—we are not satisfied with three milligrams, we want a zero milligram, if it is humanly possible to get it.

Q. I didn't ask you what you want, I asked you what the three milligrams measurement means.

Mr. CAREY. Just a moment. The question has been answered. Mr. Boyle has explained what he understands it to be. It has been provided to him by experts. It is a very technical area of coal mining. He has explained it. And I object to his being asked and asked and asked.

Don't answer any questions along that line, Mr. Boyle.

By Mr. Rauh

Q. What did you mean previously when you said you didn't understand what happened in Wales, that they did it by weight over there? What did you mean by that?

A. As I recall, the doctor—and it is a technical thing—the doctor that we brought over here said—I think in fairness to you, Mr. Rauh, that you should read his testimony. It will give you a better explanation than one that I could give you, because it uses technical phrases that I am not familiar with.

Q. Isn't a milligram weight, Mr. Boyle?

A. Not in the terms that it is used in Wales, no.

Q. In what terms is it by weight?

A. I don't recall. You would have to read the testimony of Mr. Googh.

Q. Isn't it a fact, Mr. Boyle, that you don't understand the three milligrams?

Mr. CAREY. I object to that, and I move it be stricken from the record.

The WITNESS. Oh, yes, we understand it. And that is the reason we put it in there, after consulting with experts. We understand it.

Mr. CAREY. Don't answer any more questions like that. You don't have to answer insulting questions. You are not here to be insulted by anybody.

By Mr. Rauh

Q. You referred previously to Mr. Yablonski not being here. Isn't it a fact that you approved his vacation while Congress was away?

Mr. CAREY. During what period particularly are you speaking of? Let's have the time.

By Mr. Rauh

Q. Isn't it a fact, Mr. Boyle, that you approved his vacation from August 14 to September 4 because Congress is away?

A. Yes, sir.

Q. Who are you going to see?

A. But if he were living in Washington, as he promised faithfully to do, and he got the job on the premise that he would move to Washington, and sell his estate—and believe you me, it is an estate—he should take you up there some weekend—and let me tell you, if he were here in Washington, vacation or no vacation, I would have the opportunity of at least requesting, suggesting or asking him to go over on the hill where I am going to go today to further this thing. But no, as I explained to you just previously, he is on the campaign trail. More power to him.

Q. Where does Mr. Kmetz live?

A. Where does he live?

Q. Yes.

A. He lives in Washington, D.C.

Q. Isn't he on vacation out of the city right now?

A. I don't think so, no. He is at home. I

think you could call him on the phone and get him at home now.

Q. Are you going to use him while he is on vacation?

A. If necessary I will use him. And I am satisfied that Mr. Kmetz is of the caliber that would willingly come in and forsake his vacation completely and entirely if it was in the interest of the United Mine Workers. I have that much confidence in him.

Q. And Mr. Combs is in the city too?

A. As far as I know he is, yes, sir. He was seen yesterday or the day before.

Q. Have you used them while they were on their vacations?

Mr. CAREY. This vacation or prior vacations?

By Mr. Rauh

Q. Have you used them while they were on this vacation?

A. I haven't any occasion to use them.

Q. Where were you going on the Hill today, Mr. Boyle?

Mr. CAREY. I object to that. You have no duty to tell Mr. Rauh where you are going. Don't answer that question.

The WITNESS. Are you going to have lunch at Young's this afternoon, one of those long lunches? I am not. Are you going to have one of those long lunches over there? If you are, then maybe I can answer where I am going to have my lunch today. Paul Young's.

Mr. CAREY. We have objected to the question. There is no duty on the part of the witness to explain——

The WITNESS. He knows what I am alluding to, when a man is off duty.

Mr. CAREY. I prefer that you not answer the question and cease at this point, Mr. Boyle.

By Mr. Rauh

Q. You said that I knew what you were alluding to. Will you please state what you are alluding to.

Mr. CAREY. I move that it be stricken. And he has no further comment on it.

By Mr. Rauh

Q. The relevance of the question on where are you going on the hill is credibility. On that basis I repeat the question. Will you state where you are going on the hill today?

A. I have refused to do so because I don't think that it has anything to do with the deposition.

Mr. CAREY. On advice of counsel you refuse to answer because there is no duty on your part to explain to anybody where you are going to be at any time during this particular day, whether you are being deposed or not.

Mr. RAUH. Would counsel please show Mr. Boyle Mr. Yablonski's letter of June 2, and Mr. Boyle's response of June 12?

Mr. CAREY. Did you say June 2 and June 12?

Mr. RAUH. Yes.

Let the record show that Mr. Boyle conferred with Mr. Combs during this deposition——

The WITNESS. Let the record also show that I asked him what time he had to leave the city today, because he is leaving the city.

Mr. CAREY. What was your response, Mr. Combs?

Mr. COMBS. I have to leave about noon. And may the record show that I have a commitment in the court at Pittsburgh having nothing to do with this case and I resent counsel's connotations that I was having a conference with the witness, because there is no foundation for that.

Mr. CAREY. Let the record reflect that the conversation took the maximum of half a second.

May I see what those letters are to give me an idea?

Mr. RAUH. The letters to which I have referred are Exhibit B and Exhibit C to the Civil Action No. 1662–69.

Mr. CAREY. Exhibit B is the letter addressed to Mr. Yablonski, Mr. Kmetz and Mr. Combs, from W. A. Boyle.

Mr. RAUH. You are looking at the wrong complaint. You are looking at 1799. This is 1662.

Mr. CAREY. This deposition involves 1799.

Mr. RAUH. I am only referring to this to get the documents.

Mr. CAREY. You said Exhibit B, and that is why I looked under 1799. Where else would I look?

Mr. RAUH. You don't have those exhibits? Then I will provide them.

Mr. CAREY. They are here somewhere, but I just can't find them at the moment.

By Mr. Rauh

Q. Mr. Boyle, I hand you a letter dated June 2, 1969 from Mr. Yablonski to yourself, and your response of June 12, and ask you if they are what they purport to be?

Mr. CAREY. I move that any interrogation involving the letter identified by date as June 2, 1969 from Joseph Yablonski to president W. A. Boyle, and the letter dated June 12, 1969 from W. A. Boyle to Joseph Yablonski, are irrelevant, immaterial and have nothing to do with the action, and I will suggest that he not answer any questions about them.

Mr. RAUH. We will just put the questions on the record, then, for the court.

By Mr. Rauh

Q. The first question, are these the two letters the letter which you received and the letter which is your answer.

Mr. CAREY. We will stipulate to that.

Mr. RAUH. All right.

By Mr. Rauh

Q. In your letter of June 12 you refused Mr. Yablonski's request that you instruct all persons paid from the United Mine Workers of America funds in Washington and in the field to take a hands off position on Mr. Yablonski's efforts to get nominations and your efforts to do the same. You stated that to grant that request would require you to violate the law. In what way would it have required you to violate the law?

Mr. CAREY. I have advised the witness not to answer the question. In the first place it is irrelevant and in the second place it calls for a conclusion of law.

By Mr. Rauh

Q. In Mr. Yablonski's letter of June 2 he requested that the Mine Workers' journal give his candidacy equal space with yours, Mr. Boyle. Your answer of June 12 was:

"Your request is in contravention of the international constitution and the law."

In what way would it have been in contravention of the international constitution and the law?

Mr. CAREY. I advise the witness not to answer, because it has nothing to do with the litigation for which this deposition is being taken at this time.

Mr. RAUH. In Mr. Yablonski's letter to you of June 2, 1969 he asked the union to distribute his literature to the membership in accordance with Section 401. You responded that the matter contained in this point will be taken up at the next meeting of the international executive board. In view of the requirement of Section 401(c) why did you not grant his request?

Mr. CAREY. I advise the witness not to answer the question. And I further suggest that that involves an entirely different action which is presently pending in the United States District Court for the District of Columbia. It is a legal matter which has not finally been determined by the ultimate court in this District, or in the Supreme Court of the United States.

It is a matter which is of serious legal import. And no one knows the conclusive answer to it at this point. And I advise the witness not to answer the question.

Mr. RAUH. So that Mr. Carey cannot say in court that he hasn't been advised of the relevance and can repeat his objection after I state the relevance, I will now state it.

Giving a legal answer which is probably incorrect is evidence of hostility by Mr. Boyle, and his refusal to state why it would have been illegal to grant our request is further evidence of his hostility to Mr. Yablonski.

Mr. CAREY. Let the record reflect that the word "hostility" is a self-serving declaration. It is a word of prejudice. It is done for the purpose of either eventually finding itself in a newspaper. It has nothing to do with the particular matter being litigated here. And it is nothing at all that we are interested in at this particular time, because we are restricting ourselves exclusively to that which is being litigated in this deposition.

Mr. OWENS. May we add the further objection that the purpose of all this is to try this case in the newspapers rather than in the court, and to lay the groundwork for that as they have been doing in the past.

Mr. CAREY. And let the record further reflect that if Mr. Rauh's position is correct, every time a witness refuses to answer a question, legally or not, it is evidence of hostility. And I say there is no legal basis for the use of such a term.

By Mr. Rauh

Q. Mr. Boyle, were you present at a meeting of the international executive board of the United Mine Workers on June 23, 1969?

A. I was.

Q. Did you preside?

A. I presided, if my memory serves me correctly, for most of that meeting. Perhaps there was an interim period that I did not serve. I would have to look at the record.

Q. At any time during that meeting did you say that Ralph Nader's letter to John L. Lewis upset Mr. Lewis terribly, and that the letter couldn't have helped Mr. Lewis any, or words to that general effect.

Mr. CAREY. I would suggest that there was a transcript made of this particular meeting, a copy of which has been provided to the plaintiffs. And the record will speak for itself.

Mr. RAUH. As you know, Mr. Carey, we question the validity of that transcript. And I am asking Mr. Boyle whether he made this statement—I am asking Mr. Boyle whether at any time during the course of this meeting he made the following statement or anything substantially equivalent, that Ralph Nader's letter to John L. Lewis upset Mr. Lewis terribly, and that the letter couldn't have helped Mr. Lewis any.

Mr. CAREY. I object to the question, because I don't see its relevance.

Mr. RAUH. The relevance, Mr. Carey, is that we challenge as fake and incomplete the transcript which you filed. And I am now trying to ask Mr. Boyle under oath whether he said things that we believe to have been said, that we filed an affidavit on. And I cannot see that it can be possibly irrelevant. the validity of the transcript you filed. I am perfectly happy to take that one to court.

Mr. CAREY. Let me suggest, Mr. Rauh, you use words very loosely, and you have no hesitancy in making generalized indictments of people. My observation of you during this litigation is that without any basis in fact you have made many allegations. So the fact that you refer to his as a fake doesn't affect us one iota.

We are content to rely on the record, which is the official copy of the transcript.

And further, what communication if any there was between Mr. Boyle and Ralph Nader has nothing to do with the removal of Mr. Yablonski as acting director of the Labor's Nonpartisan League. And I suggest it is irrelevant, it is immaterial, and there is no basis here at all.

Mr. RAUH. Is it your position, Mr. Carey, that the validity of your transcript is irrelevant?

Mr. CAREY. I did not say that at all. I said

that the transcript which is there is a valid transcript. Now, whether things were said off the record, which is customary at many of these meetings—that may have occurred. But I take the position that this is a valid legal document which is the official transcript of the executive board meeting of June 23. Now, if someone speaks off the record—and Mr. Yablonski knows this well—there are many things said off the record. And apart from that, I say that that question is not germane, it is not relevant, it is immaterial, and it is done only for prejudicial purposes.

By Mr. Rauh

Q. So that the record may reflect this, Mr. Boyle, did you say on or off the record at the meeting on June 23 substantially as follows:

That Ralph Nader's letter to John L. Lewis upset Mr. Lewis terribly, and that the letter couldn't have helped Mr. Lewis any?

A. Shall I answer?

Mr. CAREY. If you recall.

The WITNESS. Well, if I didn't say it then, off the record or on the record, because I haven't read the record, I don't have time to read the record—you evidently have the time—I will take the record—a man is sworn as I understand it to give an accurate, true record of what transpired at the board meeting. Mr. Yablonski proudly says he has been a member of that board for 20 some years. He has spoken off the record on numerous occasions, and every board member speaks off the record on numerous occasions. And if I didn't say it about Mr. Nader at that time, I will say it now, I will say it now—would that satisfy you? That the letter greatly disturbed—yes, I will say it now, I don't recall whether I said it then or not, but if it will satisfy you and be of any comfort to you, I will say it now, that the letter to John L. Lewis with respect to the things that he said in there about his protege, so to speak, a man that he brought in to train to take over the responsibilities of this union, a man who told your client he would never be an international officer because he was an ex-convict, and in my presence—certainly it greatly disturbed Mr. Lewis. I will say it now.

I don't recall whether I said it then. I would be happy to say it now.

Mr. RAUH. Did you say it then, Mr. Boyle?

Mr. CAREY. He has answered the question, he says he doesn't recall.

The WITNESS. If I didn't say it then I am saying it now.

Mr. CAREY. You have answered the question. Don't answer any more.

By Mr. Rauh

Q. Did you say several times—did you make reference several times to that "camel rider from Lebanon?"

A. I don't recall that.

Q. You don't have any recollection——

Mr. CAREY. Just a moment. He has answered the question. He doesn't recall it, period. He is not going to be asked the same question a second time.

Mr. RAUH. It is very proper, Mr. Carey.

Mr. CAREY. No, it is not. He has answered that question Don't you answer another question involving that. We are not going to indulge in repetition here.

By Mr. Rauh

Q. Have you ever used the phrase with respect to Mr. Nader "that camel rider from Lebanon?"

A. I don't recall. I could use lots of statements about Mr. Nader, because Mr. Nader started off in the first instance making a lot of statements about the president of the international union, the United Mine Workers of America. Do you want to ask him some questions?

Q. I am trying to find out, Mr. Boyle, what was said off the record at the June 23 meeting. It is clearly relevant, since that is where the action was taken against Mr. Yablonski. Do you recall whether you said on or off the record that a number of those riders had been near your home at different times, and that you were going to do something about it.

A. If I didn't say it then I will say it now.

Q. Did you say it then?

A. I don't recall. But if I said it—I have said it some times—I don't know whether I said it at the board meeting, but I have said it at a number of places, and I will say it now.

Q. Did you say you were going to get guards to protect you from the Nader's raiders?

A. No, I never did.

Q. Did you say on or off the record that you wanted it definitely on the record that there were no lawyers in the meeting.

A. I don't recall any lawyers being there——

Mr. CAREY. Just a moment. Let me suggest this, that the transcript will reflect that specific item. Let us have the transcript, and we will answer the question.

By Mr. Rauh

Q. Did you say on or off the record that "we have been called by Joseph Yablonski's lawyers prior to the meeting, and we are informed of the lawyers belief that the board was planning to remove the board member from District 5, but that the board had fooled the lawyer," did you say that on or off the record?

A. That is quite a long question. I would like to have that again. Did I say what?

Q. "That we were called"——

A. Quote by whom?

Q. I am asking you if you said that?

A. Whom quote?

Q. I am asking you if you said that?

A. Yablonski's quote or my quote?

Q. Your quote. I am asking you if you said on or off the record substantially the following: "That we were called by Joseph Yablonski's lawyer prior to the meeting, and were informed of the lawyer's belief that the board was planning to remove the board member from District 5 from the board, but that the board had fooled the lawyer," did you say that on or off the record on June 23?

A. I don't recall.

Mr. CAREY. And let the record reflect that Mr. Rauh called me and asked me if Mr. Yablonski was on the agenda to be removed as acting director. And I said it was ridiculous, there was no such thing on the agenda on June 2. Do you recall that conversation.

Mr. RAUH. Yes.

Mr. CAREY. And what did I tell you?

Mr. RAUH. That you weren't planning that.

Mr. CAREY. Did anything occur on that date?

Mr. RAUH. Yes. We beat you in court that afternoon and made it impossible for you to do it.

Mr. CAREY. I am asking you about the meeting. Was I correct in what I told you.

Mr. RAUH. You were incorrect. And the reason you couldn't get away with your trick, Mr. Carey, was that I beat you in court, and got Mr. Yablonski to be made a formal candidate that afternoon, and you couldn't remove him the next Monday.

Mr. CAREY. That is completely untrue. This is June 2, 1969, that I am talking about. And there was no litigation in court.

Mr. RAUH. Anything about a conversation on June 2? This conversation was on June 20 that I am referring to.

Mr. CAREY. The biggest mistake I made was talking to you at all about the matter. I guess we all make boo-boos, and that was mine.

By Mr. Rauh

Q. Mr. Boyle, do you have any recollection on or off the record of having said anything whatever about Mr. Nader at the June 23 meeting?

Mr. CAREY. I will object to its relevancy. But you may answer it if you can, Mr. Boyle.

The WITNESS. I don't recall whether it was on the meeting or during the meeting or off the record or on the record. But I have said several things about Mr. Nader in public, in meetings and elsewhere. He was a man that was injecting himself into affairs that he knew nothing about, and things of that nature. Yes, I have said those things, but I don't recall whether I said it on the record or off the record at that board meeting.

And if it was said off the record, let the record show, Mr. Rauh, that it had no effect upon the resolution that was adopted by the international executive board, because any off the record remarks that were made that I would have any recollection of were certainly after the adoption of the resolution, because they would not be germane to the resolution, and they would not be permitted to be discussed before the resolution by me or anyone else.

They must have been after the international executive board made a determination and made a decision as it did by resolution, a copy of which has been supplied to you.

Mr. CAREY. If they occurred at all.

The WITNESS. If they occurred at all.

Mr. RAUH. Mr. Carey, I just call to your attention that you added to Mr. Boyle's testimony the words "if they occurred at all." Mr. Boyle is testifying, Mr. Carey.

Mr. CAREY. I am thoroughly aware of that.

Mr. RAUH. Would counsel for Mr. Boyle please show him page——

The WITNESS. Can I get a drink of water?

Mr. RAUH. We will adjourn for 10 minutes while the reporter rests and changes his paper.

Mr. COMBS. For the record, I am going to have to withdraw from taking this deposition. I have a commitment in court in Pittsburgh, and I have to catch a plane.

Mr. CAREY. So that there is no question that I am coaching him, while Mr. Boyle goes out I will remain here.

(Short recess.)

By Mr. Rauh

Q. Will the counsel for Mr. Boyle please show him the purported transcript of the June 23 board meeting.

Mr. CAREY. Any specific page?

Mr. RAUH. Page 17.

By Mr. Rauh

Q. At the bottom of that page, Mr. Boyle, you state:

"Now we have another resolution. Before we read this resolution let the record reflect that I don't see any lawyers or press men in here."

What was the cause for that statement?

A. Whether it was on the record or off the record the purpose of that statement was because Mr. Yablonski wanted to be represented at a meeting of the international executive board by his attorney, Mr. Joe Rauh. And it is traditionally and historically so in the Mine Workers organization that at executive board meetings never in the history of the organization, in all of its—since 1890—have lawyers been permitted to come before the board for one side or the other and argue a case, it has been a matter of policy making, a matter within the union, it was matters that were strictly in conformity with the constitution, and matters to be discussed between the individuals and not lawyers.

So when Mr. Yablonski made the request that you be there, I told him that there were no lawyers in the room whatsoever.

Q. In what form did he make a request?

A. In a statement on the floor.

Q. Where is the statement, please?

A. I don't have any statement. I said it was either off the record or on the record. It may be in the record. I never read the record.

Q. Will you please read the record and see if you can find it?

A. I don't know. He may have been speaking off the record.

Mr. CAREY. Stand on the position you took.

The WITNESS. He wanted to be represented at that meeting—does he deny that—by you. Does he make an assertion that he doesn't want to be represented at that meeting by you?

By Mr. Rauh

Q. Isn't it a fact, Mr. Boyle, that he wrote you a letter and asked to be represented by counsel?

A. It could be. But again I say to you that the international executive board and this union does not permit lawyers for either the plaintiff or the defendant to argue their case before—it is not a court of law, it is a policy making body. It is a union matter exclusively, it is not a court of law, and lawyers are not permitted to argue the case pro and con before the international executive board.

If Mr. Yablonski is capable, as you say, and others, of being the president of the United States United Mine Workers of America, he should have been able to defend himself without a lawyer, the same as every other coal miner does.

Q. Isn't it a fact, Mr. Boyle, that on June 23 earlier that day Mr. Yablonski wrote you saying that "when you take this matter up with the international executive board later on you permit me to have counsel present?"

A. That letter, I believe, is the letter that came after the board meeting, isn't it? He had someone deliver the letter after the board session was over, trying to build up some more newspaper material, I suppose.

Q. Now will you explain when the request came that caused you say that there are no lawyers present?

Mr. CAREY. That presents facts which aren't in the record. You may ask him, was he aware of any request by Yablonski or anybody else to be represented by legal counsel. Now, there is no evidence in the record to suggest that this comment was provoked by any request by you or anybody else. Now, why did you make that request—that is the way it should be phrased—why did you make this observation?

By Mr. Rauh

Q. Why did you make that observation, Mr. Boyle?

A. Because Mr. Yablonski wanted to be represented by you before the board for the first time in the history of the organization.

Q. And what form was that request by Mr. Yablonski in?

A. Orally.

Q. Can you point to it on the transcript?

A. I said orally. He made the statement orally, if my memory serves me. And then he sent me a letter after the board meeting saying that he wanted to be represented by counsel. It came a little bit too late.

Q. Was the oral statement to which you refer made to you personally or made before the board?

A. Well, as I recall, it was made before the board. I don't recall, to be exact.

Mr. CAREY. Just a moment. You mean before the board or before the board meeting? What do you mean by before? Let's be precise and speak with clarity? Is this before the board or before the board meeting? I would like to know what you mean.

Mr. RAUH. Are you asking me, Mr. Carey?

Mr. CAREY. Yes, sir.

Mr. RAUH. You don't have a right to ask me questions. I shall ask the questions of Mr. Boyle.

Mr. CAREY. I have a right to have you phrase your questions so that they are intelligible for the witness to answer correctly. And I say before, it is susceptible of two interpretations. It means when the board was in session or before the board was called into session. And I would like to know which one you mean.

By Mr. Rauh

Q. I will let Mr. Boyle answer the question. When and where did Mr. Yablonski ask to have legal representation?

A. As I recall, it was either when the board was in session or it was before we entered into session, it was in the board room, as I recall, when he made the statement that he wanted to be represented by counsel. And I said:

"There are no counsel here at all, there is going to be no counsel here."

And there was no counsel there, either representing—notwithstanding that the United Mine Workers organization down through the years have ordered and directed and requested that counsel be present at board meetings because of litigation and law suits and things of that nature, on this particular day there were no lawyers there, none on either side.

But he wanted from the floor—I don't know whether it was while the board was in session or before the board went into session, but Joe Yablonski—you know him quite well—is not reluctant to ask questions of that nature on or off the record. And he asked that he have the privilege of having you there. And I told him that there would be no lawyers there. It is not a court of law.

Q. Was this request of Mr. Yablonski's made after you had called the meeting to order?

A. I don't believe it was. I believe it was before.

Q. Was it made in a private conversation with you?

A. No, it was made from the floor.

Q. In other words, it is your testimony that Mr. Yablonski made a request of you from the floor before the meeting was called to order?

A. Well, I don't recall whether the board was off the record or on the record, or whether the board was in session or wasn't in session, but he did ask during that period of time that he be represented by counsel, Joe Rauh. He mentioned the name.

Q. Isn't it a fact, Mr. Boyle, that you got that letter prior to the board meeting?

A. Now listen, don't you question my integrity, because I will get up and walk out of this place before I will have you impugn my integrity. I told you the fact, and I told you the truth. And if you don't want to accept them, I am not going to sit here and be insulted by Joe Rauh. I don't have to, and I won't.

The court hasn't told me that I have to sit here and be insulted by you, told that I am a liar, that I received the letter. I have testified that that letter came after the board meeting, and if you don't want to accept that on the record, then don't call me a liar, because you are not big enough.

Let's get that understanding. And I am not going to remain here, counsel's advice notwithstanding, and be insulted by you. If you want to get in the newspapers tomorrow morning like you were this morning, go to the newspapers and get this in there, that I walked out of your meeting. That is exactly what I will do if you impugn my integrity again and my truthfulness. I am telling you the truth. I am under oath, and you are not, and I am telling you truthfully and honestly what transpired. And I am not going to sit here and be insulted by you.

You have got a reputation of insulting people, and you are not going to insult me. I am not going to take it from you, I don't have to. I can walk out of the office, and we will find out from the court whether the court can order me to stay in here and be insulted or not.

Don't call me a liar during the rest of these conferences, or I am not going to be here. I am under oath, and I am telling the truth to the best of my knowledge.

Q. Are letters stamped in for time at your office, Mr. Boyle?

A. Do which?

Q. Are letters received in your office stamped to show the time in which they are received?

A. No, I don't believe they are. The dates are put on them. We don't have a time clock, we have no time clocks that I know of in the office.

Q. Did you ever ask your secretary what time she got that letter?

A. Yes. She told me that she got the letter after we came back from the board meeting, is when I read the letter.

Q. Did you ask your secretary what time the letter came in?

A. No. The letter came in while we were in session, I know that.

Q. Would you change your testimony if we had an affidavit that it was delivered at 10:30 and the board meeting started at 10:45?

A. No, I wouldn't change my testimony to that effect at all, because I had no knowledge of the letter until I came back from the board meeting, no, the affidavit notwithstanding.

Q. What time did the meeting start?

A. I don't recall. The minutes will show.

Q. Will you look at the minutes and state the time the board meeting started?

A. That doesn't mean that I went to that board room at 10:45, because it said the board was called to order at 10:45.

We could have been in there at 9:00 o'clock, 9:30, 9:45, 10:00 o'clock, we go in there at any hour. Lots of times we don't go in there maybe until after the board is in session—not in session, but after the hour it is supposed to convene, we are delayed because of some other matters. That doesn't necessarily mean that the people weren't sitting around in there discussing and talking, and in coal miners' language, shooting the breeze in there at 10:00 o'clock. I suppose there were fellows in there before 9:30 in that board room, and the meeting started on the record at 10:45.

Mr. CAREY. Is it customary to have conferences with other international officers before you walk in?

Mr. RAUH. Mr. Carey, you are not taking this deposition, you cannot interrupt to ask questions. You can ask any questions you want at the finish.

By Mr. Rauh

Q. Mr. Boyle, hadn't you given your secretary instructions to deliver immediately all matters relating to Mr. Yablonski?

A. No. Why would I? Mr. Yablonski would write, as he is writing to me now. What he is writing to me now is not delivered to me immediately. Why would he get preferential treatment immediately? I have other things to do.

Q. Wasn't the June 23 meeting called primarily on the resolution of Mr. Yablonski?

A. Not necessarily so.

Q. What was the primary reason for it being called?

A. There was a number of things. Read the minutes, and they will disclose what it was called for. They speak for themselves.

Q. What was the primary reason for the meeting of June 23?

Mr. CAREY. If there was a primary reason.

The WITNESS. I don't recall what all transpired.

By Mr Rauh

Q. I am not asking you what took place, I am saying, what was the primary reason why that meeting was called?

Mr. CAREY. I suggest that the witness be allowed to look at the index and let him read it over and determine if there is any primary reason for calling that particular meeting.

The WITNESS. Lots of time meetings are called—

Mr. CAREY. Read the index to yourself, Mr. President, the agenda.

The WITNESS. Yes, I can see, now that you direct my attention to it, the primary reason for the meeting.

By Mr. Rauh

Q. What was it?

A. It was because the United Mine Workers of America were without a trustee representing the United Mine Workers on the Welfare and retirement fund. And the selection was made. And they selected the president in the name of W. A. Boyle as a successor to John L. Lewis as trustee of the welfare and retirement fund. This was of great importance to us. And that was one of the reasons it was called. I would say if there is any primary reason connected with it, that it was of vital importance to the Union to have representation on there.

And another thing that now come to my attention after looking at the index, is that for the first time in the labor movement of this country, without exception, in any organization or any labor organization whatsoever, we established for the first time at that meeting something to promote the health and well being of the coal miners in this union when we set up a new department known as the Occupational Health Division of our organization. And we set that up. And we recommended that Dr. Kerr, Loren Kerr head that department.

Another thing that was of vital importance to us was a discussion of a memorial to John L. Lewis in memory of his service of 40 years as president of this organization. I believe that was one of the first things that was under discussion, if I recall. And that was a reason also, that we wanted to discuss when, where and how we could have a memorial arrangement in honor of this great labor leader.

Q. So it is your testimony that ratification of your action on Yablonski was not the major reason for the board meeting?

A. Absolutely not.

Q. Who wrote the resolution on Yablonski, Mr. Boyle?

A. The one that was adopted by the international executive board you are talking about?

Q. Yes, sir.

A. It was drafted in my office with the aid and assistance of materials drafted for Mr. Yablonski by you. Attorneys and everyone else, international officers, everyone discussed it. And I asked Mr. Yablonski, for your edification, if this was a letter from Joe Rauh or a letter from Yablonski.

He said: "Well, my name is signed to it."

And I said: "That isn't the question, Mr. Yablonski. Who wrote the letter?"

And he admitted you wrote it. It is nothing uncommon.

Q. Where is that, Mr. Boyle?

A. I believe it is in the record.

Q. Could you point to it, please?

A. No, I can't.

Q. Are you refusing to answer the question? I am asking you to point out where in the record it shows that he said that I had written it.

Mr. CAREY. He didn't say that at all.

The WITNESS. I didn't say that.

Mr. CAREY. That is a misconstruction of what he said.

Read his answer, Mr. Reporter, please.

(The record was read as follows:)

"Answer: It was drafted in my office with the aid and assistance of materials drafted for Mr. Yablonski by you. Attorneys and everyone else, international officers, everyone discussed it. And I asked Mr. Yablonski, for your edification, if this was a letter from Joe Rauh or a letter from Yablonski."

The WITNESS. So he told me.

Mr. RAUH. Now, my question is, is this part of the transcript?

A. I don't believe it is.

Q. When did he tell you that?

A. When we were discussing the exchange of letters.

Q. When was that?

A. That was on the 23rd day of June, I believe.

Q. During the board meeting?

A. Not necessarily would I say it was during the board meeting. If it was during the board meeting it would be on the record. Because that reporter, as this reporter, I suppose, is under oath to record what goes on the record and what goes off the record.

Q. Are you denying that you wrote those letters from Mr. Yablonski?

Mr. CAREY. Mr. Boyle, Mr. Rauh doesn't have to answer that question because he is not being deposed.

The WITNESS. Well, he doesn't have to ask the question either. If he is privileged to ask the questions I am privileged to ask questions as a layman. He can't ask questions and give the answers as well, and frame them in such a way and get the answers he wants without me asking him questions, Mr. Carey. If he confines himself to asking the questions I will try to confine myself to giving the answers in reply.

By Mr. Rauh

Q. Isn't it a fact that Joe Yablonski didn't arrive at that board meeting until about 10:45, when the meeting started, and there never was any such conversation that you are suggesting?

A. No, that is absolutely—as far as I recall Joe Yablonski was in the board meeting and in the board room when I arrived, at the seat, sitting there. And the reason I recall very vividly that he was there is because others will tell you that he was there.

Q. What time did you arrive?

A. I don't recall.

Q. Who took the transcript of the meeting of June 23?

A. The reporter, one of the reporters, I don't know his name, but one of the reporters, I don't know him—I shouldn't say I don't know him, I know him to the extent that he has been taking these things for years and years, I don't know how many years. And I don't know which one it was, because they relay according to their schedules, I suppose. Sometimes—they belong to the same firm, but they relay different ones. I don't know this fellow. I don't recall which one it was.

Q. What was the firm?

A. I don't even know the name of that. That is how familiar I am with the reporters. I don't have anything to do with the reporters, very little. I never talked to them, only when I am in the board room. The only time I ever see these reporters to which you allude is when they are in that board room taking down the minutes.

Q. At the next deposition will you supply the name of the reporting firm, please.

A. We may have it now.

Do you have it in our files now?

Miss RICHARDS. We use an Indianapolis firm known as the Mann firm. But he sends people from Washington.

Mr. CAREY. Do you want this on the record?

Mr. RAUH. Yes.

By Mr. Rauh

Q. What is the firm, Mr. Boyle?

A. The firm that has been used for a great many years is Mann. And they are an Indianapolis firm. And long before my moving to Washington and long before the Mine Workers moved to Washington, it is my understanding that they used that firm when the headquarters were over in Indianapolis. That is just hearsay on my part, I don't know that to be a fact. And they have continued to use that firm. They may have some local reporters around here, I don't know.

Q. I believe you said earlier that everybody joined in writing the resolution. Could you please state several of the everybody?

A. Well, what I intended to say was, if I said everyone wrote it, of course everyone didn't write it, everyone discussed it.

Q. Who wrote it, Mr. Boyle?

A. The resolution was drafted and put in final form, I believe, by the legal department.

Mr. CAREY. We will stipulate that the final form was drafted by the legal department. Does that satisfy you?

Mr. RAUH. Would the counsel for Mr. Boyle please place the resolution before him.

By Mr. Rauh

Q. Do you have before you, Mr. Boyle, the resolution which was adopted at the June 23 international executive board meeting?

A. I do.

Q. Will you please look at the last "whereas."

A. The last "whereas?"

Q. Yes, please. I ask you to state what the opposition to the policies of the international union by Mr. Yablonski is to which you refer in that resolution.

A. Well, I will be very happy to comply with your request, Mr. Rauh. By being repetitious——

Mr. CAREY. Just a moment, Mr. Boyle. Before you restrict it to one "whereas," I think you should take a look at the prior "whereases"——

Mr. RAUH. Mr. Carey, this is tipping the witness. I asked him a question, I didn't expect you to answer.

Mr. CAREY. I am not tipping the witness. I didn't expect you to take something out of context and get the witness to answer as to one specific "whereas." I suggest that he look at the whole thing.

The WITNESS. That is just what I was about to tell him. I am quite familiar with the whereases.

By Mr. Rauh

Q. The question is, what policies of the international union did Mr. Yablonski oppose?

A. Well, when the international union adopted a policy of procedure on legislation and had legislation introduced in both houses of Congress, after Mr. Yablonski's statement that I was inept and passive of May 29, Congressmen, Senators, began to lose confidence in whether the Mine Workers were sincere in wanting this legislation passed or not, because Mr. Boyle—because of someone on the international executive board had said he was inept and passive. Those men had not read what he said about me on May 2, where I was the greatest labor leader in the country today, they didn't read that, that record was not read. So they took it for granted that we weren't sincere.

And my office would receive calls, and men who were working in Labor's Nonpartisan League would be contacted, other than Mr. Yablonski. And they said, now, after all, how much do you want? How far are you going to go on this? How much of it do you want? Are you sincere about this whole thing? We didn't have that, we weren't confronted with that until Mr. Yablonski read his statement, with your help, on May 29, before the press that I was inept, and passive, satisfied, so to speak, and wasn't doing things that were necessary to get legislation through.

So it made it most difficult, it made it most difficult to try to go back and go over all of the work that had been done prior to Mr. Yablonski's time by everyone connected with our legislation, and convince those people that we were sincere, that we did want this legislation, that we did have to have this legislation.

That should answer your question, Mr. Rauh. I hope you have answered it—I have answered it to the best of my ability when I

say that we had no alternative but to remove him as acting director, a job that he was not familiar with, a job that he had only been on since the 21st day of May until he made his statement that I was inept and passive. I was a great guy before that. I made all kinds of great accomplishments, in the opinion of Mr. Yablonski, if you want to read them, the statement where he introduced me at the convention, and he introduced me on April 1st at a luncheon in Pittsburgh. He asked to do so because he was a board member from that district.

Then he asked, did he have the privilege of introducing me at meetings at Richwood, West Virginia in April, I believe it was.

And then he asked for the same privilege of introducing me in District 31 following that. And then he asked again to have the privilege of introducing me in Charleston, West Virginia, where those who were present heard him say that I was the greatest man in labor today and was pushing for stronger legislation than had ever been introduced by the United Mine Workers in the history of the organization, and that this man was leading the coal miners of this country to greater things in six years time than any other predecessor ever led them to in a like number of years, or in the time that they served, and words to that effect.

All of those things I believed. I was naive. I accepted them. I thought he was honest. I thought he was an honest person in saying those things.

And much to my chagrin and shock, I find that all of a sudden, within a period of less than 10 days, 9 days or so, I became a culprit or something, I am not for all of these things, I am not for the passage of this legislation. But at all times before these 9 days I was the greatest man in labor, I was pushing for all of these things, I had asked for more things over there than any other president of the United Mine Workers had ever asked for, all a matter of record somewhere.

The press carried them, the press carried his statements to that effect. And I read it, I read it with my own eyes. And I was shocked to say the least to read that all of a sudden in 9 days time I was inept and passive.

What do you suppose the Congressmen of the United States thought? They must have thought, they couldn't think otherwise, that this man Boyle had changed his mind, he is not sincere, he doesn't mean what he says. And here comes along a man that has been introducing him since last September as the greatest man in labor, and asking for more things than what can be accomplished by any other president of the United Mine Workers of America—all of which was wholly untrue as far as I am concerned, but he said it, I didn't say it, he said it—and the Congressmen, I suppose that is what prompted their calls, and their discussions with the rest of the representatives over on the Hill, one with the other, how far do these United Mine Workers want to go on these bills?

Are they going to be satisfied with a weak bill, a strong bill, or no bill at all? And I am sweating blood, and the rest of the men are sweating blood, to try to get this legislation through. And that caused a great confusion in the minds of many people over on the Hill as to whether or not we were sincere in wanting these things.

And that is why I said that he could no longer go around the halls of Congress and convince these people. And I don't believe that I am far afield when I say that he isn't convincing anybody about anything over there any more.

I haven't restricted him, and I haven't restricted him in any way, shape or form, he hasn't been restricted. But I think the people have lost confidence in him, because I have told them what the United Mine Workers of America and this president wants, and we will take no less. And now they believe me again. But he ruptured all of that by his, what I call inept statements.

You were misled on that one, Mr. Rauh, because it did the coal miners of this country untold damage. And the coal miners of this country know it. The coal miners of this country are being called by Mr. Congressman and everyone else, so I am told, asking, what do these miners want? There seems to be a division in the policy of the mine workers organization. When we adopt a policy in the United Mine Workers organization, whether I like it or don't like it, and when the convention adopts the procedures, whether I like them or don't like them, I am compelled and controlled by those actions of those people, in the democracy that prevails in the United Mine Workers organization I am compelled to do that.

And it might interest you to know that Mr. Yablonski voted for all of these things along with everyone else. And in all of his time on the international executive board—and I was there before Mr. Yablonski was—in all the time that he has been on the international executive board up until now, up until the middle of May, so to speak, when he changed his mind for some reason, he has voted for these very same things, and he voted for this legislation that he now says isn't any good, that I am passive, that I am inept, he voted for them. And he never voted no once on the international executive board with one exception, when the board unanimously selected me to be the trustee of the welfare and the retirement fund in Mr. Lewis' place, he refrained from voting, which was the same as voting no.

That is the only record that I can find in the history since he has been a board member that he voted against the policy of the organization or against the majority.

That is why I was compelled to remove him, so that he discontinued going around telling people on the Hill, they don't mean what they say.

Q. You say that a lot of Congressmen called you after Mr. Yablonski said you were inept and passive. Could you name a few?

A. I don't know that they were all Congressmen. Some of the AAs—I said, if you will read the answer, that a great many of them were contacted by the other representatives of Labor's Nonpartisan League, namely, Mr. Kmetz, and Mr. Combs, is what the answer is, regardless of what your associate has written to you on it.

Q. You didn't say earlier that some Congressmen called up after——

A. Yes, I have had calls from Congressmen. And I am not going at this time to disclose their names so that they are put in jeopardy, either. I have got plenty of them that called me, and they are not going to be threatened or placed in jeopardy by talking with me. I don't have to, I am not required to under the deposition. I don't know what purpose it would serve to tell you that John Doakes called me from the State of Florida or Indiana or Timbuktu on this legislation, I don't know for what purpose that would serve this deposition.

Q. I will tell you, you said a number of Congressmen called you after Mr. Yablonski called you inept and passive. I question that. And I ask you to state the name of a single Congressman or his office that called you.

A. And I am not going to put them in jeopardy by telling them, I am not required to.

Mr. CAREY. Can you recall their names?

The WITNESS. No, I cannot recall their names.

Mr. RAUH. Again, Mr. Carey, I suggest that you had no right to ask that question. To clear up the record, you have the right at the end.

Mr. CAREY. I would rather clear it up now. I believe in doing things properly and quickly and get it over with.

By Mr. Rauh

Q. Did you consider it opposition to the policies of the international union to call you inept and passive?

Mr. COMBS. Don't answer that. He has gone over that several times.

By Mr. Rauh

Q. Can you name a single policy of the international union that Mr. Yablonski opposes?

Mr. CAREY. You have answered that question, you said that you will take the document as a whole, you are not going to take it out of context. And you stand on that position.

The WITNESS. Read in the newspapers what he said recently.

By Mr. Rauh

Q. What are you referring to in the newspapers about what Mr. Yablonski has said recently that you consider opposition to the policies of the international union?

Mr. CAREY. I am going to direct you not to answer, because this occurred subsequent to his removal from office, and it has nothing to do with the issues being litigated. I will direct you not to answer.

Mr. RAUH. This is the first time I have ever taken a deposition with two lawyers testifying for the witness.

The WITNESS. Let the record show that there is two lawyers that are questioning me too.

Mr. COMBS. We are not directing the witness, nor have we said a word to him.

The WITNESS. I guess he is a lawyer.

Mr. CAREY. He is a courier with baggage.

Let that observation remain, because it carries no import. I am used to this with Mr. Rauh.

By Mr. Rauh

Q. I call to your attention the fact, Mr. Boyle, that when I asked you what policies of the international union Mr. Yablonski opposed you referred solely to the fact that he had called you inept and passive. I now ask you whether you can name a single policy of the international union which Mr. Yablonski has opposed.

A. I refer you to the resolution.

Q. What part of the resolution.

A. All of it, in toto, and the minutes of the board meeting, a copy of which you have been supplied.

Q. But you refuse to state the differences of policy?

A. I am not getting into that.

Mr. CAREY. Answer the question, and don't answer any further questions involved in that particular matter. This is repetitious.

By Mr. Rauh

Q. On July 15, 1969, in opposition to our efforts to obtain a preliminary injunction reinstating Mr. Yablonski, Mr. Owens, your attorney, made the following statement at page 17:

"Here is Mr. Boyle, charged with the duty of carrying out this important function, fighting Congress in legislature to get specific legislation."

What specific legislation are you seeking in Congress?

A. If I understand the question, you are speaking about the international secretary-treasurer, John Owens.

Q. No, this was the statement of Mr. Willard Owens at the hearing.

A. I suppose he referred to safety legislation, I don't know.

Q. What specific legislation are you seeking to which Mr. Owens was referring? What legislation do you want?

A. I think that that is very simple. I think that everyone knows what legislation we want. I think that that question is completely—presently we are—first, we are interested in all labor legislation, but primarily we are interested in the health and safety bill before the Congress.

Q. Which bill?

A. I forget the number of it. If you will just permit me to finish my answer, I will go ahead. Of course, if you are going to interrupt me, I can't finish. Maybe if we can arrive at some kind of an understanding between you and me that you ask the questions and let me give the answers we will get along much faster.

We are primarily interested in the mine safety legislation, the dust control bill, two separate bills. And we are also interested in the pneumoconiosis bill, the only one before the Congress of the United States presented for introduction by the United Mine Workers of America after receiving the proper approval. These are the three bills that we are primarily interested in. There is other legislation over there as it affects labor, certainly, and as it affects the cause of the common man and the working people of this country.

The United Mine Workers do the best they can to aid and assist in the passage of that legislation. And that has been historically true of the United Mine Workers Union. I think it can be factually said, and truthfully said, and the record will reveal, that the United Mine Workers organization was responsible for the passage of the Social Security Act, if any labor organization was responsible for it, the Workmen's Compensation Improvement, and things too numerous for me to recall right now that the Mine Workers are concerned in.

And I know that you would be greatly interested in knowing that we were successful just of recent date in the great state of Ohio for the first time in getting a bill passed through that Congress over there for the victims of pneumoconiosis. I was asked to come over here and meet with the Governor and the officails of the government and the Senate and the House, and I took time out on a weekend from a busy schedule and went over there and did that. And we were successful. And I played a small part, I suppose, in getting that bill through.

When I arrived the bill had passed. I believe, 8 to 4, in the House, and was killed in the Senate. And it was passed after.

Those are the things that we are concerned about in every state, and over on the hill.

Q. Are you finished?

A. Yes.

Q. You referred to three bills, specific bills on the hill. Will you state exactly what those three bills do and who the authors of the bills are and give us the details of that?

Mr. OWENS. That is irrelevant. We will furnish copies of the bills and put them in the record, and you will have the number and all that.

Mr. RAUH. I suggest to you, Mr. Owens, that Mr. Boyle is purporting to be active on legislation, and I am cross examining now on the question of whether he knows anything about legislation. This is very relevant.

Mr. OWENS. How would that be relevant? You are talking about whether the removal of Mr. Yablonski was a reprisal for running, not about the specifics of the bills.

Mr. RAUH. Mr. Boyle himself has continuously said how he had to act in Mr. Yablonski's place. I am suggesting—and I am questioning on the point—that Mr. Boyle can't act in Mr. Yablonski's place because he doesn't know a single thing about the legislation. I am trying to get at the question. And it is very relevant.

By Mr. Rauh

Q. Mr. Boyle, my question is this. You referred to three bills on the Hill. Will you state their authors and anything about those bills that you know?

A. Do you want me to answer that?

Mr. CAREY. In the first place, let me reply to the snide observation of Mr. Rauh that Mr. Boyle knows nothing about the legislation which is pending, which he knows is completely untrue. He made that observation without anything to support it at all. And I particularly resent a generalization such as that which is so contemptible coming from a member of my profession.

Mr. Boyle has sponsored legislation on that bill for a period of years, long before Mr. Rauh was familiar with a coal mine or knew what a coal mine was. Now, the specific legislation we are willing to identify by number as to House and Senate.

These bills have been proposed at the behest of the United Mine Workers of America. We are perfectly content to hand him at his convenience a copy of these proposals. Now, we are not going to get into the specifics of legislation, because it is not relevant to the matter here. The only issue that this litigation is about is whether Mr. Boyle had the right to remove Yablonski as acting director of Labor's Nonpartisan League on June 6, 1969.

What occurred subsequent to that is of no moment as far as that issue was concerned. The question is, what occurred prior and on that specific date. Anything beyond that is not relevant, it is not material, and it is not germane. And if this man wishes to indulge in a fishing expedition in order to clutter up this record with irrelevant material, he may ask the questions, and I am going to advise the witness not to answer.

By Mr. Rauh

Q. My question is, Mr. Boyle, you referred to three pieces of legislation on Capitol Hill in which you were interested referring to mine safety. I ask you, can you identify a single one of those bills by the contents or the author?

Mr. CAREY. I have made our observation for the record, and the witness will remain mute on anything you ask about legislation.

By Mr. Rauh

Q. Were the bills in before Mr. Yablonski was removed?

A. We had bills in the Congress——

Mr. CAREY. Just a moment.

I don't know whether he can answer that question with succinct answer yes or not.

Go ahead and answer that question.

The WITNESS. After the Denver convention in September, and after the reconvening of Congress, and after the resolution that was adopted at the Denver convention unanimously in September of 1968, the president of the international union contacted every president of the United Mine Workers, region, area, or district, in the furtherance of the mandate of that convention to get legislation passed in the coming session of Congress.

And in January of that year, 1969, proposals were made to Congress. Mr. Yablonski did not become the acting director until the 20th day of May, and was removed from office somewhere about the first week in June, June 6.

So I say without hesitation that these bills were all drafted, drawn. He concurred in them, was a party to them. He raised no objections, at least, to them, before he became the director. Now, it is all right for him to say as afterthought, perhaps, that we should have included the sun or the moon or the stars or something else in those bills to his liking, he could say that.

Those are the things I am trying to point out, Mr. Rauh, that are weakening the United Mine Workers bills today. And that is what I am troubled about, that is what I am concerned about. I am worried and concerned that the United Mine Workers who go down in the bowels of this earth are going to continue to die in these coal mines because this legislation is going to be watered down. And who is aiding comfort to this whole thing? You be the judge.

The president of this organization has been carrying out the mandate of that convention, he has been carrying out the mandate of the international board of which your client is a member. And now we find that I am inept, that I am passive, that I don't know what I want. And Congressmen are concerned about it. And you have had enough experience with Congress, I don't have to tell you, it takes very little sometimes to change a Congressman's mind. And so when we come out with a bill—and we will come out with a bill, Joe Yablonski notwithstanding, we will come out with a bill—it may not be what the United Mine Workers have been struggling and fighting for, but it will be a great improvement over what the present thing is, I can assure you of that.

And I told him that I would rock the halls of Congress if we didn't get it. And I meant just exactly what I said.

Sure, it has been weakened. Sure, some people over there are looking for excuses to vote——

Miss RICHARDS. Tell him the provisions of the bill. You know them, you wrote them all.

The WITNESS. I know them all. I helped write the bills, they were written in my office, I know all about the things.

That is just like Mr. Carey said, a fishing expedition to carry on the thing here, paid by the hour, I suppose.

By Mr. Rauh

Q. Mr. Boyle, you have just said that Mr. Yablonski charged you with not knowing what you want. I am asking you whether you even know what is in the bills that you referred to. Will you state the authors and the Senators and Congressmen in favor of these bills, whose bills they are and the substance of them, or won't you?

A. We will do better than that. We will supply you with a copy of them. And we will also give you their comments on them. We will supply you with a copy of every one of them that we went to and discussed the matter with.

And Mr. Yablonski, your client, wasn't around to discuss it with these people. He was not the acting director.

We will be happy to do that. We will be happy to supply you with the people that we contacted.

The only danger about that is that some Congressman may be endangered politically so by revealing that he was for or against or opposed to the Mine Workers bill.

You talk about reprisals. I know what has happened to Congressmen, and so do you. We vote for our friends, and we try to vote against our enemies. I think you do the same.

I don't think it is fair to expose those who were favorable to the Mine Workers suggestions and those that we have converted to us now, and then some of them that have left us, and some of them that we brought back, that that is germane to this deposition to tell you who those individuals are, and why, so that they are in political jeopardy in their respective areas because they support a strong Mine Workers bill. I don't think it is fair of you to ask me that.

Q. Have you finished?

A. Yes, sir.

Q. Exposed to whom? I didn't understand what you meant.

A. Exposed to whom?

Q. You referred to exposing these men.

A. Yes.

Q. How would your answering the question——

A. Because it will be in tomorrow morning's Washington Post or the New York Times that Boyle said that X Senator or X Representative had done so and so, it would then be given by Boyle, it would be given by Joe Rauh.

Q. Mr. Boyle, I call again to your attention the fact that we are not asking for you through your staff to produce bills, I am testing whether you know anything about these bills. And I am asking you again, you referred to——

A. I think you are insulting the intelli-

gence of the president of the international union who helped draft the bills—the bills were drafted in my office—to try to go on a fishing expedition as to what we put in and why we put it in and why we didn't put it in, and why we didn't take this, and why we didn't do that. You point out to me as an attorney where that is germane to taking a deposition as to whether Mr. Yablonski should have been retained as the acting director of Labor's Nonpartisan League, a man who has been on the job for nine days before the so-called reprisal took place. He knows more about it than the president that has been down here lobbying for 21 and a half years.

I have been down here lobbying for 21 and a half years with John Lewis. I think I have some knowledge of what is in those bills. And you know better. You know better.

Q. Have you finished?

A. Yes.

Q. Will you state what is in those bills here?

A. No. We will supply you with a copy of them.

Mr. CAREY. Mr. Boyle, I see no harm in your explaining what you know about these bills, the gassy, nongassy mines compartment——

Mr. RAUH. Wait a minute. Don't you tip him as to what he should say about these bills. If he wants to explain these bills, that is one thing, but it is not up to the lawyer to tip the witness as to what is in these bills like you were just trying to do.

Mr. CAREY. He knows these bills backward and forward.

Mr. RAUH. Let him explain them to me.

Mr. CAREY. I am suggesting to him——

The Witness. I can't see that this has anything to do with the deposition. You might as well ask me if I am going fishing next Monday.

By Mr. Rauh

Q. I don't want to argue with you any more. Are you going to answer the question that has been repeatedly asked as to what is in these three bills or not.

A. I answered one of them, and that is on the three milligrams. Do you want me to repeat that? Are you trying to fill this thing up?

Mr. CAREY. I wouldn't get into that aspect. Tell him the other aspects of the legislation.

The Witness. There are three bills over there. The United Mine Workers of America is the only individual or group of people that have introduced three bills.

By Mr. Rauh

Q. What are the three bills substantially, and who are the Senators or Congressmen whose names appear on those bills?

A. Well, again I tell you, the pneumoconiosis bill that is of vital concern to us, and is all important to us, I don't mind relating it to you. The pneumoconiosis bill that the United Mine Workers had introduced in Congress does something that no state in the Union does, absolutely none, not a state, even where they have pneumoconiosis laws in the state. This bill would do something that no other Congressman or Senator has introduced over there on his own. We asked that the Federal Government pick up the tab and be responsible for those victims of pneumoconiosis who contracted this dreadful, killing disease prior to the passage of any state laws, which don't make it retroactive.

We asked that that be done. We ask that the Federal Government accept the responsibility of picking up the tab for those victims of pneumoconiosis, or better known as black lung, for those mines which have completely gone out of business or are no longer in existence, the owners may have passed to the great beyond, but the men are still alive and dying from black lung.

We asked that that bill be passed. That bill is now being pushed. We will get around to pushing it, because right now what vitally concerns the Congress of the United States is the mine safety legislation.

Now, why did we introduce three bills instead of just one bill? Because with your experience you know, Mr. Rauh, it is very easy for a Congressman to say, "I love your mine safety bill that protects the lives and limbs and the well being of coal miners, but I just couldn't go for that pneumoconiosis thing," or vice versa. And we didn't want them to have that excuse. Or, "we don't like your black lung dust bill, because that three milligram thing, the operators can't meet it, they will go out of business, the operators have told me they will go out of business if they have to come down to three milligrams, and you are too tough on that, I would have liked to have voted on your safety bill, but I had to vote against it because you are going to put the mines out of business with your three milligram bill."

So we put in three bills, safety bill, the dust control bill, and the black lung bill, better known as the pneumoconiosis bill. And those were all drafted before Joe Yablonski showed up on the scene, and he had nothing to do with them, he had nothing to do with the drafting of those bills.

And we are going to push for them. And the Congress, so they tell me—not by Mr. Yablonski, because he doesn't converse with me or tell me what he does or doesn't do—but I am told by other sources that the Congress of the United States is combining the safety and the dust bill, and saying nothing about the pneumoconiosis bill presently. And we have thousands and thousands and thousands of coal miners in this country that, unless we can get the Federal Congress to pass a pneumoconiosis bill, will get nothing out of any legislation, statewise or otherwise, because they won't make it retroactive. And I am greatly concerned about that.

Now——

Mr. CAREY. What are the features of these bills that you are aware of, some of the other features that may have escaped your memory.

The WITNESS. I have told you about the black lung——

Mr. RAUGH. Mr. Carey, don't——

Mr. CAREY. I am not telling him, I just said——

The WITNESS. Which bill do you want to know about that I haven't told you about?

I know what you want. You want to know what is in our mine safety bill, I suppose.

By Mr. Rauh

Q. I would like to know what is in any of them, and who introduced them and where they stand at the present time.

A. You know who introduced them. I will tell you who introduced them, and then he will have to take his chances politically, I suppose, if you want to jeopardize him politically. I can tell you who did it.

Q. Who did it.

A. Johnny Dent introduced it in the House of Representatives, and Carl Perkins introduced our pnuemoconiosis bill. What more do you want to know? Are you questioning?

Q. Certainly.

A. And our safety bill was introduced by a group of Senators and a group of House Representatives over there, a group of them. And Senator Williams is the subchairman of the committee that I testified before on the safety bill at the time some of your associates were taking pot shots at me. Your client sat in the front—and we have witnesses to the effect—sat in the front row of the auditorium—we had to have the auditorium for the television and what have you when I testified. And he was the first one to run up and put his arms around me and greet me and tell me what a marvelous, magnificent job I did in presenting the mine workers case on mine safety. And I took the position that because of the Farmington disaster that a lot of these people who have never seen a coal mine, never worked in a coal mine, were not interested in coal miners, and could be less concerned about coal miners, all got on the band wagon, and they were all going to make political hay and otherwise out of the Farmington disaster where they killed 78 men down there.

All right. When our legislation went in we asked for more restrictive things in that bill than what the so-called Johnson bill that went up in October, I believe it was, or September——

Mr. CAREY. September.

The Witness. September or October.

And then it went up again in January.

And then in September Congress recessed and no action was taken on the Johnson bill.

The Johnson bill was a much weaker bill than the Mine Workers bill.

And then it went up again in January, and they would take no action until the new administration came in. And when the new administration came in they took lifts out of the Mine Workers bill, the same as your Congressman friend over there took lifts out of the Mine Workers bill, and said so in print that he took six or seven lifts out of the United Mine Workers bill. He liked it. He didn't have them in when he introduced his bill, but he has got them in there now.

Now the United Mine Workers bill calls for things that they don't call for in these other proposed bills or legislation over there that I am greatly fearful that we will get because of my ineptness, ineffectiveness. I am greatly concerned. I took a position, strong position, the first time it has ever been taken in the history of this organization, that the Federal Bureau of Mines under the Department of Interior should be charged with the responsibility—and Joe Yablonski didn't say this, Tony Boyle said it, and it was concurred in. And after I was on the scene of the Farmington disaster—I was there before Joe Yablonski knew there was a disaster, I flew down there immediately, I was there, Charlie, and I am telling you that you made up my mind then that when legislation went before the Congress that I would recommend to the international convention, or I would recommend to the international board, or I would recommend to any associate officers, or anyone that I could get to agree with me, that these coal mine inspections under the Bureau of Mines was a farce as far as I was concerned.

They make an inspection every three months, and sometimes every four months. And then they leave. And then the mine gets in such a deplorable condition that the Federal Mine Inspector and the State Inspector notify the coal company in advance that we will be there on X date, and they start a house clean arrangement, so that the mine is in good shape.

And then they make the inspection. And they find few violations. And they clean it up. And after they leave again they know that they won't be back again for another three months.

I told this in the auditorium down there before 200 people, before Mr. O'Leary and Mr. Udall and all the rest of them. I told them down there—maybe you were there—I told them in this bill now that I want a Federal Coal Mine Inspector stationed in every coal mine that liberates methan gas in quantities that are dangerous and injurious to the life and the well being of these coal miners. If they can put these wardens, I told them, out here on the streams to check me if I have got a fishing license, they can put these Federal Coal Mine Inspectors in these coal mines. And if their lives are endangered, and if they have to test for this methane gas, if they have to look at a bad roof, if they have to see whether this dust meets the requirements of law, then they themselves, stationed there every day, will be more concerned and more interested.

That is now being pushed, a Federal Coal Mine Inspector.

And I say that this government is lax, and the Congress of the United States is lax, and anyone else is lax if they don't compel a Federal Coal Mine Inspector to be stationed in every mine of the United States that liberates excessive quantities—and let that determination be made by the Bureau of Mines, I won't make it—but excessive quantities that are dangerous and injurious to the life and the well being of those coal miners.

All right. What else, they said, does this man Boyle want?

Well, I came up with another one. And they said, where did he ever discover that one? No one has ever asked about it. I asked. And in explaining my reason for it I told the Congress of the United States, I told the Senate, that never in the history of coal mining in this country have they had safety chambers in coal mines.

They said, what do you mean by safety chambers?

I said, I have been through these explosions, and I know that mens' lives can be saved, not all of them perhaps, but some of them at least can be saved if they have a place that they can flee to in the event of an explosion where they can close the doors, and that these coal companies should be compelled and required to put safety chambers in these mines.

The coal companies are fighting it. It is too expensive.

I, as you well know, without me telling you, I rate the human being and the well being of the human being and his health and life above a profit. Let me put these safety chambers in these mines.

All right. I wanted the ventilation of the coal mines of this country increased from 6,000 cubic feet to 9,000 cubic feet to sweep those faces—and if you don't understand what I mean by faces, that is where the men actually work, where this dust is created—to sweep those faces with 9,000 cubic feet of air instead of 6,000 cubic feet of air. And they are fighting that.

I made the statement that if these manufacturers can develop a machine that can produce 50 tons per man per day, that they should be compelled to build a machine that will eliminate this dust hazard in its entirety. I asked the Congress of the United States to do that in this legislation.

And I asked further that if these companies that now have these expensive machines in there are to be given any time at all on the part of this U.S. Congress, it should be limited, it should be a limited time, in order for these manufacturers of these machines to come in and put a hood on these cutting machines, those continuous miners, so that that dust could be eliminated, and cut down to three milligrams.

I asked them to do that.

I have asked those things along with many other things that I just don't recall right now. Those are the important things that I want in that bill. I want that ventilation increased to 9,000 cubic feet. I want safety chambers in those coal mines. I want a Federal Mine Inspector placed in every coal mine in this country that produces and gives off excessive methane gas, and let the experts in the Bureau of Mines determine what is excessive.

I know what is excessive. Anything that will cause an explosion is excessive.

And I insist and have insisted, and nothing much has been done about it. And I will bet you that when our legislation comes out it will be watered down, that a Federal Mine Inspector won't be stationed at every one of these mines so that his own life is endangered as well as a coal miner's life is endangered. And I told the Senate and I told the House when I testified before both of them that if a Federal Mine Inspector was in that mine every day paid by the Federal Government, not paid by the coal company so that he could be bought off, not paid by this union so that we are accused of buying him off, but paid by the Federal Government.

That is their responsibility, to protect these men. And if he was paid by the Federal Government to be there every day, you would see how few explosions we would have. You would see how few injuries we would have in coal mines. They won't put that in the bill either when this gets watered down.

Of course, I will be the one that will take the bumps, because I am inept, I don't know what I want.

Mr. CAREY. You are passive.

The WITNESS. I am passive, just take it—he doesn't mean it.

I don't know how loudly I could shout over there in the Congress of the United States to try to impress them.

And your client hugged me, he didn't shake hands with me, he hugged me, he hugged me in the presence of people who will give affidavits, and said that that is the best testimony that has ever been given on mine safety legislation, we will get you some affidavits if you want it on that, that they heard him say it, the best testimony that was ever given by any president of this organization.

"I am proud of you, I am proud to be a member of this union with our—with you as our leader. You certainly told them off today. You told them, by God, what the coal miners are entitled to. You just keep fighting, and we will get most of it or get some of it at least."

I think that answers your question, Mr. Rauh.

By Mr. Rauh

Q. Have you finished?

A. Yes.

Q. There are three pieces of legislation you referred to. Will you state for me the introducers. First was the safety legislation. Who introduced it in the House and who introduced it in the Senate?

A. It was back—pneumoconiosis bill as I recall—

Q. I am referring to the safety bill.

A. The safety bill was introduced by accident. And if my memory serves me correctly—I am trying to think of the Senators—what is that fellow's name—Williams.

Mr. CAREY. Harrison Williams.

The Witness. Yes. I was trying to think of his first name. I couldn't think of it. Harrison Williams.

By Mr. Rauh

Q. Who introduced the dust control bill in the House and the Senate.

A. Jimmy Dent.

Mr. CAREY. John Dent.

You know that is a slip of the tongue. He knows Johnny Dent for 25 years. Don't make a mountain out of a molehill. Congressman John Dent.

By Mr. Rauh

Q. And who in the Senate?

A. That introduced the——

Q. Dust control bill.

A. Well, there was a group of them, several of them.

Q. Can you name any of them?

A. Yes——

Mr. CAREY. If you have identified a group, I don't see the necessity of identifying them specifically. This to me is surplusage. The bill has been introduced at the behest of the union, whether Peter Doakes or John Doakes or Casper Milquetoast presents them is unimportant. The bills are presented. That is the important thing. The name to me are just hog wash.

By Mr. Rauh

Q. Can you name any Senator who introduced the gas control bill.

A. Yes, several.

Q. Who?

A. By the way, if my memory serves me correctly, on that other one previously, I think Saylor was on it too, if I remember right. I can't remember all of their names.

Q. Can you name any Senator on the dust control bill?

A. Yes.

Q. Who?

A. Williams, Harrison Williams.

Q. Any other? You said there was a group.

A. Yes, there was a group. But you have got to remember that I have been working on this thing since January, and some of them that submitted their names then skipped my mind. And I have a department that is supposed to be very familiar with everyone on that. And I have got a department that I pay well to be familiar with all of the names and everybody to contact and those that they don't contact. I don't know why it is so important that I recall verbatim every man who listed his name as being a party to these bills over there.

It might interest you to know that not only the men who are authors of this bill, not only those people who are authors of the bill were contacted by this president of the United Mine Workers, but people that we tried to influence that were not authors of this were contacted. Now, ask me who they were, and I will tell you that I am not going to tell you, I am not going to put them in jeopardy.

I know what you will do to them.

Mr. CAREY. I object to you asking who is the author or who proposed the bill. He has indicated the substance of the bill. The basic issue, if it is an issue, and I don't think it is, is what is contained in the bill. That is what is important to the coal miners of the United States, whether the man comes from Tallahassee or Oshkash or Walla Walla or what his name is is unimportant. He has given you the substance of the bill that you asked for. And I say, to ask him specifically name after name after name is a waste of time. It is irrelevant. And it is surplusage. And I suggest that you not go into that any further.

By Mr. Rauh

Q. I will ask the question, who introduced the black lung bill in the House, the pneumoconiosis bill in the House, and who introduced it in the Senate?

Mr. CAREY. You don't have to answer that, Mr. President.

The WITNESS. I have already answered who introduced it in the House.

By Mr. Rauh

Q. Who did?

A. I think the record will show that Carl Perkins played a major role in it.

Q. And who did it in the Senate?

A. I think that will—the same ones that were on—the same men that were on our other bills introduced it.

Who is on the bills, and who is not on the bills is not as important to me as the contents of those bills, and what they will do for coal miners, and what they won't do for coal miners, and the watering down of that legislation by other people, that is more important to me than whether Joe Rauh's name is on there or Tony Boyle's name is on there as introducing a bill in the House to provide for those things. They only have one vote. We are trying to convince the Congress of the United States that this is good legislation, and that they all ought to pass it. And I have talked with so many of them that I don't recall. There could be—you could ask me how many men are on those bills, and I would have to ask you how many fish is in a barrel, because I don't know.

Mr. CAREY. The names are all for the birds anyway, aren't they? What we are interested in is substance.

The Witness. We are interested in what is in those bills, and what they are going to do for the mine workers.

Mr. RAUH. Mr. Owens, you said something——

Mr. OWENS. You can't tell me when to talk to my co-counsel and not to, any more than I can tell you when not to talk to Mr. Moore.

Mr. RAUH. What was that you said?

Mr. OWENS. I am not going to have you tell me when I can talk to my co-counsel.

Mr. RAUH. You are talking to him constantly.

By Mr. Rauh

Q. Mr. Boyle, the Senate has reported out a bill, has it not, the Senate committee?

A. Yes.

Q. Would you tell what of your three bills is contained in the bill reported out by the Senate?

A. I am not going to go into detail, because your client hasn't advised me as yet as to whether or not we can get the full contents of that. The CONGRESSIONAL RECORD will disclose, I suppose.

But I don't have the time. You see, I have something else to do. That is why I appoint departmental heads, to keep me advised, and your client has refused to do so. He has declined to do so. He won't do so, on vacation or off vacation, he won't do so.

It might interest you to know that your client is more interested in other things than he is federal mine legislation. And I have other duties to perform as the president of this legislation. You have one duty to perform, that of an attorney. I have got many duties to perform as the president of this organization, and many locales and localities to look out for, and hundreds of thousands of men who depend upon decisions that I make from day to day. But you and your client don't have that responsibility. And so for that reason I cannot keep abreast with every fishing expedition that you care to explore.

But we will be glad to get that information for you if it is unavailable to you, we will get all of that information for you.

Q. Mr. Boyle, my question is a very simple one. Will you state or will you not state what parts of the bills which you have referred to as the mine workers bills are contained in the Senate Labor Committee bill that has been reported out.

Mr. CAREY. I object to that, because this is a constant revolving situation. What was in the bill today may not be in it tomorrow. This is a thing that is fluid, and you know it is. And we are not going to discuss it.

Mr. OWENS. It is irrelevant to anything in the deposition.

Mr. Rauh, if your idea is to take a deposition in a law suit, that is one thing. But if you are trying to try this law suit as a political campaign manager and trying to find some part of this that you can distort for that purpose, that is an improper action. And we are going to see what happens, if that is what you have got in mind. Now, if you want to ask him questions about the matters that have involved in the removal of him from his job as acting director, that is one thing. But when you get into all this other stuff, you show that you are abusing the procedures of the court and the legal procedures for an entirely different purpose. It is improper.

Now, we have let you go far afield because of the possibility of any relevant matter or anything that would lead to any relevant matter. But obviously that is not what you are doing. I would advise him to not answer any more questions. We haven't got the time to sit here and listen to you do it.

The WITNESS. Coal miners are dying while we are here. Maybe I could help some way or other.

By Mr. Rauh

Q. Has Mr. Yablonski ever disagreed with any of the specific parts of any of the three bills that you purported to describe?

Mr. CAREY. What particular period are you referring to? Prior to June 6 or subsequent?

Mr. RAUH. Will you read the question please.

(Record read.)

Mr. CAREY. Prior to or subsequent to June 6?

Mr. RAUH. The question speaks for itself.

Mr. CAREY. The question does not speak for itself, because there is no time limitation to it. The time limitation in this particular litigation is June 6, 1969, and that is all we are litigating. If you want to know on that date or prior thereto, then you may ask the witness. But subsequent to that, absolutely not. Because the issue arose—and the issue being tried here is a very narrow issue, whether the president of the international union can remove a man who indicts the entire administration and takes issue with what is being done.

By Mr. Rauh

Q. Mr. Boyle, have you ever prior to June 6 heard directly or indirectly any criticism by Mr. Yablonski of any of the three specific bills that you have purported to describe before?

A. Prior to June 6?

Q. Yes.

A. To the contrary, he upheld in speech after speech after speech after speech the things that the United Mine Workers were for, and its president. And then all of a sudden in nine days he became inept, passive, doesn't know what he wants, in nine days time. "The greatest man in labor today." That is his statement, not mine.

Mr. CAREY. That is May 29 you are referring to?

The Witness. Yes.

By Mr. Rauh

Q. At any time prior to June 6 did you hear him criticize any of those three bills specifically, or did anybody tell you that they had criticized those three bills?

Mr. CAREY. He has answered the question. I suggest that he not answer a repetitive question.

By Mr. Rauh

Q. Since May 29——

A. I am going to answer that question by saying this, that he wholeheartedly supported the mine workers legislation until he became a candidate for president of the United Mine Workers, and then he went over there to the newspapers with you and told everybody that I was inept and I wasn't doing this and I wasn't doing that, and that my legislation wasn't any good.

Q. Have you finished?

A. No, I haven't finished. I can make a speech here as long as you want me to stay.

How long would you like me to make a speech, an hour? I can tell you about the things that have happened since May 29.

Q. Please do, What happened beyond May 29 and since?

Mr. CAREY. Mr. Boyle, you have answered the question.

By Mr. Rauh

Q. Are you finished?

A. This is all for campaign purposes, this is for you and other associates of his.

Mr. CAREY. You have answered the question that he asked.

By Mr. Rauh

Q. Between May 28 and June 6 inclusive, can you point to any criticism by Mr. Yablonski of the three bills that you purported to describe?

A. I wouldn't recall what days they were, because I don't keep track of the days, and I don't keep those things, and I don't know whether it was on the 1st, 2nd, 3rd, 4th, 5th or 6th of June, I wouldn't know what days they were. And I don't think that you know what suit you wore on the 3rd day of June either, I don't think you know what I ate on the 4th day of June either. You are asking me questions that are most unreasonable as to whether or not I remember certain dates. I don't recall what dates they were.

Mr. CAREY. You have answered the question.

Mr. RAUH. Now, Mr. Boyle, since you don't recall the dates they were, can you state any criticism, specific criticism by Mr. Yablonski at any time of the three pieces of legislation you described before.

Mr. CAREY. At what time and what period?

Mr. RAUH. Any time, can you name——

Mr. CAREY. Don't go beyond June 6, Mr. Boyle. If the question is restricted from May 29 to June 6, answer the question. If it is subsequent to that, hold your fort and don't say anything.

The Witness. Well, it was——

Mr. CAREY. Let's have the question. I want the time spelled out.

Mr. RAUH. Mr. Boyle said he could not recall anything between May 8 and June 6 inclusive.

The WITNESS. I didn't say any such a thing. Let the record show that I didn't say that. I didn't say any such a thing. I said I can't recall the days.

Mr. CAREY. That is what he said.

By Mr. Rauh

Q. Putting the days aside, Mr. Boyle, can you recall or state any criticism made by Mr. Yablonski during the period May 28 to June 6 of the specific legislation that you described before.

A. Yes.

Q. When was that?

A. It happened during the period of time when you were advising him as his attorney that the main legislation was passive and inept on the part of the president of the organization, it was in the paper, it is in your statement, it is in the one that you helped him with when you were at the press conference over at the Mayflower Hotel, is the one that I am referring to. He took exceptions to it in the newspapers since then. He has taken exceptions to it, and so have you, in the newspapers.

If the newspapers are correctly quoting you, and I guess they are, why there are all kinds of statements in there that challenges not only the president, they will challenge his own union, because the union is the one that passed on it, not me.

Mr. CAREY. This is on May 29 when he made his statement. That is what he asked for.

By Mr. Rauh

Q. Have you read Mr. Yablonski's statement of May 29?

A. Yes.

Q. Will you take it in your hand now on page 1 and go through it and point to any specific criticism which he has ever made of the legislation you described before?

Mr. CAREY. Don't answer that question. That question has been asked at least two or three times, and we refused to be exposed to repetition after repetition.

By Mr. Rauh

Q. Mr. Boyle, on July 15 Mr. Owens stated at the court hearing as follows:

"The work"—referring to the work in District 5 to which you assigned him—"even gave him an increase of $5,000 in pay over and above what he would be getting as acting director of the Labor's Nonpartisan League, or as an executive board member."

Would you explain how he would get $5,000 more in the job to which you sent him?

A. That is exactly right.

Q. Would you explain how that was.

Mr. CAREY. Explain it to him.

The Witness. I would be happy to. That is exactly right. There couldn't be a more truthful statement. Mr. Yablonski, the director of the Labor's Nonpartisan League——

Mr. CAREY. Just a moment. Do you want an answer to this question or not?

Mr. RAUH. I hear it.

Mr. CAREY. You have turned yourself away. I suggest that you listen to an answer that you requested.

Mr. RAUH. I can listen to the answer and ask for a document to be used later to save time.

Mr. CAREY. You are a most phenomenal man if you can.

Go ahead.

(Short recess.)

Mr. CAREY. You may proceed.

By Mr. Rauh

Q. I think Mr. Boyle was in the midst of explaining how he gets $5,000 more for working in the field as head of Labor's Partisan League and as a member of the executive board.

A. All members in the field do not get $5,000 more, Joe Yablonski is one of the exceptions.

Q. Could you explain why?

A. Yes, I would be glad to. The League director—and this is subject to review now, because these are figures that are hard for me to carry in my mind, because there are so many different salaries in our organization—but subject to checking them, the league director's salary was somewhere around $17,000, I believe it was, and before he retired he was getting something more than that, they gave him an increase, as I recall, I forget how much.

The international board members get $20,000 a year.

When I arrived at an idea for a new division in the organization—I never had one before—to be created known as the Organizing Committee, subject to the approval of the International Executive Board, I set up such a committee, and the board approved it. The deceased John T. Kmetz was the first director. And he recommended certain individuals that he wanted on his organizing staff. So we paid those individuals—and Joe Yablonski was one of them—$5,000 a year more than what the other board members got. It is just that simple. He got that $5,000 for being on the organizing committee.

Now, returning to his home state where he was elected, where he lives, where his family is, with the exception of the son that he has down here—and that was another thing I failed to mention earlier, that he told me that as to moving from Pennsylvania, his wife would be more than happy to do so, because she had a son and grandchildren here. He failed to carry that out, he never moved here.

In returning him to his home district I thought I was doing him a favor, I didn't send him to Timbuktu, he didn't—I didn't send him to Alaska, I didn't send him to Siberia, I sent him to where he came from, where he liked it best. And there is a lot of work to be performed. And because he didn't go other people are doing the work. And this union is paying the bill.

Now, he is getting $26,000 a year and expenses in Washington for a job that we never paid the director that much for before. Now, if I had reduced his salary to that of the directors, you would have been the first one to say it was a reprisal. You would have gone down to court and said it was a reprisal, they cut his wages. But the other director held the job for 30 years and only got around $15,000, $16,000, $17,000 so he is getting $26,000 now, although the constitution gives me the right to cut him below that, if I cared to do so. But I didn't want—I have nothing personally against Joe Yablonski.

Any man can run for this job if he is qualified and can get it. I don't——

Mr. OWENS. Let me interrupt. There is an important call for Mr. Carey.

(Off the record.)

By Mr. Rauh

Q. Had you finished your answer with respect to the $5,000 increase that he would get in the field?

Mr. CAREY. What was the last part he said.

(The record was read as follows:)

"Answer. All members in the field do not get $5,000 more, Joe Yablonski is one of the exceptions."

The WITNESS. I guess I have answered it.

Mr. RAUH. The record should show that the time is now 1:40. I am prepared either to go on or to recess for lunch at the convenience of the witness. I am prepared to come back after lunch or to come back in the morning. And I want the record to show that I am leaving this entirely to the witnesses' convenience.

The WITNESS. I think I would like to continue on, for work reasons is all.

Mr. CAREY. We would just as well continue.

The WITNESS. I would just as well continue, if it is all right with you.

Mr. RAUH. All right.

By Mr. Rauh

Q. At the same hearing of July 15 Mr. Owens stated as follows:

"Now the thing about being in District 5, he was district president one time and executive board member, and under the constitution you can't hold both offices."

I show you a copy of the constitution of the United Mine Workers effective October 1, 1968, adopted at Denver, Colorado, September 9, 1968, and ask you to point out to me the provision in the constitution that says one cannot hold both offices.

Mr. CAREY. We are not going to answer that question. It has no relevancy to the matter at hand.

The WITNESS. There was a contest on up there at the time.

Mr. CAREY. It has nothing to do with this issue. I will advise the witness not to answer.

The WITNESS. The man not in office today is contesting against Joe Yablonski for one of those jobs up there.

By Mr. Rauh

Q. Would you point out to me the provision in the constitution that supports Mr. Owens' statement, a representation to the United States District Court for the District of Columbia.

A. Yes.

Mr. CAREY. We have told you——

By Mr. Rauh

Q. I say, can you point that out?

Mr. CAREY. I have advised the witness not to answer. Why you persist when I have advised him—we have taken a position, period.

Mr. RAUH. Mr. Carey, you took the position that was irrelevant. It was relevant enough for your assistant to recite it to the United States District Court in opposition to a preliminary injunction to replace Joe Yablonski in his job. Now, if it was relevant enough for the District Court, to be stated to the District Court, it is relevant enough to be answered by Mr. Boyle.

Mr. CAREY. I suggest that everything said by a lawyer in court is not relevant. And if you are going to try and sell me that idea, you are just blowing up a false storm, because I say a lot of things in court which aren't relevant to the issue, and you know that too. In fact, lawyers are off the issue 98 percent of the time.

Mr. OWENS. Since I am the one that said it, it was merely a background—Mr. Yablonski is being returned to his other area, the area in which he was president, and the area in which he was an international executive board member. And I think I went on and said other things, that it being the heart of the coal field, and so forth, returning him to his job that he previously had was not a reprisal.

It had nothing to do with the constitution or anything about it.

Mr. RAUH. Since Mr. Owens spoke maybe he would point out——

Mr. CAREY. I would advise him not to. He is not under oath, he is not a witness.

Mr. OWENS. That part is irrelevant.

By Mr. Rauh

Q. In the same transcript Mr. Owens stated at page 20 as follows:

"Yablonski can't expect to use a job that he got assigned to him and then oppose doing the work that is assigned to him."

Can you Mr. Boyle state any time at which Mr. Yablonski has opposed doing the work that is assigned to him?

Mr. CAREY. What work are you talking about?

Mr. RAUH. I have given Mr. Boyle a question from the quotation speaking on his behalf. And it read as follows:

"Yablonski can't expect to use a job that he got assigned to him and then oppose doing the work that is assigned to him."

I am asking Mr. Boyle whether Mr. Yablonski has at any time "opposed doing the work that is assigned to him."

The WITNESS. In regard to that, rather than doing the work that was assigned to him, he doesn't do any work at all. And that is what he meant when he said this, that I have many departmental heads, the safety division, the organizing committee, the occupational disease department, and every district president from the West Coast to the East Coast from Canada to Alabama. And Mr. Yablonski, when he is in his office, which is very infrequent, when he is in his office expects me to hourly tell him what to do and when to do it. As a departmental head he is supposed to be telling these other people that work for him or with him, or his associates, what to do. I just don't have that time for any of these departmental heads. And that is what he was alluding to in my opinion when he said that he can't lead him around by the hand and tell him every hour of the day that you do this. He is getting $26,000 a year, $6,000 a year more than anyone else doing the same kind of work, maybe even $8,000 a year or more, in order to be able and competent to perform this work.

Now, he can't do it because he says he works under my direction. He works under my direction the same as the safety director. I haven't seen the safety director for days and days and days. That is not to say that the safety director isn't performing his duties and doing his work and taking care of the safety in these coal mines. If I were to take him by the hand and lead him to every coal mine he is to go to I wouldn't be doing anything else.

So Mr. Yablonski, when he is not running around the streets of Washington, and when he is not in his office, and when he is not out campaigning, and when he is not visiting with you, he is not over on the Hill performing this work, because I didn't tell him a specific hour to be there.

Now, I just can't do that, Mr. Attorney, I just can't do that.

By Mr. Rauh

Q. So you are unable to state a specific instance where he has opposed doing the work that was assigned to him?

A. I answered the question by saying that he isn't doing any work, very little if any.

Q. Which is it?

A. He is campaigning. You and he were in the newspaper this morning again. You ought to get it and read it.

Q. Would you tell me what newspaper it was so I can get it?

A. It is the Washington Post. You are in all of them.

Q. Would you state the nature of the story so I could find it?

Mr. OWENS. You can look it up, Joe, if you want it. You take the Post. I see you have got the cartoons on the wall here.

Mr. CAREY. He probably read it with his Post Toasties in the morning.

The WITNESS. He probably read it before I did.

Mr. RAUH. This is about the fifth time that I didn't bring something up, but Mr. Boyle brought it up, and then refuses to answer questions about it.

By Mr. Rauh

Q. You said you saw something in the Washington Post. I am asking you what that story was about so that I can see it. What was that story about?

Mr. CAREY. Don't answer that question. Let him interpret it for himself.

By Mr. Rauh

Q. Is that your answer, Mr. Boyle?

A. Yes, sir. Read the newspaper and place your own interpretation upon it. I have placed mine.

Q. Subsequently on page 20 of the same transcript Mr. Owens speaks as follows:

"He"—meaning Yablonski—"brings up these questions about federal and state legislative and administrative provisions. We have specific legislation that he is involved in that he says that he is opposed to that."

Would you state what legislation Mr. Yablonski said he is opposed to.

Mr. CAREY. In the first place, I will object, because Mr. Boyle didn't say that, Mr. Owens said it. So Mr. Boyle can't interpret Mr. Owens.

The WITNESS. I haven't read that, I haven't seen it.

By Mr. Rauh

Q. Can you name any specific legislation involved before federal and state bodies that Mr. Yablonski has said he is opposed to?

Mr. CAREY. That question was asked 15 times today, and I direct you not to answer the question. It is repetitious after repetition.

By Mr. Rauh

Q. On page 25 of the same transcript Mr. Owens states as follows:

"Then on page 3"—referring to the May 29 statement—"he goes down on what all he is going to do in here about compensation and greater payments for other injuries, and the establishment of a workers legal right to sue the coal operator for negligence resulting in the worker's injury.

"The COURT. Isn't that what the union is working for too?

"Mr. OWENS. Not of this specific legislation."

Let the record show that there had been a conversation between all three counsel and Mr. Boyle before I have even asked the question.

Mr. CAREY. Let the record reflect that I didn't say anything in any alleged conversation. That is a despicable and contemptible lie. I didn't say anything. And if you allege that I was engaged in a conversation, you are misrepresenting, you are prevaricating, and you are fabricating. And I suggest you get back and proceed with a little integrity and dignity.

Mr. RAUH. At least two of the three counsel were talking.

Mr. CAREY. You said all counsel.

Mr. RAUH. I thought you were in it too.

Mr. CAREY. Your thinking was completely wrong. It is just as wild as you generally are, you make a wild accusation without any basis of facts.

Mr. RAUH. I heard two of the counsel speaking to Mr. Boyle, and I thought I heard all three.

Mr. OWENS. I did not speak to Mr. Boyle.

Mr. RAUH. I heard you.

Mr. OWENS. I did no such thing.

Now, the way you have this room around here, if I want to say something to Mr. Carey, then because he is here, we are in close quarters, I am going to confer with him or say anything that I want to him. I can tell you what I said, that you are getting into matters that have nothing to do with this, and it is improper for you to do that, and we ought not to sit here and let you do this type of thing. And that is why I said that it is immaterial, it has nothing to do with the matters that should be taken up in this deposition.

I can say that to counsel and tell him to object to this all I want to. And there is nothing improper about it.

Mr. RAUH. That is exactly my point, you said that right in front of Mr. Boyle.

Mr. OWENS. Do you make an objection to it? Let's say it right out in the open in front of you and everybody else.

Mr. CAREY. In fact, I had my hand up to indicate that he was not to answer, because it was so obviously irrelevant.

Mr. RAUH. Now that you have said it is irrelevant, I would like a chance to ask the question.

Mr. CAREY. What is the question please?

Let him ask it again. We will probably save more time.

By Mr. Rauh

Q. The first question, Mr. Boyle is, did you understand the colloquy between Mr. Owens and the court which I read you, or do you want me to read it again?

Mr. CAREY. I will direct the witness not to answer any question on any comment between Mr. Owens, co-counsel in this case, and the court, because there is no obligation or no basis for Mr. Boyle to interpret the remarks of another person, and you know that is improper. If you want to ask Mr. Owens and take his deposition, that is a different matter. But you are not going to have this witness interpret another person's remarks. You know it is wrong, and you should know if you don't know.

By Mr. Rauh

Q. Mr. Boyle, I want to ask you a question about this colloquy. Do you prefer that I read it again?

Mr. CAREY. No. I have already told him, I have heard it, and I have advised the witness not to answer it.

By Mr. Rauh

Q. The question, then, Mr. Boyle, on the basis of that colloquy, is whether the union is working for legislation for compensation and greater payments for injuries and the establishment of a worker's legal right to sue the coal operator for negligence resulting in the worker's injury. Is the union working for that?

Mr. CAREY. Don't answer that question. You will answer that question in a proper forum, and this isn't the proper forum and he knows it. You will take your position when it is necessary. We are not going to try our case in the newspapers.

Why this snide reaction in the background there? You ought to have better manners.

By Mr. Rauh

Q. Would it be fair to say that as acting director of Labor's Nonpartisan League, Mr. Yablonski is in charge of legislation for the United Mine Workers of America?

A. I am sorry, I didn't quite hear the first part of it.

Mr. RAUH. Repeat the question, Mr. Reporter.

(Record read.)

The WITNESS. He has all of the responsibility and he has all of the authority as the acting director of the League in the same category as the director has.

By Mr. Rauh

Q. And what does that mean in respect to legislation?

A. It means——

Mr. CAREY. Subject to whose direction?

The WITNESS. Well, of course subject to my direction, all of it is subject to my direction. But nevertheless he has the responsibility, after he knows what the policy and the program of the United Mine Workers is, whether he concurs in that personally or whether he disagrees with it, after it has been adopted and accepted by the international union, then under instruction of the international president it becomes his duty to use his best efforts with his associates to lobby those bills through the Congress. And certainly there can be differences of opinion as to what is better, what is good, or what is bad. But those things are all thrashed out. And then they are turned over and given to the departmental head with full authority to act.

And he has had that authority. And it has never been taken away from him, except when I removed him. And it was not a reprisal. That is all I have got to say.

Of course, let the record show that I am not going to relinquish the duties and the authorities vested in me as president of this organization to any departmental head whether he is the director of Labor's Nonpartisan League or the safety director or anyone else. That is what some would like for me to do, but I am not going to do it.

Mr. CAREY. How about me?

The Witness. Or the head of the legal department, he takes his orders too. I am not going to give up that authority as long as I am president. I don't think that it is fair under the constitution or otherwise to expect the president to subject himself to changing the policy by some departmental head.

By Mr. Rauh

Q. Did the United Mine Workers take a full page ad in certain newspapers of the country on Monday, August 4, concerning mine safety legislation?

Mr. CAREY. I will advise the witness not to answer the question. It has nothing to do with the issue involved here. I have advised him not to respond.

Mr. RAUH. I would like the reporter to mark for identification this advertisement in the Washington Post, signed by W. A. Boyle, President, United Mine Workers of America, as Plaintiff's Exhibit 1.

(The document referred to was marked Plaintiff's Exhibit No. 1 for identification.)

Mr. CAREY. My reading this shouldn't hold up the questioning. You can proceed.

Mr. RAUH. I am going to put the questions on the record, and then we will let the court decide.

Mr. CAREY. You can proceed.

Mr. RAUH. I have to have it back.

By Mr. Rauh

Q. This is an advertisement, is it not, Mr. Boyle, dealing with the United Mine Workers effort to get safety legislation.

Mr. CAREY. I am now entering a general objection which will continue as long as any questions are asked about this specific article. I am going to advise the witness not to answer any question involving this Washington Post article on the basis that it is irrelevant, it is immaterial, it is not germane to the issue, and it has nothing to do with the question as to whether Yablonski was justifiably or unjustifiably removed.

And you can just direct your questions to the reporter, as far as any inquiries regarding that, because the witness will remain mute, on my advice.

Mr. RAUH. Was this advertisement shown to Mr. Yablonski prior to the time it was published?

Mr. CAREY. I have told you what our position is.

By Mr. Rauh

Q. Was this advertisement shown to any of the following prior to the time it was published: Mr. Kmetz, Mr. Combs, or Mr. Howe?

Mr. CAREY. I told you, keep going. We are not going to answer any questions.

By Mr. Rauh

Q. How many papers was this advertisement printed in?

Mr. CAREY. Continue your questioning.

By Mr. Rauh

Q. Isn't it a fact that this is the most important presentation by the Mine Workers to the people of the United States concerning mine safety legislation, and that it was mentioned to and discussed with everybody involved in that except the acting director of Labor's Nonpartisan League?

I take it? The same answer.

Mr. CAREY. I think the record is rather clear on that.

The WITNESS. Maybe he was out campaigning.

By Mr. Rauh

Q. What was your answer, Mr. Boyle?

A. Forget it.

Q. I can't forget it, you said something.

Mr. CAREY. He has withdrew it.

Mr. RAUH. Let the record show that Mr. Boyle said that Yablonski was out campaigning.

The WITNESS. You heard it?

Mr. RAUH. I just said it was on the record.

The WITNESS. I said maybe he was, I didn't say he was. Don't put words in my mouth. You are not that big, stature or otherwise. Don't give me that lip. I will walk out of here. I don't have to take it from you. And I am just about ready to leave any minute now. I have got more important things to do than sit here and take it from you.

Your reputation precedes you, you know.

Mr. CAREY. That is all, Mr. Boyle.

By Mr. Rauh

Q. Have you finished, Mr. Boyle?

A. Yes.

Mr. CAREY. Mr. Boyle has finished. Please proceed with the deposition.

By Mr. Rauh

Q. Will you state, Mr. Boyle, exactly what your words were that I interpreted because they were softly stated, will you state them exactly as you want them on the record.

Mr. CAREY. It is withdrawn, and Mr. Boyle has said nothing.

By Mr. Rauh

Q. Is that the answer you care to give, Mr. Boyle.

Mr. CAREY. I have advised you what the witness will say, and he is not going to answer any questions on that particular matter.

By Mr. Rauh

Q. Mr. Boyle, on page 3 of the answer given by your counsel to the plaintiff, Mr. Yablonski, in this case, the following appears:

"Plaintiff's position in opposition to the United Mine Workers of America's health and safety program, which had been approved by the governing body of the United Mine Workers of America, made him unfit for that position."

Would you kindly state any details you can setting forth plaintiff's position in opposition to the United Mine Workers of America's health and safety program.

Mr. OWENS. That is the same question.

Mr. CAREY. That is the same question phrased in a different fashion. And I have advised the witness that he has already answered that question, and he will not answer it again, in order to just submerge this record with a lot of verbiage. It is going to cost them a lot of money, and I think it is ridiculous.

By Mr. Rauh

Q. Did you send a letter, Mr. Boyle, to the Senate committee giving your answer to certain statements by Secretary Hickel with reference to mine safety legislation?

Mr. CAREY. What date was this?

Mr. RAUH. It is within the last month. I think Mr. Boyle would know whether he sent a letter to the Senate committee concerning a previous letter or statement by Mr. Hickel?

The WITNESS. I did.

By Mr. Rauh

Q. You did?

A. Yes.

Q. Did you consult Mr. Yablonski in connection with the preparation of such a response?

A. Absolutely not.

Q. Why not?

A. Because it was not necessary, and never has been done. With the director who was on there for 30 years it was never done. Who is Mr. Yablonski that I should ask him whether or not the president can exercise his prerogatives of writing to the Congress or of writing to the Secretary of Interior or of writing to a Congressman? Do I have to ask Mr. Yablonski, is it all right with you if I write a letter to those people?

Q. Did you consult with anybody in the preparation of that letter?

A. I don't have to.

Q. Did you?

Mr. CAREY. The answer to that question is, the letter has his signature. His signature is affixed to that letter. He adopts in toto what is in that letter. Whether anybody helped him or aided him is immaterial. The record speaks for itself and the witness stands on that.

By Mr. Rauh

Q. Was that letter shown to Mr. Kmetz, Mr. Combs or Mr. Howe, or discussed with them in any way?

A. I don't recall. They may have got copies, I don't know.

Mr. CAREY. He means prior to—is that what you are talking about?

By Mr. Rauh

Q. Was there any consultation prior to its being sent in anyway with Mr. Combs, Mr. Kmetz or Mr. Howe?

A. Absolutely not.

Q. You wrote the letter entirely yourself?

A. I wrote the letter without any counsel. The question was, did I consult Mr. Combs, Mr. Yablonski, or Mr. Kmetz. And the answer to your question is nc, absolutely not. If you want to frame another question I am ready to answer it.

Q. With whom did you consult.

Mr. CAREY. Objection to that. You don't have to tell him who you consulted with.

The WITNESS. I have already told you I didn't consult with those people. And I didn't consult with you.

Mr. CAREY. You might have consulted with the news vendor on the corner. But what has that got to do with the letter?

The WITNESS. I thought the letter was in the interest of the United Mine Workers.

Mr. CAREY. There is no objection to my cocounsel and myself conferring, is there?

Mr. RAUH. I would like to state the relevance of this question, so that when I get the answer to it in court I am not—the relevance of it is that I do not believe that Mr. Boyle could have prepared that letter by himself, and that he has now denied that he consulted with anyone of the four people most likely to know, and therefore on that basis I want to go into the question as to with whom he did consult as a question of credibility, not having consulted with any of these other people.

By Mr. Rauh

Q. I now repeat the question, with whom did you consult before you prepared this letter?

A. What does that have to do with——

Mr. CAREY. The question of whether he consulted with anybody or whether he did not is immaterial and irrelevant. As I said earlier, the letter bears his signature. He adopted a position. As the chief executive of this union he has a right to write a letter to any Congressman or any Senator, and a piano tuner or anybody else. He can write a letter to a lawyer and bypass me. He can write a letter and bypass the organizational director. He can write a letter and bypass all the directors of the various areas in which we have directors in the union. He is vested with that authority under the constitution of the international union, and he is under no duty to consult anybody. When he decides what is best for the union, then he has a right to make that decision.

That is between meetings of the executive board.

By Mr. Rauh

Q. Are you familiar, Mr. Boyle, with the Schweiker amendment?

A. Schweiker? Yes.

Q. What is it?

A. Schweiker from Pennsylvania was contracted, as I understand it, by Labor's Nonpartisan League for the purpose of trying to strengthen the bill before him. And it is my further understanding that Schweiker, who heard me testify up there prior to Mr. Yablonski coming on the job, acquiesced, and became a party to it. And the latest report I have on it is that Schweiker hasn't changed his mind. Schweiker is out of Pennsylvania. I know him.

Q. What was the nature of the Schweiker amendment?

A. It was in the form of strengthening the bill.

Q. In what way did it strengthen it?

A. Well, if I have been properly informed, I suppose, not going over myself, and finding out what I found out, Schweiker, along with other things, you know, wanted this dust level taken care of in a shorter period of time than some other people wanted. That was one of the things he wanted. And he was vitally interested in the dust control, in the strengthening of the dust control provisions of the bill. It may not show there, the article that you have in front of you, but he was even in favor of strengthening some of the safety laws.

It may not show in the article there. He was greatly concerned on that.

And I think if it is adopted—I don't know whether it is adopted or what stage it is in right at present, but in all probability, what he has suggested and recommended will be given serious consideration by the Congress, I would hope, both on safety and dust.

Q. Then the answer is that you don't know what the Schweiker amendment is?

Mr. CAREY. That is not what he said at all. He told you what it did. It strengthened the dust provisions and the safety features, but he wanted to spell it out word by word. I think he has answered the question, and I suggest that he not answer any more about it.

By Mr. Rauh

Q. In the Mine Workers Journal of August 1, 1969 the following appears:

"As the Journal was going to press July 31 the full Senate Labor and Public Welfare Committee gave its approval to a coal mine safety bill. On July 29 Senator Richard S. Schweiker, Republican of Pennsylvania, at the UMW's request, was successful in having the following amendment included: 'The Secretary shall station Federal Inspectors for the purpose of making mine inspections on each and every day such miners are producing coal at these underground coal mines which liberate excessive quantities of explosive gases and which are most likely to present explosion dangers in the opinion of the Secretary based on the past history of the mine and other criteria he shall establish.'"

A. That is exactly what I have told you previously, it is repetitious, I have told you that I was the one that came up with the idea that these federal mine inspectors must be stationed at those places, and that we were pushing hard to get those federal mine inspectors stationed there. And when I said improvement to the mine safety bill, what more did you want me to say?

I know what is in that journal. I read that journal. I know what is in it. I can't repeat it verbatim.

Mr. CAREY. I think you have answered that thoroughly.

The WITNESS. I think the record will show that I proposed that the federal mine inspectors be engaged.

Mr. CAREY. You have asked this question before as to what was in the various bills. You are asked to identify them by name. And I said, in that form, it is not substantial. You are able to provide the substance which was contained in the bills. And this to me is repetitious, and it proves nothing.

By Mr. Rauh

Q. Isn't it a fact, Mr. Boyle, that Senator Schweiker put that in at Joe Yablonski's request?

Mr. OWENS. What is the materiality of that?

Mr. RAUH. Do you want to answer the question?

Mr. CAREY. Don't answer the question. What difference does it make on whose behest it was placed in there?

By Mr. Rauh

Q. Isn't it a fact that you gave orders to Mr. McCarty not to put in that Mr. Yablonski should be given credit for this?

A. Let's don't be silly. That is all right for the Washington Post that you hit every morning, it is all right for you to give out those releases, Mr. Rauh, but let's don't go ridiculous; the Journal would be the last one to try to take credit from anyone. Joe Yablonski is inexperienced for the short period of time he has been on the hill, he couldn't even find Schweiker's office unless someone led him by the hand to it. He wouldn't know how to get there, let alone propose this and that and everything. All of this formality of this bill was gone into long before Mr. Yablonski became a candidate or was put on as Labor's Nonpartisan League's acting director or anything else. What you are trying to make is something out of this thing that is absolutely false, untrue. and a downright damned lie when you say it.

Mr. CAREY. Further, the ethics of the profession, as I understand it, require that before a lawyer asks a question in which he impugns or challenges the integrity of the witness, or suggests something improper, there should be a basis for it. And I would like to have Mr. Rauh put on the record any information he has that Mr. Boyle tried to suggest to the Journal editors that it was not to be stated that Mr. Yablonski was responsible for it.

Mr. RAUH. I am happy to do so, Mr. Carey. Thank you for the opportunity. I wouldn't otherwise have had it.

A reporter for the Swedish Press has informed us that he was sitting with Justin McCarthy in Justin McCarthy's office, and that Mr. Boyle called three times during that period directing Mr. McCarthy as to what he should say, and that Mr. McCarthy said to this reporter, Mr. Isaacson by name, that he wished he could give fair treatment to Mr. Yablonski in the United Mine Workers Journal, but that Mr. Boyle had ordered him not to mention Mr. Yablonski's name. The name of the reporter who gave us this information is Mr. Isaacson of the Swedish Press. And it was a very clear basis for asking these questions about the United Mine Workers Journal.

I consider Mr. Isaacson a very expert reporter from the basis of discussions I have had with him in the labor movement in general, a man of integrity and responsibility who had no reason for so informing us except that he believed it to be the truth. That is the basis for my question.

The WITNESS. Let me say this in answer to that. I want to answer that, because I want it well known on the record that at no time in the writing of the article that you refer to did I ever have any conversation with Mr. McCarthy, at no time. And if the man that you mentioned took it for granted that Mr. McCarthy was talking with Mr. Boyle, then certainly he is mistaken, because I have never met the gentleman, and I am not going to impugn his integrity or say that he is fabricating, but Mr. McCarthy—and let the record show—Mr. McCarthy never consulted with me once in the writing of that article, and very little does he consult with me in the writing of the Journal, very little. And I don't care who says that he has talked with Boyle, whether—no matter who the individual is, or how honorable he is, my statement is on the record that I never talked with McCarthy in the writing of that article and numerous other articles or any other articles, that are in that particular issue.

And I did not.

Now, that man is mistaken that he was talking with me. He was talking with someone else. McCarthy never talked with me about it. I suggest that you talk with McCarthy to find out whether he talked with me.

By Mr. Rauh

Q. Have you ever talked to Mr. McCarthy about the Journal reporting that Yablonski has announced his candidacy.

Mr. CAREY. Objection to that. It has nothing to do with the issue at all.

By Mr. Rauh

Q. Do you question that Mr. McCarthy said to Mr. Isaacson——

Mr. CAREY. We are not going into the integrity or lack of integrity of Mr. McCarthy. We will produce Mr. McCarthy at the proper time.

Mr. RAUH. Let me just finish my question.

By Mr. Rauh

Q. Do you question that Mr. McCarthy told Mr. Isaacson that he would prefer to make the Mine Workers Journal free instead or just making it one sided for Mr. Boyle?

Mr. CAREY. Don't answer that question.

By Mr. Rauh

Q. Have you told anybody else to make clear to the editors of the Mine Workers Journal that Yablonski shouldn't be mentioned?

Mr. CAREY. Objection.

By Mr. Rauh

Q. Do you know or don't you know that since he has been a candidate for office he has never been mentioned once in the Mine Workers Journal?

Mr. CAREY. Objection to that. It is not true.

By Mr. Rauh

Q. Which is it in?

Mr. CAREY. He is not answering the question. I am making an observation, I was looking out here in right field and talking to myself. I do that occasionally.

Mr. RAUH. Would Mr. Carey care to tell me where Mr. Yablonski's name has appeared in an article in the United Mine Workers Journal?

Mr. CAREY. No, I wouldn't care to tell you anything. I am not being questioned by you, Mr. Rauh.

By Mr. Rauh

Q. After you removed Mr. Yablonski from his position as acting director of Labor's Nonpartisan League, did you recall Mr. Robert Howe from retirement to resume that position, his position as director of Labor's Nonpartisan League?

A. I did.

Q. When you reinstated Mr. Yablonski what did you do with Mr. Howe?

A. Well, I didn't pay him $26,000 a year like I am paying Mr. Yablonski, I didn't do that. But I asked him if I could have his services as assistant to the president, because knowing of the inability of Mr. Yablonski on legislative matters, and in addition to that, using Mr. Howe for other work that I needed done, I asked him if he would come back out of retirement. Because this was a crucial moment in the history of the United Mine Workers organization.

I put it to him in such a way that he could hardly reject coming back, because I told him that my legislation—and when I say my legislation I mean the legislation that I was ordered and directed by this union to promote in the legislative halls of Congress—and I told him that I thought that he owed it to the union to come back and let us have his experience in trying to push this legislation through.

In addition to that, Mr. Howe was more than willing to come back and aid and assist and do anything he could. In fact, Mr. Howe attempted to and endeavored to tell Joe Yablonski how to proceed, with Mr. Howe's 30 years of experience, how to proceed, how to do certain things on the Hill. But Mr. Yablonski did not want anyone dictating to him or telling him what he wanted to do at all as the acting director. Mr. Howe met with utter failure in trying to keep him from falling into pitfalls over there and endangering himself.

And Bob Howe is the type of a gentleman that—I don't know of a person that couldn't get along with him, I don't know of any, not one. And he said that in the interest of the coal miners of this country that he would come back. And I pointed out to him, I said, because of the Farmington, the Mannington—some call it Mannington and some call it Farmington—disaster, that we had created and aroused the public of this country by the killing of these 78 in that mine down there to a point that if we could possibly get some legislation through—and that I needed all the help I could get, would he come back and help me push this thing through the legislative halls, that if we are ever going to get legislation to protect the lives and the limbs and the well being of coal miners, that now that we have an aroused public and an aroused Congress, that now perhaps we could do it.

And that is why Bob Howe came back. And he met with utter failure in trying to influence Mr. Yablonski, because Mr. Yablonski wasn't around very much, you know, he was around very little. He spent very little of his time on the Hill, and he spent very little of his time in the office.

But I was told that he was to have the acting directorship back, so he was restored to it. I obey the laws of the land, I obey court orders the best I can. And that is something that can't be said by a lot of people.

Q. Who are you referring to, Mr. Boyle?

A. Those who violate laws, and have violated laws.

Q. Who are you referring to, Mr. Boyle?

A. Anyone who violates laws.

Q. But you have nobody in particular in mind?

A. Not presently, no.

Q. You said that Mr. Howe had tried to help Mr. Yablonski avoid pitfalls and not endanger himself. How has Mr. Yablonski fallen into pitfalls and endangered himself?

Mr. CAREY. He didn't say he did, he said so that he wouldn't, he didn't say he did.

The WITNESS. I didn't want him to fall into them. I had nothing personally against Joe Yablonski, or I wouldn't have given him the job. I wanted him to make good on the job. I wanted him to do everything possible to make good at it. But I do know that he was inexperienced. And this man Howe was good enough to come back and aid and assist.

And I didn't want—you have been over in the legislative halls of Congress often enough to know that even you can accidentially, unintentionally make a mistake. If you are infallible, you are the first man that I have met that is. And I think even you with your legislative experience could perhaps be guided to some degree by someone else.

Those are the things that we had in mind.

We are so vitally concerned and interested in getting this legislation through that we could taste it. And I don't know whether we are going to get it or not.

By Mr. Rauh

Q. Has Mr. Yablonski fallen into pitfalls or endangered himself that you think Mr. Howe is trying to avoid for him?

Mr. CAREY. Don't answer that question. I don't see its relevance.

By Mr. Rauh

Q. You said that Mr. Howe had tried to influence Mr. Yablonski. In what way did he do that, and when did he try that?

Mr. CAREY. He didn't say influence at all. I don't think the word "influence" is used, and I recall it.

Mr. RAUH. Mr. Reporter, will you please return to Mr. Boyle's long answer on the question of what Mr. Howe was doing and see if the word "influence" was used.

Mr. CAREY. I thought he said the word "persuade," persuade him how to maneuver on the Hill, how you do things on the Hill, was my impression of the phraseology.

Mr. RAUH. Will you read the answer?

(The record was read as follows:)

"Answer: Well, I didn't pay him $26,000 a year like I am paying Mr. Yablonski, I didn't do that. But I asked him if I could have his services as assistant to the president, because knowing of the inability of Mr. Yablonski on legislative matters, and in addition to that, using Mr. Howe for other work that I needed done, I asked him if he would come back out of retirement. Because this was a crucial moment in the history of the United Mine Workers organization.

"I put it to him in such a way that he could hardly reject coming back, because I told him that my legislation—and when I say my legislation I mean the legislation that I was ordered and directed by this union to promote in the legislative halls of Congress—and I told him that I thought that he owed it to the union to come back and let us have his experience in trying to push this legislation through.

"In addition to that, Mr. Howe was more than willing to come back and aid and assist and do anything he could. In fact, Hr. Howe attempted to and endeavored to tell Joe Yablonski how to proceed, with Mr. Howe's 30 years of experience, how to proceed, how to do certain things on the Hill. But Mr. Yablonski did not want anyone dictating to him or telling him what he wanted to do at all as the acting director. Mr. Howe met with utter failure in trying to keep him from falling into pitfalls over there and endangering himself.

"And Bob Howe is the type of gentleman that—I don't know of a person that couldn't get along with him, I don't know of any, not one. And he said that in the interest of the coal miners of this country that he would come back. And I point out to him, I said, because of the Farmington, the Mannington—some call it Mannington and some call it Farmington—disaster, that we had created and aroused the public of this country by the killing of these 78 men in that mine down there to a point that if we could possibly get some legislation through—and that I needed all the help I could get, would he come back and help me push this thing through the legislative halls, that if we are ever going to get legislation to protect the lives and the limbs and the well being of coal miners, that now that we have an aroused public and an aroused Congress, that now perhaps we could do it.

"And that is why Bob Howe came back. And he met with utter failure in trying to influence Mr. Yablonski, because Mr. Yablonski wasn't around very much, you know, he was around very little. He spent very little of his time on the Hill, and he spent very little of his time in the office.

"But I was told that he was to have the acting directorship back, so he was restored to it. I obey the laws of the land, I obey court orders the best I can. And that is something that can't be said by a lot of people."

By Mr. Rauh

Q. Now that the record has been clarified—and it does quote Mr. Boyle as saying that Mr. Howe met with utter failure in trying to influence Mr. Yablonski—I repeat the question. How, Mr. Boyle, did Mr. Howe, when and where and what, try to influence Mr. Yablonski?

A. Well, Mr. Yablonski took the position, as I understand it—I haven't spoken with Mr. Yablonski—as I understand his position, he was the acting director, that he was going to run the League, and he wasn't taking orders from Bob Howe or anyone else over there. In fact, he wasn't going to take any orders from the president of the organization. And when I pointed out in a letter and otherwise that Bob Howe was here to be helpful, you wrote a letter for him—you recall the letter better than I do, because it is your letter, Joe Yablonski doesn't write that way—I know him—you said that he didn't want any confrontation with a man his age.

And so he walked out of the office after he showed up, spent 30 or 40 minutes in the office, and left for the entire day. And he didn't go to the Hill, and couldn't be located because he didn't want a confrontation with a man that wanted to aid and assist and help him. That is why I used the word "persuasive" or "influence," or whatever it is, it makes no difference what language you want to put on it, but that is what he was trying to do, but he didn't want to listen to anyone.

Q. Have you finished?

A. Yes.

Q. Did you just say that Mr. Yablonski had refused to carry out some order of yours? I didn't understand that.

A. I said that Mr. Yablonski wasn't going to take orders from Mr. Howe. I said, as I recall—we can read it—that Mr. Yablonski had taken the position that he wasn't going to take orders from anyone, he was going to run that League over there to suit himself. His associates have been over there for many years, and they would be quite helpful to him—and Bob Howe could be quite helpful to him. If any of them need any assistance that I may possess, or any ability that I may possess, they were free to call upon me. Never once did Mr. Yablonski see fit to ask me for any assistance, or Mr. Howe for any assistance, or anyone else that I know of connected with legislative matters. On the contrary, when he is here, he does just about as he pleases. As the President of the organization he wants me to lead him by the hand by the hour, by the day.

And I don't have that kind of time. If I had that kind of time I don't need an acting director of Labor's Nonpartisan League, I can go over there and do it without him.

But I put all of my assistance and help at his disposal, and the experience of 30 some years of Mr. Howe, and he hasn't utilized it. It shows very little interest as far as I am personally concerned. And I think a great many people in the industry, the miners of this country, realize that little interest is being shown.

Mr. CAREY. By whom?

The WITNESS. By Mr. Yablonski—and benefit as far as legislation is concerned.

He should utilize, in my judgment—his judgment is supreme in his opinion, but in my judgment he should utilize the experience of people who have been doing this work for many, many years. He should inquire, in my judgment, like other departmental heads, if the president of the organization is satisfied, dissatisfied, or whether or not we should proceed or not proceed on certain angles.

You asked whether or not he was consulted on some things a minute ago. He has yet to call the president of the United Mine Workers of America and ask one single iota question with respect to the legislative matters over there since May 29.

And he was only on the Job nine days before that. There hasn't been one departmental head, not one district president, not one international board member, that hasn't on some occasion either written me, telephoned me or met with me in person to get my advice and counsel on something with respect to this organization, with one exception, Joe Yablonski. And I have met with his associates from time to time, because they come to me seeking advice and counsel, and I give it to them.

Mr. CAREY. Why do they come to you?

The WITNESS. They can't get it from a man that doesn't know. That can't get it from a man that is inexperienced and knowing nothing about it.

By Mr. Rauh

Q. The question to which I do not believe you answered is responsive was relating to a refusal to carry out orders. Can you state any time he ever said he would refuse to carry out your orders, or any order you gave him he wouldn't carry out.

Mr. CAREY. I object to that. I think the president has answered that question extremely well, he said, at no time since this man has been appointed acting director, or since the reinstatement by the court, has he had the courtesy as a subordinate officer of this union to call the chief executive officer to ask his advice on vital matters involving the coal miners of this country.

He has completely ignored the president's office. He is trying to run an independent unit. And that is the insubordination that Mr. Boyle is talking about.

Now, I don't know of any department head that has failed to consult the president. And as you know, the chief executive officer has the ultimate responsibility to make the determination on almost all issues of this union—in fact, all issues of any importance. And that has not been done by Mr. Yablonski, as Mr. Boyle has just recited in detail.

By Mr. Rauh

Q. Mr. Boyle, Mr. Carey has made a statement on your behalf——

Mr. CAREY. No, I merely told you what he said when you asked this question the second time.

By Mr. Rauh

Q. Mr. Boyle, Mr. Carey has made a statement on your behalf that Mr. Yablonski is quietly of insubordination. Is that your position?

A. No, I didn't say that.

Q. I said Mr. Carey just made that statement, and I was asking if that was your position?

A. That has nothing to do with this deposition. When we get around to the insubordination part of it, you will have some more work to do, Mr. Rauh. We will prove about the insubordination when that time, when the judge or the court orders that I should prove about insubordination, we will be in a position to do that. That has no applicability to what I am here for today in any way, shape or form about his insubordination. I am here today to give a deposition, at your invitation, as to whether or not I had the right to take him off that job. You want to get into extra curriculum and such things. I can ask you when was the last time you rode horseback. I am not getting into these extracurricula things. When we talk about insubordination we will meet that one when it comes.

Q. Is it your position, Mr. Boyle, that Mr. Yablonski has been insubordinate?

Mr. CAREY. Don't answer that question. You just told him that you will cross that bridge when it is necessary.

By Mr. Rauh

Q. In what way could you assist Mr. Yablonski on the legislation, Mr. Boyle?

Mr. CAREY. I suggest that the witness not answer the question.

By Mr. Rauh

Q. Then why should he ask you on these matters?

Mr. CAREY. That is a matter for him to determine, and I advise the witness not to answer.

By Mr. Rauh

Q. Since Mr. Yablonski has returned to the office and has regained his position as acting director of Labor's Nonpartisan League, what has Mr. Howe done?

Mr. CAREY. Objection to that. We are not going to go into what Mr. Howe did. You might just as well ask what I did. Don't answer the question, Mr. Boyle.

Mr. RAUH. Isn't it a fact that you have run Labor's Nonpartisan League through Mr. Howe?

Mr. CAREY. Don't answer the question. You are presuming a fact which doesn't exist.

By Mr. Rauh

Q. Do you know whether Mr. Howe has been directing the work of Mr. Kmetz and Mr. Combs?

Mr. CAREY. Don't answer the question, Mr. President.

By Mr. Rauh

Q. And is it a fact that Mr. Howe has been directing the work of Mr. Kmetz and Mr. Combs?

Mr. CAREY. Same advice and same position.

By Mr. Rauh

Q. Do you get a daily report from Mr. Howe?

Mr. CAREY. Same.

By Mr. Rauh

Q. The question is, do you get a daily report from Mr. Howe?

Mr. CAREY. On what?

Mr. RAUH. On Mr. Howe's activities.

Mr. CAREY. I am not going to let him answer that question.

By Mr. Rauh

Q. Did you ask for a daily report from Mr. Yablonski?

A. Yes, sir.

Q. Why did you ask for one from him and not from other staff members?

A. I have asked it from other staff members, and I get it from other staff members.

Q. Do you get it from Mr. Howe?

Mr. CAREY. Don't answer that question, because Mr. Howe is in a unique position. You don't have to answer it.

By Mr. Rauh

Q. What is the unique position, Mr. Boyle, that Mr. Carey says Mr. Howe is in?

Mr. CAREY. Because he is assistant to the president, and he doesn't have to answer any questions about what he does for the president.

The WITNESS. Any more than the League.

Mr. CAREY. Right.

Do you want to know if I make a report daily to the president? Would you like to see my reports?

By Mr. Rauh

Q. Do all staff members except Mr. Howe make daily reports to you, Mr. Boyle?

Mr. CAREY. Same resistance to the question, it has no relevance.

By Mr. Rauh

Q. Who approves vacations for members of the staff?

Mr. CAREY. I don't know what the relevancy of that is.

By Mr. Rauh

Q. Isn't it a fact, Mr. Boyle, that you approve the vacations of subordinates of Mr. Yablonski whose vacations should more properly have been approved by Mr. Yablonski if in fact he holds the job as acting director?

Mr. CAREY. Objection to that.

The WITNESS. It never has been done, never in the history of this union has the director of Labor's Nonpartisan League approved vacations. It has always been the president's prerogative and his duty to arrange for the vacations of these people. Why should Mr. Yablonski, because he is your client, be singled out as a special individual that he should take the prerogative of the president over and arrange that a man can go on a vacation to suit Mr. Yablonski? That is not his duty under the constitution, under the law, or under your thinking, or under your theory. You or Mr. Yablonski are not going to run this United Mine Workers Union, you might as well make up your minds to that. And I am looking you right in the eye when I say that. I am telling you that you are not going to run this union.

And you can snicker all you want to, because I will yank you by the long hair if you fool around with me.

Mr. CAREY. This is evidence of the lack of manners that has been shown constantly throughout the hearing.

The WITNESS. Continually with that long hair and making these faces and snickering.

You fool around with me, and I will grab him by the hair.

Put that on the record.

By Mr. Rauh

Q. Have you finished?

A. Yes.

Mr. RAUH. I have instructed Mr. Moore not to respond, but on his behalf, Mr. Moore's conduct has been exceptional in this regard—

The WITNESS. That is your judgment, that is just your opinion. That is the opinion of one in this room, that is not the opinion of everyone else that is in here.

Mr. CAREY. Why didn't you challenge my observation an hour and a half ago that he had better demonstrate better manners?

Mr. OWENS. Mr. Moore sat there constantly and snickered and laughed and made faces at the witness all during the deposition.

The WITNESS. He won't make too many more faces at me when you don't see him, I will say that.

Mr. RAUH. I will simply say that it has been quite hard for me as an experienced attorney not to resent the performance of Mr. Boyle and his attorneys have put on here today. And I have 30 years of experience, and I have had trouble not resenting the performance put on by Mr. Boyle and his counsel here today, but I have been able to do it because of my experience.

I would understand a person who had not seen so many depositions being shocked at the performance here by Mr. Boyle and by his four attorneys.

The WITNESS. And the same goes for you, Mr. Rauh, the same goes for you, I am shocked and amazed, even with all of your legal experience, I am shocked and amazed that you would stoop to try to inject things into a deposition that you have done. I am shocked, I am amazed.

Mr. CAREY. I am not going to reply, because I am tired of making observations about Mr. Rauh. He knows what I think about him.

By Mr. Rauh

Q. Is it your testimony, Mr. Boyle, that you approved the vacations of all the staff people?

Mr. CAREY. That question is repetitious. The record already reflects the answer.

Don't answer it.

Mr. RAUH. I don't think the record reflects any answer, Mr. Carey.

Mr. CAREY. The record does. And I suggest that we ask the reporter to read the testimony as to how vacations have been determined in the League in prior years, just to show that this man doesn't know what he is talking about.

Mr. RAUH. If Mr. Carey asks you to go back to it, do so.

Mr. CAREY. That is where the president says he has always had the vacations of the members of the League approved by him, there is nothing unusual in what he did this year at all.

Mr. RAUH. That was said. My question goes much broader.

By Mr. Rauh

Q. Do you approve the vacations of all the staff people of the United Mine Workers, not simply the Labor's Nonpartisan League?

A. I certainly do. And for 30 years—that includes the League—prior to my becoming president of this organization. If the general counsel wanted to take a vacation he has got to clear it with me.

Q. Where were the offices of Labor's Nonpartisan League at the time you removed Mr. Yablonski?

Mr. CAREY. We will stipulate if you want that. They were on Eye Street, and subsequently transferred to 1437 K.

By Mr. Rauh

Q. What was the reason for the transfer, Mr. Boyle?

A. We may have to transfer them back, because it didn't work out as we anticipated. It was anticipated that the League and the safety division would have to vacate the premises on Eye Street, because there was a possibility of other departments going in that locale, and they were going to take it over. And we had some empty space over on K Street, so we moved him over there. Now that that did not materialize, we may be required to move either the League or the safety division or both of them back over to Eye Street.

I think we have that prerogative, I don't know.

Mr. CAREY. We could have moved into the Mayflower Hotel in a suite.

By Mr. Rauh

Q. Who signed checks for the bills of Labor's Nonpartisan League at the time Mr. Yablonski was removed, Mr. Boyle.

A. There wasn't any checks being signed over there, as I recall. They borrowed money from the United Mine Workers to pay their rent over there, and things of that nature. And now that we have discontinued any rent fees to the Labor's Nonpartisan League it doesn't necessitate any checks being written.

Q. No previous director of Labor's Nonpartisan League has signed the checks for his own bills?

Mr. CAREY. You mean for his personal bills?

The WITNESS. Not that I know of.

By Mr. Rauh

Q. Mr. Yablonski had no right to sign any checks prior to the removal?

A. There is no money over there.

Q. And Mr. Howe hasn't signed any checks?

A. No, sir. Personal checks of his own, but no checks as far as the union is concerned has Mr. Howe signed.

Q. Prior to Mr. Yablonski reporting for work at the new location at 9:00 a.m. on Monday, July 21, had you any conversation with Mr. Howe concerning the operation of Labor's Nonpartisan League in the new circumstances?

A. In what respect?

Q. On July 17 the court entered its order directing you to give Mr. Yablonski back his job as acting director of Labor's Nonpartisan League. That same day or the next day Mr. Carey informed me that you were not going to appeal the order. Mr. Yablonski reported for duty at 9:00 a.m. on Monday July 21. At any time prior to then did you discuss with Mr. Howe the operation of Labor's Nonpartisan League in the new circumstances of Mr. Yablonski being reinstated?

A. I certainly did.

A. And was said?

A. I asked him to aid and assist, and being repetitious on the record, to aid and assist and do everything he could to benefit the passage of that legislation over there that was vital to the coal miners of this country, that I was scared we were going to lose—I was scared we were going to lose it under your client, Mr. Yablonski, to be than fair with you.

And I had every confidence in this man Howe. And I did consult with him. And I told him to guide him, to help him, to work with him, to do anything and everything, and to help the other associates of his in getting this legislation through. I even wrote a letter to him to take a walking tour so that he would go from one Congressman's office to anothers and meet the administrative assistants and to meet the Congressmen, and the same in the Senate, to do those things so that he would become acquainted with what they do over there on the Hill in order to get legislation passed. Certainly I discussed that with Mr. Howe.

Q. Did you discuss with Mr. Howe who was to be in charge of that office?

A. He knew, I didn't have to discuss it with him, he knew that Mr. Yablonski was restored, in compliance with the court's order, as the acting director, he knew that. I may have told him, repeated it, but I know that he knew it.

Q. Can you then explain how on the morning of July 21 Mr. Howe offered Mr. Yablonski a desk in the storeroom or the alcove and told him he would continue to be in charge of legislative matters, can you explain how that happened in view of what you just said.

A. No, I have no knowledge of it—and I don't believe it happened—if it did happen. You say it happened. I don't believe it happened. I don't know. I wasn't there.

Q. You don't believe that Mr. Howe retained the desk of the director of Labor's Nonpartisan League there, I take it, and that he offered Mr. Yablonski a desk in an alcove or a storeroom, you don't believe that?

A. I know that Mr. Howe is not over there, he is in our building.

Q. On the morning of July 21, Mr. Boyle, are you saying——

A. I have never been in that building.

Q. Have you discussed the events of July 21 with Mr. Howe since then?

A. In what respect?

Q. Have you discussed the events of July 21 with Mr. Howe in any respect?

A. I have discussed a lot of things with Mr. Howe that don't pertain to legislation, your client or anyone else, I discussed a lot of things with him. You would have to be more specific as to what you want. I don't know what you want. If you tell me what you want I will be glad to respond.

Q. Have you discussed at any time since July 21 with Mr. Howe what occurred when Mr. Yablonski came in that morning and Mr. Howe offered him a desk in the storeroom or an alcove, have you discussed that with Mr. Howe?

A. When that was called to my attention, that there was a controversy over there, I told Mr. Howe, or sent word to Mr. Howe, rather, to come to my building—I call it my building where I am located, the Mine Workers Building—to perform the duties from there as assistant to the president, or give him anything he wants, let's don't have any rankle or jangle or fight or argument over there as to where he sits.

But let it be remembered that when Mr. Yablonski was the acting director of Labor's Nonpartisan League he was over on Eye Street, and the court did not tell me to put him in my particular office over on K Street, and if they had been in the cellar, in the attic or wherever it was, the court didn't tell me, and I haven't been told to this day.

He may be dissatisfied where he is now, I don't know. He has never told me that he is completely satisfied where he is now. I don't know. Maybe he would rather be up here. He spends a great deal of his time here, doesn't he?

Do you want to answer that?

Q. Have you finished?

A. Yes.

Q. The question I am about to ask, Mr. Carey, has to deal with the hostility of Mr. Boyle to Mr. Yablonski, and relates to incidents evidencing that hostility. I think the hostility of Mr. Boyle to Mr. Yablonski is relevant to the question whether his removal was a reprisal. And I have made that statement so that there will be no argument as to my purpose in asking the questions, and my ground for relevance.

Mr. CAREY. First I would have to hear the question before I can make a determination.

By Mr. Rauh

Q. Have you discussed with anyone, Mr. Boyle, the attack on Mr. Yablonski on June 28, 1969?

Mr. CAREY. Objection. It has nothing to do with this particular matter.

Mr. OWENS. What attack are you talking about?

Mr. RAUH. I am perfectly willing——

Mr. CAREY. Is this the hoax in Springfield you are talking about?

Mr. RAUH. You have characterized it that way. I will simply read it the way I have given it to the secretary.

Mr. CAREY. Are you referring to the Springfield episode?

Mr. RAUH. Of course.

Mr. OWENS. Mr. Rauh, if you are going to ask questions about these matters, fine, go ahead, about his removal as acting director. If you are going to all this other campaign stuff—you are acting now as a campaign manager and asking questions. That is highly improper, and you know it. That is why you were telling us what you were going to do in advance. We are not going to let him answer any questions like that.

Mr. CAREY. In order to save time and save expense for both parties—I don't know how much money you people have, you obviously have a great deal, but we want to conserve as much money as we can—now, any question which does not relate to his removal as director of Labor's Nonpartisan League we will object to, and I suggest that if you are going to continue to ask those questions, I am going to ask the court to impose the burden of paying the cost of this deposition for us on you.

Mr. RAUH. I am perfectly happy for you to make that move. We feel that Mr. Boyle's hostility to Mr. Yablonski——

The WITNESS. You haven't proven any hostility on my part to Mr. Yablonski.

Mr. CAREY. We don't concede there is hostility. This is merely a self-serving declaration.

The WITNESS. Yes, he wants to be his lawyer, campaign manager, and take depositions and everything else at one time, judge, jury or what have you.

Mr. CAREY. If he wants to use these self-serving declarations, we can't stop him.

Go ahead, Mr. Rauh. You are wasting your time. You are not going to get any answers, except on the specific issue that is before the court, the removal or the non-removal, the legitimacy or the illegitimacy.

Mr. RAUH. That is correct, Mr. Carey. The legitimacy or the illegitimacy of the removal depends upon a state of mind shown in part by the events which I would like to inquire about, such as the one at Springfield. They demonstrate that there is a tremendous hostility by Mr. Boyle, which I think the record will show today. But that will be up to the court.

And I think we should go into these questions.

In order to save time I will try to work out a stipulation with you as to the type of questions we will ask on each of the four letters, each of the events in the four letters to the Secretary of Labor. And if we could have possibly 10 minutes off the record, I think we could put that stipulation on the record that we would ask with respect to each paragraph in the four letters to Mr. Schultz, a certain number of questions which you then, I take it, will say he should not answer.

But instead of asking him 100 times, because we think there are 100 violations, we would only stipulate that they would be asked, and we will let the court decide whether these are evidence or hostility.

Is that satisfactory?

Mr. CAREY. The position we take is this. On June 6 President Boyle, the defendant in this action, removed the president as acting director of Labor's Nonpartisan League. Based upon his conclusions, the man had taken a position at complete variance with the policies which were essential to the betterment, economically and safety-wise, of the members of the UMWA. After reading the press release of May 29 Mr. Boyle exercised a certain judgment. Based upon that judgment he removed this man as acting director of Labor's Nonpartisan League.

This is June 6. Any question subsequent to that time has no relevancy to this matter. And we intend to answer whatever allegations you write to the Secretary of Labor, or have written, or have written to other government agencies, incidentally, and also circulated in the newspapers, we will answer those questions in the proper forum at the present time. This is not the proper forum, because this issue is not before the court.

So there is no use, we cannot enter into a stipulation of any kind. I have made it clear that if you intend to ask any of these questions we are going to object.

Now, you can do what you want and proceed in your own unique fashion, but I am not going to stipulate.

Hostility has nothing to do with this issue at all. Whether you like a man or dislike him, the question is whether he was removed for cause. I may hate a man whom I work with, but the hostility between me and him has nothing to do with the fact that I may remove him because of inefficiency or ineptitude or incompetence, that is the test.

And that was the test here.

By Mr. Rauh

Q. Mr. Boyle, I read you a paragraph from my letter of July 9, 1969 to the Secretary of Labor, George P. Schultz——

Mr. CAREY. I will go this far. If you can identify that letter and say to whom it is addressed and ask Mr. Boyle if he is going to answer any questions involved in that particular letter, I will tell him not to answer, and you can get it much more quickly if you wish.

Mr. RAUH. That is what I meant by the stipulation.

Mr. CAREY. Take the letters and identify them, and we will take our position. You know it. You have been around 30 years, you have been around longer than I have. And you know that these questions are improper, and you know they are thoroughly improper.

And you have talked about being disturbed by my behavior. I am shocked and aghast at your behavior in indulging in what I consider improprieties, because this is going to be used for an ulterior purpose and not for the basic issue which is before the court, and well you know it.

Mr. RAUH. The basic issue is whether Mr. Yablonski was removed as a reprisal. The question I want to ask is with respect to Mr. Boyle's hostility toward Mr. Yablonski's candidacy, and is the best evidence that this was a reprisal.

Mr. CAREY. You said his hostility against Mr. Yablonski. Now you are shifting your position. You didn't say candidacy before, you said his hostility against Mr. Yablonski. My God, as I said yesterday, will you love me in December as you did in May. There was a saccharine sweetness that he threw around on a public platform, and now to take a position and indict this man and charge him with ineptitude, it almost makes me regurgitate, because he was lying then or he is lying now.

You can't take two positions which are contradictory and be telling the truth both times.

Mr. RAUH. I believe the four letters to Secretary of Labor Schultz, July 9, 1969, July 18, 1969, July 25, 1969, and August 13, 1969 are

relevant because they show Mr. Boyle's hostility to Mr. Yablonski and Mr. Boyle's hostility to Mr. Yablonski's candidacy. Since it has been made clear that no questions will be answered on the record, I would simply like a stipulation that no question about the events in those letters will be answered without a court order, whether they are about Mr. Boyle's knowledge of the events, his participation in the events, his investigation of the events, or his refusal to take any action to stop the events. And I would inquire on all of those subjects if I were permitted. I take it that we are now stipulating that subject to a court order Mr. Boyle will not answer any questions about those points.

Mr. OWENS. There is one thing I might say. Wasn't there one thing in your letter about the removal of the director of Labor's Nonpartisan League?

Mr. RAUH. That is paragraph two. But I was not going to inquire into that.

Mr. OWENS. Outside of that.

Mr. RAUH. Then my statement, other than paragraphs one and two which I was not going to inquire into, because they were the two cases in the court, my statement is satisfactory to you, Mr. Carey?

Mr. CAREY. It is satisfactory, but I want to make a statement for the record.

There is nothing under the Federal Rules of Discovery when a deposition is being taken that prevents a lawyer from asking a question. I do not particularly appreciate these questions being asked—not that we are reluctant to answer them, we will answer these questions at the proper time, and in the proper forum. But I do not intend to violate the canon of ethics or allow them to be violated by Mr. Rauh or anyone else. Because I can see a projection of two or three days from now where these questions will be carried in the newspapers, we will be down in court asking for a court order, an order to get propaganda for a political campaign, which I think is contemptible. I cannot stop it. I can object to it. But I do question the ethics of the proponents of such proposition.

Mr. RAUH. With that statement, we do have a stipulation that you would answer no questions in the circumstances that I outlined on the record.

Mr. CAREY. I assume—and you assure me, and I am accepting your assurance—that all of these events took place subsequent to the removal date of Mr. Yablonski as acting director, is that true?

Mr. RAUH. I cannot without reading the four letters go into that. I believe that to be true, but I haven't reread the four letters this morning.

Mr. CAREY. If you find that to be true and we do go to court, would you then be willing to withdraw that?

Mr. RAUH. All right.

Mr. CAREY. That is all right, that is satisfactory to me.

Mr. RAUH. And there will be no defense made in court that I didn't ask the questions on the record when I seek to get an order that he answered questions in this regard, is that correct?

Mr. CAREY. That is correct.

Mr. RAUH. I want to make two statements on the record. First, the continued reference by Mr. Boyle to my statement to the press is a mistake. I said nothing there. This is a mistake given out by someone else, and I at no time said this. It is not particularly important to me, because I don't think it would have been anything wrong to have said that Mr. Yablonski feels that the wildcat strike is a testament to the lack of confidence of the men in the union. But I didn't want the—I simply want the record to show that.

Secondly, since there has been throughout the day a continual reference to working by the hours and high fees, I think the record should show that I have not been paid one cent by Mr. Yablonski, and unless some funds are collected from the public, which I hardly expect will occur, I shall spend these hundreds of hours for nothing, except the purpose of getting some democracy in the United Mine Workers, which I feel is sadly lacking.

Mr. CAREY. Let the record reflect that we don't need third parties to provide democracy in the United Mine Workers of America. We feel perfectly competent, we feel the United Mine Workers is a democratic union despite what Mr. Rauh says.

And I would like to ask you this, Mr. Rauh. You said that you did not say that this was a test of Mr. Boyle's—or you are alleging to have said what.

The WITNESS. He is alleged to have said——

Mr. CAREY. You have denied this, and I accept your denial. I don't question it.

The WITNESS. In the Washington Post.

Mr. CAREY. Will you be willing to drop a note to the Washington Post or call the Post and say that you were misquoted and you never said that?

Mr. RAUH. I am not quoted in this, it says a lawyer for Mr. Yablonski. You jump to the assumption that was me. I said nothing.

Mr. CAREY. It says his Washington lawyer. Who else do you have.

Mr. RAUH. I have no one.

Mr. CAREY. Mr. Moore is not a lawyer, I take it.

Mr. RAUH. Mr. Moore will be a lawyer in a year.

Mr. CAREY. I am not questioning that but who is the Washington lawyer?

Mr. RAUH. I am the Washington lawyer. And in so far as they say I said that, they made a mistake.

However, I am perfectly willing to write the Washington Post this letter: I did not say that, but had I been asked, I would have.

Mr. OWENS. What does what is in that paper have to do with this? Let's stop.

(Off the record.)

Mr. RAUH I think we have concluded this short of making a decision whether to go to court to get the answers to the questions that have not been responded to.

I do, however, intend to take on some other depositions of employees of the United Mine Workers, and I am wondering, because they are not parties, whether you want me to subpoena them, or whether you will accept a notice for their depositions, Mr. Carey.

Mr. OWENS. If the employees are in town, arrange the time and set the depositions down.

Mr. CAREY. A time usually convenient to both parties, and ample notice, not like the last one.

Mr. RAUH. On that basis I think we have concluded this deposition, subject to the court action if we decide to take it.

(Whereupon, at 3:30 p.m., the taking of the deposition was concluded.)

RALPH NADER AND THE PUBLIC INTEREST

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous material.)

Mr. HECHLER of West Virginia. Mr. Speaker, Ralph Nader, lawyer for the people, is having a growing impact on behalf of powerless individuals. No empire builder, Mr. Nader is nevertheless attracting to his banner some of the most creative and imaginative talent among young people. In the following two articles, the first appearing in Life magazine and written by Jack Newfield, and the second appearing in the New Republic and written by Mr. Nader, the process and philosophy of his activities are set forth.

I hope that these articles will inspire many more individuals, young, old and young at heart, to recognize the enriching values which are involved in battling unselfishly for the public interest.

[From Life magazine]

NADER'S RAIDERS: THE LONE RANGER GETS A POSSE

(By Jack Newfield)

His address is kept secret, yet people somehow find out and wait on the sidewalk to present some problem they've encountered, to provide some clue for him to follow up. In Winsted, Conn., where he grew up, more than a dozen letters and almost a dozen long-distance calls reach his parents each week, seeking his help. In Washington, where he lives and works, his mail heaps up in large piles, much of it addressed simply: "Ralph Nader, Washington, D.C."

A few seasons back Ralph Nader was the solitary, slightly eccentric-crusader for auto safety, a single-issue, individualistic reformer, bereft of staff or money. But now the loner has spawned a movement. Now the Lone Ranger has a posse. He has diversified his sense of outrage into a dozen new areas, from justice for American Indians, to ecology, to reform of the United Mine Workers Union. He has set up an activist institute in Washington with a full-time staff and some foundation funds. And he has become a folk hero in the nation's law schools, which provided him with most of the 102 young people (out of 2,000 volunteers) who spent the summer burrowing into the soft underbelly of the federal bureaucracy, looking for scandals and skeletons.

The influence of Naderism, that belief in individuals challenging institutions, continues to grow. Consumer groups are organizing across the country to fight for causes, like purity in meat and parity in drug prices, that he forcefully brought to public attention. Adam Walinsky, Robert Kennedy's former speechwriter and a close friend of Nader's, has assembled 15 of his own Raiders to work in New York. Joe Tom Easley, one of the summer volunteers, plans a similar group for Texas. And all this grassroots energy has helped to forge an effective bloc of consumer-oriented United States senators, including Abraham Ribicoff, Warren Magnuson, William Proxmire, Walter Mondale and Gaylord Nelson. Nader works with all of them, feeding them data and information, testifying before their subcommittees and suggesting new issues for them to look into. Naderism is becoming an important social force.

The location of Ralph Nader's $107-a-month office is a closely guarded secret. He doesn't have a phone in the file-and-periodical-cluttered, $80-a-month furnished room he lives in. He works roughly 18 hours a day, cruising the city to meet with his network of subterranean contacts in the press, Congress and corporations, making long-distance calls on the pay phone in the hall of his boarding house, drafting articles, speeches, letters and congressional testimony, and reading dry congressional subcommittee reports and complex legal and scientific journals.

Nader meets friends and interviewers not at home or at work but in places like the lobby of the Dupont Plaza Hotel in Washington. He allows no one to accompany him on his mysterious rounds of Washington where he, among other things, gets copies of secret reports from people in corporations and government agencies, reports which will document old crusades and lead to fresh ones. "Too much of what I do has to remain confidential and secret," he says. "I must have my privacy."

He has totally integrated his concepts of work and leisure. And he has systematically conditioned his body to function on four hours' sleep a night. "I happen to like what I do very much," he explains. "My desire for

privacy is a function of my need for time. I actually find the act of staying up till dawn researching a confidential memorandum pleasurable. It's just that I would rather work 20 hours a day on something that gives me real satisfaction than three hours a day on an alienating job that bores me. So I don't have to go to a discothèque at night to relax."

As Nader talks, there are quick, nervous thrusts of his long, bony hands. This is his only distinguishing gesture. The voice is soft and unaccented, his manner is moderate, almost bland. His dress is conventional, his ties are particularly dull. He is not bombastic but, rather, he blends, and this personal style is part of his attraction to the young who work with him. He makes many other people uncomfortable, though, because they can't understand his motives. A senator once asked him, "Why do you do this?" and Nader replied, "You wouldn't ask me that if I was representing the A.S.P.C.A., would you?"

His adversaries suspect that baser human drives like money, ego and power are his real fuel. They speculate that he has a secret Swiss bank account, that he harbors secret political ambitions, that he has been bought off by the bicycle industry.

His friends ridicule the rumors and point out that he draws no steady salary and lives mainly on money from college lectures he gives (about 20 a year ranging from no fee to a maximum of $1,000) and articles he writes, mostly for *The New Republic* at $125 each. He did earn about $60,000 for his book, *Unsafe at Any Speed*, but has spent almost all of that over the past three and a half years financing new investigations. "Ralph is just an old-fashioned moralist," says his confidant and publisher, Richard Grossman. "He's in the Brandeis tradition. He's just very outraged by the breakdown of ethics in business and government. He *is* what he *seems*. All the rest is mythology invented by the press. He's not lonely. He's not crazy. He is not humorless."

A congressman who has worked closely with Nader suggests that his secret weapon is his "lack of ego. Ralph just isn't desperate to grab all the credit every time he has a scoop. He'd rather call Morton Mintz at the Washington *Post*, or Warren Magnuson over in the Senate, and let them release it, then call a press conference himself. He just has no ulterior motives. He doesn't have an ideology to sell. He won't even tell me if he's a Democrat or a Republican."

And another friend, offering that Nader has no car, only four suits and eats many of his evening meals alone, explains Nader's lifestyle this way: "Look, if you really believe that cars are unsafe, meat and fish are unhealthy, television gives off harmful rays, that jets are dangerous and that air is polluted, you're apt to live a little bit like a nun."

"I don't like to think of myself as an idealist," Nader said recently. "If you define an idealist as someone who recedes from the real world because he wants his own world to be pure, then I'm not an idealist. I think of myself as being very practical because I want to be effective. One of the reasons I do what I do is that I feel very strongly the inadequacies of the traditional reformers. They don't do their homework. They get all involved with status, egotism and the rituals of publicity. Even the great old muckrakers like Upton Sinclair and Lincoln Steffens only did 20% of the job. They stopped with exposure. They didn't follow through by politically mobilizing a concerned constituency."

Nader has also been labeled an "Ombudsman," a "lobbyist," a "muckraker." But the title he likes best is "people's lawyer."

"The function of a lawyer," he said with his flair for aphorisms, "is to be a good investigator, analytic and careful. And to be savvy about the uses of power. I am a lawyer. Most lawyers are too hung up on clients. The most important thing a lawyer can do is become an advocate of powerless citizens. I am in favor of lawyers without clients. Lawyers should represent systems of justice. I want to create a new dimension to the legal profession. What we have now is a democracy without citizens. No one is on the public's side. All the lawyers are on the corporations' side. And the bureaucrats in the Administration don't think the government belongs to the people.

"For example, the industries, corporations and lobbyists manipulate the federal commissions and agencies. The Interstate Commerce Commission has always been a tool of the railroads, the bus lines and the trucking industry. The Department of Interior has been easily influenced by the oil and gas industries. The Department of Agriculture has been an instrument of the tobacco industry. No one represents the public interest. Lawyers are never where the needs are greatest. I hope a new generation of lawyers will begin to change that."

So, when Nader began to expand his investigations in the summer of 1968, he imported seven volunteers, including four law students and two law school graduates, to help him. They came to Washington to look into the Federal Trade Commission, and in early January of 1969 Nader personally delivered the students' 185-page report to Washington's media meccas. The report described one $22,000-a-year bureaucrat asleep in his office, documented other examples of political cronyism and corporate favoritism, and three months later President Nixon requested an FTC investigation by the American Bar Association.

Next Nader helped establish the new tax-exempt, nonprofit Center for Study of Responsive Law in an old townhouse off Dupont Circle. The Center, funded by the Carnegie and other foundations, has a consultant staff of four young lawyers and a political scientist, and works on consumer issues. Nader is the unsalaried chairman of the board of trustees.

And in the summer of 1969, his button-down guerrilla band of 102 college and graduate students roamed over Washington. The student volunteers received subsistence salaries (about $50 a week from foundation sources) for their exhausting season of interviewing uptight agency deskmen, pacifying suspicious Under Secretaries and studying dusty archives. The agency employes panicked, threw temper tantrums at Nader, refused to open up files to the students and in general behaved as if they had something to hide.

Most of the Raiders were law students, but a few were studying medicine, engineering and even anthropology. Twenty-one of them were women. Broken down into teams of between seven and 14, they focused on the Departments of Agriculture, Interior and HEW; the Interstate Commerce Commission (ICC); and on Covington and Burling, one of the capital's most politically connected private law firms. These targets were picked, rather than, say, the Pentagon or the State Department, because they are the agencies most directly related to consumer issues. Covington and Burling was added to the list because of its considerable work in behalf of corporations in consumer areas.

The Raiders seemed to be the sort of students who in 1961 would have volunteered for the Peace Corps or in 1964 have gone to Mississippi to register black voters or in 1968 would have worked for Eugene McCarthy or Robert Kennedy. They are not New Left types, and are quick to criticize the S.D.S. revolutionaries for being too ineffectual, too theoretical and too irrational. Like their leader, the Raiders tend to be personally and culturally conventional. They don't wear unusually long hair or seem to be rock music fanatics. Most seem to have the liberal, law student's mind-set: hard-working, activist, linear; seekers still of a way to wed morality to legality without violence.

Two of the most impressive were Jim Fallows, a Harvard undergraduate, and Julian Houston, a second-year law student at Boston University. Fallows is the president of the *Harvard Crimson* and spent the previous summer doing civil rights work in the Alabama black belt. Houston, who is black, was a first-generation activist with S.N.C.C. and the Northern Student Movement in the early '60s. Explaining his leap from organizing the underclass to exploring the power structure, he said, "Working with Nader I feel I'm attacking the same problems S.N.C.C. was, only at a different access point. With S.N.C.C. we tried to organize the people who worked on Senator Eastland's plantation. Here I'm working with the team looking into the Department of Agriculture. That department has influence over small farmers, black people and poor people every day."

The agriculture team was most concerned with investigating the department's food stamp program, with finding out the status of racial integration in the department's rural extension service, and in determining what influence the tobacco growers and certain senior congressmen like Jamie Whitten of Mississippi [chairman of the House Appropriations Subcommittee that approves the Agriculture Department's budget] have over the department. Fallows, who worked on the investigation along with Houston, said the Raiders had not received much cooperation. "One division director removed two manuals from the department's public library as soon as we asked to see them. They wouldn't let us examine their files, which we feel should be open to citizens under the Public Information Act. We discovered a lot of employes are actually afraid of losing their jobs if they talk to us. The bureaucracy has turned people into serfs who live in fear. We're trying to penetrate a whole way of life when we dig into this department."

Back at school now, each team of Raiders is drafting a heavily documented report on its findings, and these will be published as a book. Any royalties from the book will be used as the royalties from *Unsafe at Any Speed* were—to subsidize further investigations. And the book will include dozens of episodes gleaned from trips like the one Fallows and Houston made one hot, muggy afternoon to a man in the Agriculture Department's civil rights office. The pair had interviewed the same man the day before, and Houston talked about him while driving across the sultry city. "This guy is a relic,' Houston said. "He's a Negro who acts like he's never heard of *de jacto* segregation. It's our job to evaluate what kind of job he does for poor people and black people in the South. He has some responsibility for the rural extension service, which should be teaching people how to grow better crops. But that service is *de jacto* segregated, and he doesn't do anything about it."

At the Department of Agriculture building, the Raiders had to explain their purpose and fill out a form to gain entry to the parking lot. Inside the dirty, gray building, the halls were poorly lighted and not air-conditioned. On each side there were dozens of small, Kafkaesque cubicles.

The employee was very nervous. He stammered, his hands trembled a little, and he kept looking down at the floor. "I could get fired," he said, "if I say the wrong thing to these boys."

For a half hour the two Raiders questioned him like zealous district attorneys. From his answers, it appeared that the department was not trying to integrate the extension service, and that white county workers in the South do not help many blacks. Finally, he looked Houston in the eye and said:

"Look, my grandfather was a slave. Now I'm here. I know everything is not perfect. I know things have to change. But not so fast. *You* can keep pushing, but *I* have to go slower. I have to worry about a wife and children. My grandfather was a slave, you understand what that means, don't you?"

Leaving the office, Houston said quietly, "That really moved me, but damn it, the guy is not doing his job because the bureaucracy has him living in terror of being fired or demoted."

The team of Raiders investigating the Food and Drug Administratiion (FDA) came upon similar fears. One morning in August two Raiders—Jim Turner, a recent graduate of Ohio State Law School, and Peter Gold, a second-year student at N.Y.U. Law—interviewed Kenneth Kirk, the No. 3 man in the FDA, for 90 minutes. Their goal was to find out just why in 1966 the FDA had ruled that cola drinks did not have to list caffeine as an ingredient on their bottle labels.

In the course of the prodding but low-keyed interview, the administrator repeatedly asked Gold how and where he had obtained specific memos or files because he, Kirk, had been looking for them himself. He also said he was totally unaware of meetings that Gold casually referred to.

Although Kirk said he was ignorant of the exact details of how the caffeine decision was made, he did reveal that just before the decision was announced, he received two telephone calls. One was from Senator Richard Russell of Georgia, the home state of one large cola company. Another large soft drink producer that would have been affected by the ruling is located in Texas and the second call was from a member of Lyndon Johnson's White House staff. Both callers "expressed concern about the progress of the issue."

Later, someone said, "Kirk asked to look at the copies of the memos we had, just to try to find out who leaked them. But he gave the ball game away when he told us Russell and Johnson's guy had called up."

At their law schools now, Nader's summer Raiders are beginning to launch student campaigns to reform law school curriculums so that they include and create courses relevant to advocacy law. Most of the Raiders have decided to carve out careers in "public interest law," and Ralph Nader, out of a Winsted, Conn. family of moderate means, out of Princeton University and out of Harvard Law School, hopes to set up a "public interest law firm."

The *Harvard Law Record* commented in a recent editorial that the university "should recognize that Ralph Nader may be the most outstanding man ever to receive a degree from this institution." Norman Dorsen, N.Y.U. law professor and noted civil liberties advocate, says, "Nader is one of several important forces—along with Earl Warren he is the most personal—that have helped to liberate law students from rigid commercial attitudes." Bob Walters, investigative reporter for the Washington *Star*, says, "I've seen Nader speak at law schools and the guy is treated as a real saint in those places. They respond to him like they do to Tom Hayden or Eldridge Cleaver at other campuses."

In the long run, Ralph Nader's greatest impact may not be on the corporations, or on the federal bureaucracy, but on the next generation of lawyers and law students that he has inspired by his aggressive yet modest example. Ralph Nader may be generating the legal profession's first cult of nonpersonality.

[From the New Republic, Oct. 11, 1969]

LAW SCHOOLS AND LAW FIRMS

(By Ralph Nader)

(NOTE.—Ralph Nader has become a national institution, the unpaid representative of the public interest before Congress and the regulatory agencies. He is board chairman of the new Center for Study of Responsive Law in Washington and has contributed to The New Republic since 1965.)

It was a similar ritual every year. About 550 new law students would file into venerable Austin Hall at Harvard Law School on a September day and hear the no-nonsense dean, Erwin N. Griswold, orient them. The good dean had the speech down to a practiced spontaneity. He advised them that at that instant they had become members of the legal profession, that law firms were the backbone of the profession, that there were no glee clubs at the Harvard Law School and that the law was a zealous mistress. Thus was launched a process of engineering the law student into corridor thinking and largely non-normative evaluation. It was a three-year excursus through legal minutiae, embraced by wooden logic and impervious to what Oliver Wendell Holmes once called the "felt necessities of our times." It is not easy to take the very bright young minds of a nation, envelop them in conceptual cocoons and condition their expectations of practice to the demands of the corporate law firm. But this is what Harvard Law School did for over a half century to all but a resistant few of the 40,000 graduates.

The Harvard Law pattern—honed to a perfection of brilliant myopia and superfluous rigor—became early in the century the Olympian object of mimicry for law schools throughout the country. Harvard also did everything it could to replicate its educational system through its production of law school teachers, casebooks, and an almost proselytizing zeal. This system faithfully nourished and fundamentally upheld a developing legal order which has become more aristocratic and less responsive to the needs and strains of a complex society. In turn, the established legal order controlled the terms of entry into the profession in ways that fettered imagination, inhibited reform and made alienation the price of questioning its assumptions and proposing radical surgery.

Unreal as it may appear, the connection between the legal establishment and the spectacular increase in the breakdown of the legal system has rarely been made outside the fraternity. This is due to the functional modesty of the profession, its reluctance to parade itself as the shaper, staffer and broker for the operating legal framework in this country. What is not claimed is not attributed. This escape from responsibility for the quality and quantity of justice in the relationships of men and institutions has been a touchstone of the legal profession.

Anyone who wishes to understand the legal crises that envelop the contemporary scene—in the cities, in the environment, in the courts, in the marketplace, in public services, in the corporate-government arenas and in Washington—should come to grips with this legal flow chart that begins with the law schools and ends with the law firms, particularly the large corporate law firms of New York and Washington.

Harvard Law's most enduring contribution to legal education was the mixing of the case method of study with the Socratic method of teaching. Developed late in the nineteenth century under Dean Christopher Columbus Langdell, these techniques were tailor-made to transform intellectual arrogance into pedagogical systems that humbled the student into accepting its premises, levels of abstractions and choice of subjects. Law professors take delight in crushing egos in order to acculturate the students to what they called "legal reasoning" or "thinking like a lawyer." The process is a highly sophisticated form of mind control that trades off breadth of vision and factual inquiry for freedom to roam in an intellectual cage.

The study of actual law cases—almost always at the appellate court level—combines with the Socratic questioning sequence in class to keep students continually on the defensive, while giving them the feeling that they are learning hard law. Inasmuch as the Socratic method is a game at which only one (the professor) can play, the students are conditioned to react to questions and issues which they have no role in forming or stimulating. Such teaching *forms* have been crucial in perpetuating the status quo in teaching *content*. For decades, the law school curriculum reflected with remarkable fidelity the commercial demands of law firm practice. Law firm determinants of the content of courses nurtured a colossal distortion in priorities both as to the type of subject matter and the dimension of its treatment. What determined the curriculum was the legal interest that came with retainers. Thus, the curriculum pecking order was predictable—tax, corporate, securities and property law at the top and torts (personal injury) and criminal law, among others, at the bottom. Although in terms of the seriousness of the legal interest and the numbers of people affected, torts and criminal law would command the heights, the reverse was true, for the retainers were not as certain nor as handsome. Courses on estate planning proliferated, there were none for environmental planning until a few years ago. Other courses dealt with collapsible corporations, but the cupboard was bare for any student interested in collapsing tenements. Creditors' rights were studied deeply; debtors' remedies were passed by shallowly. Courses tracking the lucre and the prevailing ethos did not embrace any concept of professional sacrifice and service to the unrepresented poor or to public interests being crushed by private power. Such service was considered a proper concern of legal charity to be dispensed by starved legal aid societies.

The generations of lawyers shaped by these law schools in turn shaped the direction and quality of the legal system. They came to this task severely unequipped except for the furtherance of their acquisitive drives. Rare was the law graduate who had the faintest knowledge of the institutionalized illegality of the cities in such areas as building and health code violations, the endemic bribing of officialdom, the illegalities in the marketplace, from moneylending to food. Fewer still were the graduates who knew anything of the institutions that should have been bathed in legal insight and compassion—hospitals, schools, probate and other courts, juvenile and mental institutions and prisons. Racialism, the gap between rich and poor, the seething slums—these conditions were brought to the attention of law firms by the 'llumination of city riots rather than the illumination of concerned intellects.

Even the techniques of analysis—the ultimate pride of the law schools—were seriously deficient. Techniques which concede to vested interests a parochial role for the law and which permit empirical starvation of portions of their subject matter become techniques of paralysis. This was the case in the relation of tort courses and motor vehicle injuries. Law as prevention, law as incorporator of highway and vehicle engineering facts and feasibilities was almost totally ignored. The emphasis was on legal impact after crashes occurred, so as to assign liabilities and determine damages between drivers. Another failure in analysis was thematic of the entire curriculum. Normative thinking—the "shoulds" and the "oughts"—was not recognized as part and parcel of rigorous analytic skills. Although the greatest forays in past legal scholarship, from the works of Roscoe Pound to those of Judge Jerome Frank, proceeded from a cultivated sense of injustice, the nation's law schools downplayed the normative inquiry as something of an intellectual pariah. Thus the great legal challenges of access to large governmental and corporate institutions, the control of environmental pollution, the requisites of international justice suffered from the inattention of mecha-

nized minds. There was little appreciation of how highly demanding an intellectual task it was to develop constructs of justice and injustice within Holmes' wise dictum that "the life of the law is not logic, it is experience." Great questions went unasked, and therefore unanswered.

Possibly the greatest failure of the law schools—a failure of the faculty—was not to articulate a theory and practice of a just deployment of legal manpower. With massive public interests deprived of effective legal representation, the law schools continued to encourage recruits for law firms whose practice militated against any such representation even on a sideline, *pro bono* basis. Lawyers labored for polluters, not anti-polluters, for sellers, not consumers, for corporations, not citizens, for labor leaders, not rank and file, for, not against, rate increases or weak standards before government agencies, for highway builders, not displaced residents, for, not against, judicial and administrative delay, for preferential business access to government and against equal citizen access to the same government, for agricultural subsidies to the rich but not food stamps for the poor, for tax and quota privileges, not for equity and free trade. None of this and much more seemed to trouble the law schools. Indeed, law firms were not even considered appropriate subjects of discussion and study in the curriculum. The legal profession—its organization, priorities and responsibilities—were taken as given. As the one institution most suited for a critical evaluation of the profession, the law school never assumed this unique role. Rather, it serviced and supplied the firms with fresh manpower selected through an archaic hierarchy of narrow worthiness topped by the editors of the school's law review. In essence it was a trade school.

The strains on this established legal order began to be felt with *Brown* vs. *Board of Education* in 1954. *Brown* rubbed the raw nerves of the established order in public. The mounting conflict began to shake a legal order built on deception and occult oppression. The ugly scars of the land burned red. Law students began to sense, to feel, to participate, and to earn scars of their own. Then came the Kennedy era with its verbal eloquence, its Peace Corps—overseas and later here. Then came Vietnam and Watts, Newark and the perturbation became a big-league jolt. Law students began to turn away from private practice, especially at the Ivy League law schools. Those who went directly to the firms were less than enthusiastic. The big corporate firms in New York and Washington began to detect early signs that their boot camps were not responding to the customary Loreleis of the metropolitan canyons. Starting salaries began to reflect the emergence of a seller's market. Almost two years ago, the big New York Cravath firm set a starting salary of $15,000 a year and many firms followed. Still the law graduate detour continued. The big firms began to promise more free time to engage in *pro bono* work—the phrase used to describe work in the public interest such as representing indigents. The young graduates were still dissatisfied—first over the contraction of the promises and second over the narrow interpretation given to *pro bono* work.

At the same time, more new or alternative career roles in public service began to emerge. Neighborhood Legal Services, funded by OEO, was manned by 1,800 young lawyers around the country at last count. The draft is driving many graduates into VISTA programs. There are more federal court clerkships available. And the growth of private, public-service law institutions such as Edgar Cahn's Citizen's Advocate Center and the Urban Law Institute headed by his wife, Jean Cahn, are not only providing such career roles but articulating their need throughout the country.

Meanwhile back at the law schools, student activism has arrived. Advocacy of admission, curriculum and grading reform is occurring at Harvard and Yale. Similar currents are appearing at other law schools. New courses in environmental, consumer and poverty law are being added to the lists. The first few weeks of the present school year indicate that the activists' attention is turning to the law firms that are now coming on campus to recruit. In an unprecedented move, a number of detailed questionnaires, signed by large numbers of students, are going out to these firms. The questions range far beyond the expected areas of the firms' policies on minority and women lawyers, and *pro bono* work. They include inquiries about the firms' policies on containing their clients' ambitions, on participation in law-reform work, on conflict of interest issues, on involvement in corporate client and political activity, and on subsidizing public-interest legal activity. Such questionnaires are preliminary to the development of courses on law-firm activities, and to more studies of specific law firms, which began this past summer with a study of the largest Washington, D.C. firm, Covington and Burling.

The responses which the firms give to these questionnaires, and whatever planned response the students envisage for those firms who choose not to rely, will further sharpen the issues and the confrontations. The students have considerable leverage. They know it is a seller's market. They know how vulnerable these very private firms are to effective public criticism. Status is crucial to these firms. Status is also a prime attraction for competent law school graduates.

In recent months, there has been much soul-searching among the larger firms. Memos suggesting various opportunities for *pro bono* work by younger associates have been circulating between partners. A few decisions have been made. Some New York and San Francisco firms are considering or have instituted time off allowances ranging from a few weeks a year to a sabbatical. Piper & Marbury, a large Baltimore firm, has announced its intention to establish a branch office in the slums to service the needs of poor people, without charging fees if there is an inability to pay anything. Arnold and Porter, the second largest Washington, D.C. firm, has appointed a full time *pro bono* lawyer and is permitting all firm members to spend if they wish, an average of 15 percent of their working hours on public service activities. Hogan and Hartson, the third largest D.C. firm, is setting up a "Community Services Department" to "take on public interest representation on a non-chargeable or, where appropriate, a discounted fee basis," according to the firm's memorandum on the subject.

The Hogan and Hartson memorandum is a fairly candid document. Like other firm memorandums on *pro bono* ventures, there is the acknowledgement that such a move "may have a favorable impact upon recruitment." The executive committee of Hogan and Hartson concedes that "there is a tendency among younger lawyers, particularly those with the highest academic qualifications, to seek out public-service oriented legal careers as an alternative to practice in the larger metropolitan law firms." In its internal firm statement, the committee notes that it "regards of the relative disfavor into which the major law firms have fallen to be attributable, at least in part, to the feeling among recent law school graduates *that these firms have failed to respond to the larger problems of contemporary society.*" (Their emphasis.) Some statistics impressed the senior partners: the University of Michigan Law School reports that 26 of its 1969 graduates entered Wall Street law firms as compared with an average of 75 in preceding years. Harvard Law School reported that the percentage of its graduates entering private law practice declined from 54 percent in 1964 to 41 percent in 1968, and an even more significant decline is expected in the next few years.

It is too early to appraise these programs because they have not yet gotten underway. The likelihood that serious or abrasive conflict of interest situations will arise depends on the kind of *pro bono* work selected. If this work deals with "band-aid law" in the slums on a case basis, few conflicts of interest problems should arise. On the other hand, should the *pro bono* lawyers grapple with the financial institutions who fund the slum moneylenders for example, or strive toward structural reform of a legal institution, then the probability of conflict is increased.

Because of the enormously greater cost-benefit which attached to the more basic *pro bono* efforts, the external and internal pressures on the firm's leaders will be in that direction. This could lead to more profound clashes between the firm's allegiance to its paying clients and its recognition of public service responsibilities. With additional law student and younger lawyer demands for cash contributions for scholarships to minority law students, for admission of more minority lawyers to firm membership, and for senior partners to pay "reparations" out of their own salaries to assist the legally deprived—all demands made or in the process of being made—the pressure may soon exceed the firms' threshold of tolerance. At that point the experiment in *pro bono* may terminate.

Whatever the outcome, the big firms will never be the same again. They will either have to dedicate substantial manpower and resources to public service, and somehow resolve the conflict of interest problem, or they will decline in status to the level of corporate house counsel or public relations firms. The polarization of the legal profession seems a more likely development. Before he left Harvard almost two years ago to become U.S. Solicitor General, Dean Griswold wrote of his belief that there would be a "decline in the relative importance of private law practice as we have known it in the past." This trend is in fact occurring as far as the younger lawyers' concept of importance is concerned. However, the immense power of these firms and their tailored capacity to apply know-how, know-who and other influences remains undiminished.

Recent evidence of the resourcefulness of large corporate law firms in overwhelming the opposition on behalf of its clients comes from the firm of Wilmer, Cutler and Pickering. A firm team, headed by Lloyd Cutler, obtained last month on behalf of the domestic auto companies a feeble consent decree in return for the Justice Department's dropping its civil antitrust case charging the domestic auto companies with conspiracy to restrain the development and marketing of pollution control systems since 1953. Earlier Mr. Cutler succeeded in having the Antitrust Division heed his representations that the original policy to initiate criminal proceedings, after an 18-month grand jury strongly wanted to return an indictment, be dropped. The terms of the consent decree are being challenged by a number of cities in federal district court at Los Angeles. The petitioners allege that there are inadequate provisions for disclosure of the conspiracy information and for long-term compliance, and that the great deterrent effect of a public trial was lost. Without going into further detail, it is sufficient to state that many law students and younger lawyers see a divergence in such a case between the lawyer's commitment to the public interest and his commitment to the auto industry.

Professor Charles A. Reich of Yale Law School expressed one form of this heightened expectation of the lawyer's role as follows: "It is important to recognize explicitly that whether he is engaged publicly or privately, the lawyer will no longer be serving merely as the spokesman for others. As the law be-

comes more and more a determinative force in public and private affairs, the lawyer must carry the responsibility of his specialized knowledge, and formulate ideas as well as advocate them. In a society where law is a primary force, the lawyer must be a primary, not a secondary, being."

The struggle of the established law firms to portray themselves as merely legal counselors affording their corporate clients their right to legal representation is losing ground. So too is their practice of hiding behind their responsibility to those clients, and not taking the burden of their advocacy as the canons of ethics advise them to do wherever the public interest is importantly involved. Either they are technical minions or they bear the responsibility attendant upon their status as independent professionals.

Clearly, there is need for a new dimension to the legal profession. This need does not simply extend to those groups or individuals who cannot afford a lawyer. It extends to the immense proliferation of procedural and substantive interests which go to the essence of the kind of society we will have in the future, but which have no legal representation. The absence of remedy is tantamount to an absence of right. The engineer of remedies for exercising rights is the lawyer.

The yearning of more and more young lawyers and law students is to find careers as public-interest lawyers who, independent of government and industry, will work on these two major institutions to further the creative rule of law. The law, suffering recurrent and deepening breakdowns, paralysis and obsolescence, should no longer tolerate a retainer astigmatism which allocates brilliant minds to trivial or harmful interests.

THE NEWS MEDIA

(Mr. BLACKBURN asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous material.)

Mr. BLACKBURN. Mr. Speaker, in the last few weeks, Vice President AGNEW has directed the attention of the American public to our news media. Considering themselves to be above criticism, the members of the media have reacted indignantly to charges of nonobjectivity. However, many of us have long observed the biased reporting which these molders of public opinion and understanding have presented. I would like to add one more example to those which have been observed.

Prior to President Nixon's November 3 speech on his Vietnam policy, NBC and CBS television showed film clips of supposed atrocities by South Vietnamese soldiers. Furthermore, immediately after the President's speech these film clips were run again. However, diligent investigation proved these film clips to be over 2 weeks old. For some inexplicable reason, the networks were holding this film and decided to use it at this particular instance.

The publication Combat published by the National Review contains a thorough explanation of the activities of the news media with regard to President Nixon's speech on November 3. For the information of my colleagues, I am inserting excerpts from this article in the RECORD:

TV NETWORKS PREPARE PRESIDENT'S AUDIENCE WITH ATROCITY PICTURES

Tuesday, Nov. 3 might have been S- (for Speech) Day for President Nixon, but for two American television networks it was A- (for Atrocity) Day. CBS and NBC networks chose their important evening news programs—Walter Cronkite in one case, Huntley-Brinkley in the other—to show off footage of South Vietnamese troops engaged in maltreatment of captured Viet Cong and North Vietnamese troops. The news reports, unspecified as to timeliness, exploded on TV sets on the populous East Coast just two and a half hours before the President was scheduled to deliver his major Vietnam address. On CBS, correspondent Don Webster showed a South Vietnamese soldier stabbing a captured North Vietnamese soldier, and then—in deference to the queasy—narrated comments indicating the corpse was mutilated. Cronkite displayed an air between outrage and piety. Switching to NBC, the H-B team showed a South Vietnamese Ranger belting a captured enemy soldier around, with a cutaway to an American Army officer at a briefing session insisting that allied forces are abiding by the Geneva Convention and did not mistreat prisoners.

The television networks' field coverage on Vietnam is approaching the proportion of a scandal. All three networks uniformly ignore the widespread torture of allied troops, and the murder of civilians by Viet Cong cadres sent to terrorize villages into submission. The Tet offensive Hue massacre (almost 6,000 bodies found so far) received "just enough" coverage. Day-by-day combat operations in South Vietnam are usually dismissed in less than a dozen lines. This suppression is readily apparent to anyone watching the casualty figures each week: at present rates about 100 Americans, about 300 South Vietnamese and about 1,800 North Vietnamese and VC troops are killed, but the TV networks (which now provide Americans with their most immediate information about the war) have reported only light skirmishes.

CBS-TV News is one of the major offenders. In its war coverage CBS had displayed missionary fervor in exposing what it believes are the failings of the South Vietnamese Army. One day, a report on closing of a U.S. Army base, and allegations that the base is being systematically stripped by South Vietnamese. The next day, a report on a gathering of South Vietnamese command and general officers, with commentary on rumors of a coup d'etat (hardly a report to instill confidence in U.S. allies). Then a few atrocity pictures to establish a mood while the nation awaits a report from its President; the next day a commentary from Saigon on how little evidence there is that South Vietnamese troops can do a fighting job; switch to Washington for the report of an exclusive rumor that the U.S. military commander in Vietnam is about to be sacked. The next day a report, two sentences long, that North Vietnamese troops shelled or mortared 45 South Vietnamese hamlets and villages, the next day 68 villages—there are *never* any pictures of these villages subjected to enemy shelling. When shelled villages are shown, they are communities that have (1) been hit in error by allied guns or planes (American mistakes are CBS favorites) or (2) VC strongholds in villages that have been deliberately destroyed by U.S. forces (one such tearful report on Marine destruction of a VC strongpoint won a CBS correspondent a journalism prize).

Few of today's young marchers know or care anything about military history; and the press, which should, is certainly not trying to put its coverage into historical perspective. The result is a subtle but powerful anti-military bias. One must remember that in all wars civilians are killed, black markets flourish, and bombers unload off-target. Examples: (1) More civilians killed at Honolulu by falling antiaircraft shells than by Japanese bombs, (2) St. Lo, France, virtually destroyed by allied artillery, thousands of civilians killed, during liberation of Normandy. (3) U.S. Navy ships shot down 50 C–47's full of paratroopers during Sicilian invasion, (4) Italian and French looters, and thousands of GIs, stole Uncle Sam blind during the French and Italian campaigns, when whole trainloads of equipment disappeared into the black market. Those stories, sometimes delayed by censors who recognized their damaging effect on wartime morale, were revealed to the American public, but they were presented in context as mistakes, ineptitudes or military necessity (as the case might be) *not* representative of the conduct of the war.

Mr. Speaker, recently, I had the pleasure of writing a column for the local papers in my congressional district concerning Vice President AGNEW's speech. For the information of my colleagues, I am hereby inserting this column in the RECORD:

Few speeches by public officials in recent years have aroused as much discussion as the last two by Vice President Agnew in which he has been rather critical of news media. The public reaction has generally been one of praise for the Vice President while reaction of the spokesmen for the media under criticism have denied the assertions of the Vice President.

I personally feel that the Vice President has performed a genuine public service by bringing out into the open, as only a man in his position could effectively do, a discussion which is vital to a continuation of free democratic processes. Our entire political system is dependent upon an informed citizenry. If our citizens are not being fully informed of events then their collective judgment in selecting public leaders or in supporting or opposing government policies would be faulty due to a failure of information.

I can personally say that the television stations in Atlanta have always been most fair with me, during political campaigns as well as during my service in office. I do not have the same high opinion, however, of some of the newscasters on our national networks.

Those charged with the responsibilities of gathering and reporting news should be concerned at the display of public support for Mr. Agnew's remarks. They should be concerned because this support reveals a distrust by the general public of news media. No one who takes pride in his work should feel happy with the knowledge that the persons they are seeking to serve are skeptical as to their basic honesty! If such distrust exists, the source of such distrust is undoubtedly the networks themselves, and it is only they who can remove the public doubts which are so evident.

Mr. Agnew has not proposed government censorship nor would I support such move. Censorship would be the worse of two evils. If defects do exist in news coverage and reporting, the industry can be compelled by the force of public opinion to cure the defect.

We all recognize that for an event to be news-worthy, it must be aberrational from the norm. For example, it is not news that 60-million housewives prepared breakfast this morning for their families, but if one housewive stabs her husband that is news! It is the stabbing event which would, in the course of things, be reported and not the activities of the 60-million housewives.

I think the lack of confidence being expressed by many citizens in news reporting services partially arises because news services devote an inordinate amount of time and space to the aberrational. In the process, they have lost perspective.

Not only has the balance between the aberrational and the norm been very badly abused, but it is increasingly recognized that many events occur or enjoy far greater public participation than would otherwise be the

case except for great cooperation on the part of the news media. A good example is the Moratorium demonstrations which received such broad television and newspaper coverage *prior* to the event's occurrence. In effect, the sponsors of the demonstration received millions of dollars worth of free publicity which could only have the effect of mobilizing sentiment in favor of the demonstrations. *The Washington Post*, the largest newspaper in Washington, devoted literally thousands of words and scores of pictures to the proposed demonstration *prior* to the event. Thus, the Post was not serving to report an event *after* its occurrence, but was actively assisting in preparations for the event.

The general public rightly resents the use of the news media, whether it be television or the printed word, for the promotion of political events. Political positions rightly belong on the editorial page or in editorial comment, but when the news pages and the news reports themselves serve to promote political causes with which the newscaster or reporter feels sympathy, it is an abuse of the purpose of news reporting.

In summary (and I apologize for the length of this column), it is may opinion that the great public endorsement of Vice President Agnew's recent speeches arises because of two justifiable convictions held by the public. First, the public resents the degree to which perspective in news reporting is so badly distorted that the distasteful and weird are constantly displayed to the exclusion of predominate modes of conduct and accepted standards. Secondly, news media cooperation prior to events having political significance have become a form of co-sponsorship of the event. The public does not regard co-sponsorship of political events as a proper news media function.

No one in political life wants to pick a fight with a newscaster or a city editor. I hope that my observations here will not be regarded as an attempt to "pick a fight." What I am doing is giving my opinion as to why public distrust of news media does exist.

Mr. Speaker, I now call upon the members of the news media to conduct an investigation of their own ethics and standards. For the past few years, both Houses of Congress have established ethics committees to judge Members' conduct. The Motion Picture Producers' Association has established codes for classifying films in order to see that their material is properly distributed. Maybe its time for the news industry itself to stop and review its own conduct.

ALCOVY RIVER

(Mr. BLACKBURN asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous material.)

Mr. BLACKBURN. Mr. Speaker, recently, I had the pleasure of introducing H.R. 14918, a bill to amend the Watershed and Flood Protection Act of 1954. I was motivated to take this action after discovering that the Soil Conservation Service of the Department of Agriculture has been responsible for the destruction of wildlife within many of the streams found in the Southeastern United States. In fact, the Soil Conservation Service was planning to destroy all wildlife through the process of channelization of the Alcovy River in Georgia. This river is one of the few unpolluted natural streams in my State and is very close to the city of Atlanta. The actions of the Soil Conservation Service, if allowed to continue, could make gigantic drainage ditches out of all of our streams.

Dr. Charles H. Wharton of the University of Georgia in Atlanta has undertaken a study regarding the need to preserve the Alcovy and other such natural streams. For the information of my colleagues, I am hereby inserting into the RECORD two papers which Dr. Wharton has written on this subject:

THE ALCOVY RIVER—A UNIQUE NATURAL HERITAGE

(By Charles H. Wharton)

PROLOGUE

Foremost among the things which can destroy this nation is the failure to recognize and teach the true relationship of man to the natural world. The most shocking manifestation of this is the abuse and destruction of our natural environments of air, water, and land. Lately it has become manifest through the ecologist Eugene Odum and his associates that a combination of water and land, the coastal marsh, is of critical importance. Another combination of water and land, the inland swamplands, perhaps lacking so significant a champion, and with far less data in their behalf, have nevertheless come to their time in history.

This report is written in behalf of the larger river swamps of the Southeast, those mysterious assemblages of water and forest, the wet and the unwet, that have intrigued naturalists and explorers from 1791 to 1969. From the days of William Bartram, who found and lost the gorgeous *Franklinia* in the great Altamaha swamps, we have hardly known how to treat this quite conspicuous and little understood feature of our natural environment. To the average man the word "drain" was the major verb to apply to this watery realm that was neither fish nor fowl. Forlorn ditches and abandoned canals over the state attest the lack of appreciation and understanding of these wetlands. The mighty Okeefenokee but narrowly escaped the fate of drainage brought by ditch, canal, or channel; the vast Everglades has come close to death by the same means.

Today, a deepening and widening of swamp streams by bulldozer and dragline, called "channelization" threatens the remaining fresh water river swamps of Georgia. Channelization is a part of nearly every flood control project of the Soil Conservation Service under Public Law 566. Because P.L. 566 projects have been largely confined to small watersheds, the channelization of larger Georgia streams has not been attempted. Proposed channelization of the large Alcovy River in Newton and lower Walton Counties has abruptly brought this facet of flood control in conflict with ecologist, conservationists and resource management agencies. Not only would channelization destroy the Alcovy's position as a state scenic river, but it would jeopardize one of the state's few remaining natural areas, the potential of which is of value to every citizen in Georgia.

Small bottomlands, on streams small enough to have been manageable by the beaver, the Indian and the Caucasian settlers, are not the issue. We here are concerned with the large swamp ecosystem, too large to be mastered by man or animal, that has existed in a relatively stable state for centuries. These great river swamps were likely the last refuge of the vanished mastodons, mammoths and ground sloths who, incredibly, appear to have survived here until as late as 2000 years ago. Today these swamps are the last refuge for a dwindling host of native fauna, including the cougar, red wolf and ivory-billed Woodpecker.

I thus offer constructive criticism of only one phase of Soil Conservation Service activity, the interpretation of P.L. 566 as regards channelization of the larger swamps along the large streams. No opposition is intended against flood control reservoirs, protection of land being farmed or having been farmed, or other sound aspects of the Alcovy Project.

INTRODUCTION

The Alcovy River is a branch of the Ocmulgee, and the easternmost of three large rivers draining into Jackson Lake. Above Jackson Lake are impressive shoals and the fall is most rapid. From about four miles below Covington north to Monroe the river is bordered by some of the finest bottomland swamps in the Piedmont. Where standing or flowing water is abundant, there are numerous stands of tupelo gum (*Nyssa aquatica*), a coastal plain species. Infrequently flooded portions of the swamp bear a floodplain assemblage of water oak, swamp chestnut oak, sweet gum, hackberry and poplar. Occasional high bluffs border the river with beeches and mountain laurel. Among the larger vertebrates, water fowl, deer, raccoon, otter, beaver, mink, swamp rabbit and squirrel are often abundant. The forest floor supports a rich assemblage of smaller vertebrate life. Among the amphibia are Ambystomid salamanders (spotted and marbled), two species of *Eurycea, Hemidactylium, Pseudotriton*, the golden mouse (*Ochrotomys nuttali*) and in the high swamps and ecotones, the rare southeastern shrew, *Sorex longirostris*, and the jumping mouse, *Zapus hudsonicus*. The southernmost locality for the northern meadow mouse, *Microtus pennsylvanicus*, was discovered adjacent to the swamp by Homer Sharp on Sam Hay's property south of Covington. The swamp pools swarm with invertebrate life even in winter. Current studies are underway on food chains in the Alcovy swamp but relatively little is known of this prominent ecosystem. The Alcovy itself is clean and unpolluted compared to other Piedmont streams. It is perhaps unique among Piedmont rivers in the vastness of its swamps, the nature of the swamps, and in having an accessible and central location. We at Georgia State use the Alcovy for field trips and have found it very convenient to an institution in urban Atlanta. Further, its cleanliness offers us a research control in comparative studies of the swamp ecosystem of the South River, now virtually an open sewer. River basin studies are an important phase of the current International Biological Program. Between Monroe and Jackson Lake the Alcovy provides unexcelled wilderness experience in hiking, boating, hunting, fishing and general natural history. The quality of its water and its environment of plant and animal life makes the river a valuable candidate for the state scenic rivers system.

The area of the swamp lying south of the Alcovy Station railroad trestle has been calculated by planimeter from U.S.G.S. quadrangles to be 1825 acres, and is of the most crucial importance. Complete U.S.G.S. coverage is not available in Walton County but the area from the railroad bridge north to Monroe has an estimated 1500 acres of river swamp.

THE ALCOVY PROJECT

The Soil Conservation Service, under Public Law 566, has very recently completed plans for a project which is intended to eliminate 80% of the swamp forest along the Alcovy and two principal tributaries, Cornish and Flat Creeks. This project is sponsored by the Upper Ocmulgee Soil and Water Conservation District and city officials of Monroe, Covington and other communities. About 15 reservoirs are to be constructed. Two are large, the largest having a normal pool of 560 acres, a flood pool of 1235 acres. The present Alcovy channel is to be dredged from five to six feet deep (published plans for Cornish Creek, Flat Creek and the lower Alcovy call for a cut below grade of from 4.0 to 8.5 feet); the spoil may be spread or not spread at the landowner's wishes. Cornish

Creek will be dredged from its junction with the Alcovy (5.5 foot depth to top of bank) to Highway 138 (4 foot depth here). All trees will be cut on one or both sides of the river and tributaries in a strip from 30 to 100 feet wide to make it easier to deposit the dredging spoil and to prevent trees from falling into the river. The present channel of the Alcovy is to be followed in dredging. In certain areas the channel will be widened as well as deepened. On Cornish and Flat Creeks old dredge lines will be followed. From the terminus of the present large swamps about a mile above the highway 213 bridge to about six miles downstream, snagging and clearing of the river will be done. The costs of the project on the Alcovy proper will be $6,003,032 of which $3,909,874 are public funds. The costs of Cornish Creek are $4,860,009 of which $3,196,910 are public funds. The stopping of erosion, the reduction of flood-frequency on existing croplands, and the impoundment of water for late summer use by cities downstream are all worthwhile objectives of the Alcovy Project. *Disagreement comes only with channelization of the lower Alcovy below Monroe and in certain parts of lower Cornish and Big Flat Creeks.*

The evidence is strong that channelization of the Alcovy will destroy a very valuable resource, not only for the owners of the river, but for the people of the entire state. Serious confrontations between conservation, game and timber resource people and the advocates of P.L. 566 have occurred, chiefly over the disastrous effects of channelization. Weaknesses of P.L. 566 programs have been summarized by Poole[1] of the Wildlife Management Institute indicating that, in many states, "engineers, economists and physical scientists are making irrevocable biological decisions affecting irreplaceable resources". Stuart[2] has presented an analysis of P.L. 566 recommending elimination and reduction of channelization. Russell[3] of Kentucky Fish and Wildlife Resources has discussed the catastrophic effects of 566 projects indicating that ". . . lowland woodland habitat comes the nearest to a multiple use concept of any wildlife environment. Its utilization by important furbearers, waterfowl and for its timber resources make it doubly valuable from the monetary and recreational standpoints". "We in Kentucky have found that wildlife habitat destruction far outweighs any possible benefits under the P.L. 566 programs".

Barick[4] reported to the Southeastern Directors of Wildlife Commissions that his study group examined nine streams channelized by P.L. 566 projects and detailed the impact on swamp hardwood tree production. "Participants observed clear cut evidence of tupelo gum damage and destruction through excessive water removal and right of way clearing. Expert opinion expressed indicated that excessive lowering of water tables would result in tupelo die-back and that this valuable species would be replaced by other less valuable species. In the course of our tour we gained additional information supporting our belief that desired agricultural drainage could be secured without destroying the valuable wetlands, since the present drainage design is based upon the erroneous assumption that these areas have no significant value." Barick's group consulted with drainage engineers and found that modification of former procedures was indeed practical. Forest Durand,[5] while director of the Tennessee Game and Fish Commission, expressed the growing concern held by many state agencies dealing with conservation of natural resources (including Georgia officials), that P.L. 566 projects are very questionable where the resources being lost are in short supply and increasing demand while those gained are already in oversupply. Durand points out that channelization and stream alteration appear an easy way to arrive at satisfactory cost benefit figures as required by law. Director Durand challenged the current idea of getting water that can not be put behind dams off the watershed as soon as possible, reversing the past philosophy of holding it there, a philosophy which had originally helped enact P.L. 566.

Bayless and Smith[6] in a study of habitat alteration associated with stream channelization in eastern North Carolina, compared the fish populations of 23 channeled and 36 unchanneled streams and found 90% reduction in weight and number of game fish per acre in streams channeled by P.L. 566 projects. For a 40-year period following channelization fish and wildlife populations did not recover. Allen's[7] report on channelization's impact on fish and wildlife revealed that all 13 southeastern states felt that channelization posed a serious threat. In addition, Kentucky reported erosion and slumping in 60% of P.L. 566 channels inspected. Leonard Foote and I found serious slumping in the Little River channel emptying into Lake Allatoona. Unfortunately, owing to the uniform and faster current created by channelization, this material is not redeposited locally but swept far downstream into the lakes. In naturally meandering streams, soil that may erode on the outside of bends is redeposited on the inside of other bends. Departments of some states, such as Florida, have urged repeal of P.L. 566. South Carolina suggested that important ecological types and areas be placed in a "hands off" category. Ecologists and agency specialists of the Georgia Natural Areas Council have the responsibility of establishing a classification of Georgia environments and of declaring their public value as soon as possible.

Ecologists and wildlife specialists were criticized at a public hearing on the Alcovy because they had supposedly waited 10 years to make themselves heard. A letter from the Georgia Game and Fish Commission dated March 4, 1968, states that the Commission is not made aware of a project until it is already approved and that recommendations for modification of stream channelization are entirely ignored. While a preliminary work plan map on the Alcovy was prepared as early as 1960, feasibility studies by Service engineers were begun in 1963, stopped in 1964 due to reservoir limitation figures, and not resumed until 1967 when P.L. 566 was amended to raise the size of reservoirs from 5000 to 12,500 acre feet. According to the S.C.S. itself complete finalized plans for the Alcovy Project have been made available only in the past few months. It has therefore been difficult even for agencies on the inside of these projects to have known what was intended prior to 1967.

Alabama's chief of Game and Fish, Kelly,[8] indicates that channel construction alone usually costs several times more than the market price of the land alleged to be benefited, and that a closer look reveals that in almost all instances the amount of money to construct the channel, if placed in savings at the current interest rate, would more than pay for annual losses of each landowner, incurred as a result of floods."

According to the work plans it would appear that 4,327 acres of swampland could be drained for creating additional farmland. This is directly against administrative policy set forth in para. 101.101–101.103. Chap. 1, Part 1, *Watershed Protection Handbook*, S.C.S., U.S.D.A. which states "No P.L. 566 financial or technical assistance will be provided for projects in which monetary benefits accrue primarily from bringing additional land into agricultural production." Charles Elliott, writing for The Atlanta Journal (Outdoors and Recreation, March 9, 1969), says that he fails to understand how we can pay landowners to put their agricultural land in the federal soil bank and then expend federal funds to give them more agricultural land.

Even if the acreage cited above could bring private monetary gain the cost to the public is prohibitive. According to a statement issued by the Georgia Game and Fish Commission February 27, 1969, "These plans say the annual benefits of this will be worth $105,000 a year. Channelization costs . . . to accomplish this would cost almost three million dollars, which could mean that it would take almost 30 years for the benefits of drainage to match the cost. By that time, the future recreational and educational uses of the swamp lands might exceed their value to the public as drained land. . . ."

Something is fundamentally wrong when any organizatoin can, without basis in sound ecological study, destroy a large life system (ecosystem) of great potential value to its owners and to the people of the entire state. It is fundamentally wrong to expend public funds to help private citizens, while the pleas of public agencies and professionals are ignored. The implications of the Alcovy go far beyond this river. Projects under P.L. 566 nearly blanket Georgia's Piedmont. Unless true cooperation on channelization soon occurs between the S.C.S. and other state and Federal agencies, three will be no scenic rivers left in Georgia and the esthetic, educational, scientific and recreational benefits of many streams will be lost for generations to come. The children of the present landowners have to live in the environment which we leave them. At the heart of the matter is the fact that many landowners have derived no monetary yield from their swampland and are being taxed as highly on it as they are for high ground which can be developed or cultivated. We must acknowledge this problem. We must indicate ways to get tax relief for swampland and point out how it may be profitable to keep swamps in their natural state. The remainder of this paper seeks to set forth the significance of the living swamp in its unchanneled state, followed by reasons why landowners should maintain their swamp in a natural state.

THE ALCOVY IN EDUCATION AND SCIENCE

Since uplands, fields or forests are increasingly involved in subdivision and commercial enterprise, they are rapidly becoming scarce making it increasingly difficult to establish areas where school children and college students may learn on field trips the fundamental relationships between water, soil, plants and animals. The river swamps provide ideal natural laboratories, being generally available to almost all urban centers. The rich life system of the Alcovy is centrally located to serve a vast urban population, providing no channelization is done and the river can be set up under a state scenic rivers bill or established as a natural area by the State Natural Areas Council entering into agreement with the owners.

Natural areas, such as the Alcovy bottomlands, are important to education in Georgia. Undirected education, such as the boy-swimming hole—cane pole—dog association, can be a very important educational experience. Channelization also makes it extremely difficult to teach the fundamental concepts of man and nature to school children, by depriving them of a comparatively inexpensive local environment which is available to many communities and which is *not* in demand for construction and development. The river swamps have all the attributes of natural outdoor laboratories—all our cities and towns desperately need these areas within an afternoon's bus ride.

The role which the life system or ecosystem of the swamp plays in maintaining water quality and in productivity and other basic questions requires that a large natural swamp such as that on the Alcovy be available for basic studies to provide answers of regional importance to all watershed man-

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agement where the larger swamp forests are involved. The Alcovy swamp is centrally located to major universities and colleges. There is currently underway an International Biological Program to investigate the life systems of the earth. Inland wetlands are perhaps the least understood division of the Eastern Deciduous Forest Biome. Emory University is concentrating its efforts on the Altamaha system, primarily the granite outcrops and coastal estuary. Shorter College is investigating the occurrence of southern plant species in northern Georgia. The University of Georgia is concentrating its large facilities on major dry environments of forest and field. Georgia State is currently investigating food chains and ecology in the river swamps, including the Alcovy. Some very basic questions can be conducted in the Alcovy swamplands. Through sediment studies C^{14} dating and pollen analysis questions as to the age of the swamps and historical hydrology may be answered. Such questions as the course and rate of sedimentation, changes in river channel and tree composition are vital to future planning involving river swamps. Effects of old channelization on the Alcovy, Big Flat, and lower Cornish Creeks need to be evaluated.

Existant croplands now flooding and likely to be aided by the Alcovy project lie on the headwaters of the Alcovy and Cornish projects, not within the larger swamplands. Attempting to drain the large swamps will not then prevent flooding of existing farmlands. Normally, in flood time, water spreads slowly out through the large swamps, some of it sinking into the ground, with the result that the head of floodwater is much reduced and both rise and fall may take several days. Channelization would seek to hurry the water downstream making problems below and allowing the velocity of the water to carry sand and silt downstream in unprecedented magnitude. The 566 project will not prevent floods—it only lowers their incidence from yearly to every 3 years. Floods can come for several straight years or there may be several dry years in a row. Channelization is not designed to cope with the heavier floods which come with a probability cycle of every 5, 10, 15, 25, and 50 years. These heavier floods can come during any year. Any farming or fencing of bottomlands of the Alcovy is therefore done at considerable risk.

S.C.S. 566 projects are concerned with water quantity, not quality. The larger river swamps act as effective filters, depositing their silt loads over a large area, cleaning the river as it flows. With channelization much of the suspended material has no opportunity to settle out, the higher velocity of the water can carry it into Jackson Lake, which may rapidly become eutrophic and sterile, destroying particularly the Alcovy arm, which is the cleanest part of the lake. One has only to compare the turbidity of a channelized stream such as Little River emptying into Allatoona with the Alcovy. The river swamps act not only as settlement basins for suspended matter, but probably function as natural oxidation basins, purifying the water of pollution. Tim Douglas' work in Pennsylvania showed that where sulfate wastes were pumped into woodlands, the streams coming out were purer than the effluent from the best sewage treatment plants. Ed Hall, biologist of the State Water Quality Board, told me that he was astonished at how the Flint River cleaned itself in the swampy stretch between Atlanta and Griffin.

Some ecologists suspect that the larger swamps may act in the natural regulation of water, absorbing it during the wet season and feeding the stream during the late summer and fall. The water-storage capacity of the Alcovy Swamps may be dependent in part on the water level within the main stream. Studies indicate that beaver ponds increase the ground water beyond their limits. A study at the Coweeta Hydrologic Station revealed that 24 inches of water poured daily onto the forest floor at the head of a stream in June and July, materially raised the stream flow at lower elevations during the dry months of September and October.

Productivity is measured in terms of the plant and animal life which the river swamp can grow. Although we lack data in this regard, Leonard Foote and other ecologists feel that the river swamps are very probably the most productive environments in the state. The fertility brought in by flooding, and that added by decaying organic material in the swamp itself are responsible. Thus these areas can grow timber rapidly and produce mammal, bird and fish life which can be harvested. Why export this fertility to Jackson Lake by channeling the river, when it can be used locally? Rick Foote took a five mile float trip down Little River before it was recently channeled and counted 300 mallards and black ducks. We have already seen that there is no comparison in fish productivity between channeled and unchanneled streams and that the growth of gum trees is dependent on the height of the water table and standing water. The channeled stream presents a dismal picture, its steep banks and constantly rolling sand bottom provide no foothold for the beginning of a food chain to support vertebrate life. Few fish can maintain themselves in a channeled stream. The tracks of muskrat, mink and raccoon will often be sought in vain along it's edge. I have seen this tragic situation on Gum Creek in Newton County, channeled some years ago. Unless the landowner does much prompt side drainage, desirable trees die and impenetrable marshy areas are produced. Tree succession often appear to favor the undesirable river birch and frequently areas are covered with tangles of honeysuckle, privet and briers. In contrast, the swamp pools and ox-bows of unchanneled streams teem with life even in mid-winter, providing a stable basis for food chains involving fish, turtles, raccoon, mink and others. The tupelos, oaks, hickories, holly and innumerable grape vines provide food for a wide variety of birds and mammals. The Alcovy swamps are the refuge for a large tricounty deer population. The river swamps provide a greater variety of life than any other Piedmont habitat. There are no grounds for swapping this variety of quality game, fish, birds and mammals for more quail-cottontail habitat, already in abundance.

Recently the unlimited use of pesticides, and air and water pollution has vividly brought to focus the utter dependence of man upon his natural environment, no matter how deep within the levels of a modern city he may try to hide. Society can no longer ignore ecological principles—ecology is now really human ecology—and basic to our survival as individuals or as a nation. The relatively young discipline of ecology (the relation of life to the environment) has been strained to produce practical results of application to our burgeoning populace. Scientists have discovered in the nick of time that the vast expanses of what appeared to be useless marsh grass along the Georgia Coast was, in reality, a factory making food for millions of tons of shellfish and fish in the marshes and along the entire continental shelf of the state. Our factual knowledge of the function of the great river swamps, such as those of the Alcovy, is too meager to warrant their demise at this stage of human history.

People are reawakening to the startling fact that modern man, with all his technical genius, is scarcely better off than the pioneers. To them, at least, vast stores of unplundered soils and forests had yet to yield their richness. Need we destroy every vestige of the natural environment that may remain?

The winds of change have swept across the U.S. Army Corps of Engineers. According to Weathersbee[9] the Corps is receiving the "scorn of a growing segment of the public which is desperate over the careless exploitation of natural resources.." In April the Corps sent a circular to its engineers calling for the unprecedented consideration of non-construction alternatives in flood control planning. Despite billions spent on dams, annual flood losses continue to rise. The answer may lie "in simple zoning controls to keep construction off areas likely to be flooded while preserving the flood plain as a park." The Corps of Engineers has decided to make environmental quality, including both esthetic and ecological considerations, an additional primary objective.

Ecologists and conservationists of the state of Georgia would very much like to see officials concerned with P.L. 566 include among their objectives esthetic and ecological considerations; it is only in this rerecognition of man's true relationship to his natural environments that the quality life we demand will be satisfied. Our survival as a viable state and nation asks each of us to recognize this relationship to natural environments and participate in their preservation or lose not only our leadership in the world community, but our life.

PROFITABLE MANAGEMENT OF ALCOVY SWAMPLANDS

The landowners who own the swamp in the vicinity of Covington have large holdings, and few appear to have any plans for the swamp. All appear to realize that it could never be commercial or residential property. All of these men seem to know that subdivision from residential expansion will, in a few years, bring such a return from the high ground, that the cost of clearing the swamp lands for possible pasture would hardly be worth while for the few years of yield that could be expected before they sold or developed their high ground. Only one owner would like to try farming some of this bottomland. He is apparently willing to take the risks and is prepared to invest in the necessary side ditching and care that would be needed to maintain this high-risk farming. It is not evident that landowners adjacent to the larger streams are enthusiastic about claiming bottom land.

Few follow-up studies appear to have been made on P.L. 566 projects. Leonard Foote (Wildlife Management Institute) indicated that on projects he has visited, he has seen only one example of a landowner trying to reclaim what had been large swamp forest. Too often, the effects of clearing and side ditching the larger bottoms appears to be offset by the accumulation of rainwater abetted by insufficient drainage, the normal lack of slope and the high berm of dredging spoil. These bottomlands converted to pasture frequently present the landowners with the invasion of inedible sedges, rushes and unpalatable, vigorous weed growth which is difficult to control because of the bogging down of machinery. Small wet places gradually coalesce into larger areas and are often abandoned. Normally, beavers do not attempt to dam streams as large as the Alcovy or the side streams in the flood plain forests. The spoil banks along a dredged stream, however, may stimulate beavers to dam side streams. The landowner should be prepared for their depredations.

WHAT THE ALCOVY AND ITS SWAMP FOREST CAN MEAN TO THE LANDOWNER

Providing that the channelization of the Alcovy and lower tributaries can be avoided, there are a number of approaches that will profit the landowner more than trying to reclaim terrain still subject to periodic flooding. These land use projects are outlined below.

(1) Help establish the Alcovy as a Scenic River at a state or national level. This would

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vastly increase the value of the wetlands adjoining the rivers as well as increase the tourist income of Covington, Monroe, Social Circle and the entire tri-county area.

(2) The individual landowners can protest the plant and animal communities of the Alcovy swamplands for purchase by groups, agencies and organizations for use as natural areas maintained for educational and scientific purposes, river parks, etc.

(3) The individual landowners can have access to lawyers in conservation groups who can assist them in obtaining tax relief. There is the possibility that property may be leased for educational purposes and that the fair rental value can be deducted from income tax, resulting in a saving that will offset ad valorem taxation. The giving of a scenic easement also has advantages in income tax reduction and reduced tax valuation of the property involved. One Newton County landowner, by showing land value figures provided by Georgia Kraft, was able to get the County to lower the valuation of his swamp land from $85.00–$89.00 to $60.00 per acre. It should be pointed out that swamp drainage may raise the landowner's taxes whether or not they can profitably farm any of the bottomland. There is, on the other hand a very excelent chance of having valuations lowered or eliminated by the proper type of use.

(4) Individual landowners can protect their swamps, managing them as natural areas, and derive an income from paid hunting, fishing, boating and camping. Paid camping, hunting and fishing and other outdoor recreation have seen fantastic recent growth. It is one of the opportunities of the future. The high productivity of ponds and of oxbow lakes in river swamps is well established and growth rates are high.

(5) The "green belt" of the Alcovy River swamp will enhance the value of adjacent dry lands. The esthetic beauty and the wildlife of swamps along the Alcovy and Cornish Creek has already proven a substantial asset to subdivision. The beauty of swamps has brought to one wise landowner a group of purchasers who cherish this wild resource for hunting, fishing, but chiefly for *personal esthetic enjoyment*. As urban sprawl gobbles real estate, the swamp green belt more and more enhances the environment of housing and industry. Do not underestimate the lure and attractiveness of swamps to many people, particularly urban dwellers to whom a small piece of wild America can be a treasure of enjoyment.

EPILOGUE

If you would have a natural scenic area of significance to yourself, your children and to fellow Georgians, I urge you to contact a Director of the Alcovy River Watershed Association, the County Commissioners of the cities and counties involved, or other officials, asking modification of the Alcovy project *only as regards channelization in the lower parts of the watershed*. One can cut a forest and eventually it will return. It is doubtful if channeled areas can recover their natural conditions within several lifetimes, if ever. Therefore, any decision that you make goes far beyond the few years during which some temporary local profit might be secured.

FOOTNOTES

[1] Poole, Daniel A., Weaknesses in the Public Law 566 Watershed Program, presented at the 15th National Watershed Congress, Louisiana, May 27, 1968.

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WHY WE MUST PRESERVE THE ALCOVY RIVER [1]—THE SIGNIFICANCE OF THE GREAT RIVER SWAMPS OF THE SOUTHEAST

(By Charles H. Wharton)

The Alcovy River in Walton and Newton Counties, is being proposed by the Georgia State Game and Fish Commission for study as a State Scenic River under Senate Bill 90, which authorizes the Georgia Natural Areas Council to study and recommend streams of especial value to the legislature for preservation in the natural state. The Council is composed of three groups: an inter-agency group of state officials, a group of natural resource specialists from the legislature, and a group of professional ecologists from colleges and universities. The Council considers the wise use of the state's remaining natural environments for all of the people for all time, and it identifies samples of these natural environments which must remain inviolable in the public interest.

The lower Alcovy River is a remnant of a characteristic Piedmont environment which is rapidly disappearing. The disappearance of hardwood bottomland swamp forest in the Piedmont and Coastal Plain is largely due to a little-understood federal program involving flood control on small watersheds conducted by the U.S. Soil Conservation Service under the authority of Public Law 566. Recently the details of a plan, called the Alcovy River-Cornish Creek, Flat Creek Projects, has come to general public attentain. An attached map indicates the area involved, the location of the 15 proposed small reservoirs, and the part of the river proposed as a State Scenic River. Widening and deepening the Alcovy by "channelization" threatens some 3000 acres of the finest river swamp remaining in Georgia's Piedmont, as well as jeopardizing the value of beautiful shoal water downstream and a good part of Jackson Lake. The total watershed acreage involved in the Soil Conservation Service projects totals 168,072 acres.

The Alcovy is ideal as a scenic river. Its extensive flood plain swamps afford tremendous potential use in general public recreation, hunting and fishing, education, and the advancement of scientific knowledge. Scientists of the world are currently cooperating (to learn more about such ecosystems) in an International Biological Program—in fact, the fate of mankind now rests on understanding and working with, not against, the natural functions of the environment. The need for an understanding of our environment is urgent because of the number of specialists, engineers, politicians agencies and other special interest groups proposing and endorsing vast schemes: cross-state canals, dams, new methods of harvesting timber; all intent on "doing something with" or "getting something out of," our environments. The nearly uncontrollable mania of the U.S. Corps of Engineers to build large dams is equisitely revealed in a recent article by Justice William O. Douglas titled "The Public Be Damned." [2]

Pollution and pesticides are only two of many factors which may damage our environment. Unless environmental ecologists are soon consulted in every phase of the management of our biosphere, our culture is doomed to a lingering degeneration of the quality life to which we aspire. Further, the dominant political system will be the one with enough constraints, both legal and personal, to prevent the alteration and pollution of any part of its environment without adequate scientific study integrating all the physical, chemical, biological and psychological factors involved.

I'd like to discuss the function and use of a little understood environment, the stream swamps of the Southeast. The United States is not dependent upon this type of environment for subsistence, unlike many countries of Southeast Asia where, for example, food growing must be largely confined to wet-rice agriculture in the marshes, floodplains, and deltas of the rivers. We are still feeding on the remaining topsoil of the Midwest, and are able to exploit poorer soils elsewhere by an advanced technology of machines, irrigation, and fertilization. Our peculiar combination of natural resources and advanced technology has made us, temporarily at least, the most powerful nation on earth.

These facts make it painful for me to attempt to explain how and why one of our governmental services continues to organize and conduct a self-perpetuating plan for the systematic destruction of the river swamp, a characteristic and natural environment of the southeastern United States. I refer specifically to the practice of flood control by dredging, called "channelization", a program of conducting rainfall from where it is needed (on forests and fields), to where it is not (the ocean). How does channelization destroy the natural plant and animal community of the river flood plain? But first, what is the river floodplain and what are its natural functions?

THE RIVER FLOOD PLAIN

Flood plains are common to every stream where the land has a gentle slope. The normal channel of the stream or river is in equilibrium with transport of water and debris supplied by the drainage area. Flood plains are formed by the side cutting, or meandering, action of the stream, which deposits as much on the inside of each bend as it undercuts from the outside of each bend, Fig. 2. During high water *the entire flood plain is the channel of the river*. This phenomenon has apparently been operative for millions of years. Hoyt and Langbein (1954) found in a study of 140 locations in 36 states that the overbank flow is equalled or exceeded every two years. Leopold and Maddock (1954) say, "Frequency of overbank flow is remarkably constant among rivers." Overbank flow, then, is a natural phenomenon. As a matter of fact, it cannot be prevented on the Alcovy River or anywhere, except by the building of enormously expensive dikes which must be periodically raised owing to deposition in the restricted flood plain which remains. The world's treasures do not possess the money required for such extreme measures on small watersheds.

Damage to man comes only when he builds structures or tries agriculture on the river bottomland. It is preferable to use the word "inundation" when speaking of natural swamplands, since the word "flood" has connotations of damage due to man's lack of understanding of the true function of the river plain. Soil Conservation Service small watershed projects are designed not to stop inundation but to reduce the average frequency of it. It is possible to have inundations for several consecutive years. Heavier inundations come at intervals averaging 5, 10, 15, 25, or 50 years, and little control can be exercised over them.

NATURAL FUNCTIONS OF A BOTTOMLAND SWAMP

It was once thought that the great expanses of coastal marsh grass were useless,

Footnotes at end of article.

but thanks to Eugene Odum and his colleagues we realize that owing to action of decomposer and other organisms, food for shellfish, shrimp and fish in our marshes and on our continental shelf is produced by this "factory", and not only that, waters off the Georgia coast appear to be several times richer than those off the coasts of North Carolina and Oregon. Not as much is known about the river swamps. Some things are known. Other functions must await research efforts.

The great river swamps of Georgia have evidently existed in a stable state for centuries. They were among the last post-Pleistocene habitats for mastodon, mammoth, and ground sloth until, some scientists believe, as recently as 2000 years ago. The southeastern river swamp has been the habitat that enabled the last of the dinosaurians, the alligator, to survive. Judging from the frequency of fossil remains, deep southern swamps must have provided protection from heat and enough lush aquatic and terrestrial plants (many evergreen) to help sustain these great beasts in their last refuge. The river swamps have also provided a refuge for turtles, those most ancient of reptiles. In Bartram's day, bottomlands and adjacent areas fed the bison on river cane. Today, America's rarest animals, such as the cougar, red-wolf, and ivory bill woodpecker find their last stronghold there. The river swamps, if intact, form natural corridors for the movement of life forms which, when wiped out in one area, may repopulate from another. The stable and more equithermal swamplands have allowed some Coastal Plain life (bowfin, brown water snake) to pentrate deeply into alien habitats and have permitted northerly species (salamanders (*Desmognathus*), star-nosed mole) to exist in the Coastal Plain. In flood control river swamps act as natural storage reservoirs in several ways by impounding water on the flood plain and in the soil. Leopold and Maddock [3] say, "The overbank flow therefore, constitutes an important part of the natural valley storage during a flood. The natural storage provided by river channel and flood plain is similar to the kind of flood control provision that man attempts to build by engineering works." As agencies of water storage some ecologists believer larger swamps may aid in the storage of underground water, possibly to augment stream flow during low water in the fall. They may raise the watertable of land outside the swamp. Unfortunately, the Soil Conservation Service pays scant attention to *water quality*. Swamps deposit most sediment on the inside of bends. Some of it, however, also deposits on the forest floor according to Wolman and Leopold.[4] These authors do not, however, specifically mention the effects of depressions, old channels, and ox-bow lakes. The filtering action by the swamp both cleans water and traps fertility. It may also aid in purifying pollutants, such as insecticides and herbicides, from farmlands.

Leopold and Wolman [5] indicate the function of vegetation in inducing deposition and state, "the width of a river is subject to constant readjustment if the banks are not stabilized by vegetation . . . In the eastern United States river banks generally tend to be composed of fine-grained material having considerable cohesiveness, and large trees typically grow out from the bank and lean over the stream. Their roots are powerful binding agents, and under these conditions width adjustments are small and slow. Only large floods are capable of tearing out the banks."

PRODUCTIVITY

The swamp pools and channels and streams (more or less full in winter and spring) and the moist leaf mold layer swarm with a host of algae, bacteria, yeasts, and other fungi, which either manufacture food by photosynthesis or release minerals by decomposition. Odum [6] lists semi-aquatic and terrestrial communities on alluvial soils in the highest category of the year-round production of protoplasm. The natural swamp may be the richest inland environment we have, probably possessing more species of animals than any other in Georgia and an environment with rapid plant growth as well. In Fig. 3 note that man is the beneficiary of this productivity.

In his report on the Satilla River, Donald Scott,[7] with 25 years of experience in the biology of streams, summarizes the significance of swamps to the productivity of fish. He states that the initial capture of energy by microorganisms (phytoplankton) is insignificant in the flowing portions of most Georgia streams, "The organic matter which supports the population of higher organisms . . . has its source outside the stream itself. It is obvious that river levels will exert a strong influence on the success or failure of reproduction of many of the inhabitants of the stream, and especially of fish. High water levels expand the habitat, breeding grounds and food supply of fishes. They also increase the total food supply in the river by washing into it organic matter that had been accumulating in the swamps and flood plains . . . It is my conclusion that naturally occurring fluctuating water levels are preferable to stabilized flows."

Scott has this to say about the so-called "snagging and dragging" operations (in this case referring to the Satilla River), "Extensive or even moderate snagging operations would have a very detrimental effect on the ecology of the river and would certainly affect the quality of fishing in an adverse manner . . . The removal of snag piles . . . would increase the area of relatively sterile sand bottom."

Thus, as Scott indicates, it is the regular inundation of their flood plain by rivers which accounts for their high productivity. In the case of the Alcovy, the export of swamp nutrients may help to maintain the fertility of part of Jackson Lake.

There remain to be mentioned other uses of the Piedmont swamp lands. Besides the obvious refuge and food it provides for deer and wild turkey, it furnishes dens and food for squirrel, raccoon, otter, beaver, muskrat, and a host of smaller mammals and birds. Ducks in particular profit from its winter food supply. Our commonest duck, the wood duck, nests in hollow trees in this habitat. Other recreative uses include bird watching, boating and hiking. The mystic beauty of the swamps appeals to the esthetic sense of painters and photographers and, for the layman, especially the city dweller, it offers a unique and accessible experience in escaping the confusion of modern civilization. Only moments from a busy highway, it provides a sense of isolation and wilderness so vital to our urban population. Thoreau said " . . . in wildness is the preservation of the world . . . . The cities import it at any price. Men plow and sail for it. From the forest and wilderness come the tonics and barks which brace mankind . . . ." Charles Lindberg,[8] now a leader in conservation, recently said, ". . . I have turned my attention from technological progress to life, from the civilized to the wild. In wildness there is a lens to the past, to the present and to the future . . . an awareness of values that confronts us with the need for and the means of our salvation. Let us never forget that wildness has developed life, including the human species. . . . If we can combine our knowledge of science with the wisdom of wildness, if we can nurture civilization through roots in the primitive, man's potentialities appear to be unbounded."

In the summer, the Alcovy swamp presents a picture of depressions and channels, some with pools of water, some completely dry. These drying up pools represent the same environment that urged certain fish (with primitive lungs) to crawl through the mud to find deeper water and in doing so to become the first land vertebrates. In the swamps of summer, we are thus witness to the surviving remnant of a scene 300 million years ago—a habitat that produced the most significant step in the evolution of vertebrate animals in the history of life.

The southern swamps have important educational values. Uplands become increasingly involved in subdivision and industry. Inland swamps are widespread enough to be *the last natural outdoor laboratories*. Education may be exploration by school boys on their own, or class field trips learning the fundamental relations of animals, plants, soil and water. The swamplands are likely the only remaining environment that cannot be used for construction and development.

Science needs time to study and document the true functions and contributions of the river swamp. The role it plays in maintaining water quality is of immediate importance. Figure 3 suggests a tentative web of life based upon the productivity of a river swamp. Note that man is the ultimate recipient of most of the food chains, which are based upon the alternate rise and fall of natural inundation. That man, by careless agriculture and construction has intensified the height and perhaps the incidence of flooding is not argued here. We have passed the centuries of heaviest erosion and abuse of the land. The present swamplands have survived and adjusted. Since we are now urbanizing America, what is the point in their destruction at this stage in history? Especially since it is likely that they will be the last green belts that shall remain when urban sprawl and industrialization has run its course. The Southern Forest Resource Analysis Committee of 1969 called them, "The South's Third Forest," reporting that they were needed to help maintain the nation's hardwood timberland base.

I have talked with several Atlantans who have purchased river swampland. They wish nothing more than to maintain its esthetic beauty and its outstanding hunting and fishing.

CHANNELIZATION

What are we exchanging for the functions and uses of these swamps and esthetically pleasing streams? We are getting in exchange shallow, fishless ditches designed to hasten water and silt downstream to the ocean or to the next lake below. Conservation agencies all over the country helped pass the original Small Watershed Flood Control Act, principally because it was designed to retain water where it fell, not hurry it off. Channelization has been a bitter pill for many to swallow. Basic to the increased use of channelization has been a diminishing agriculture, in the Piedmont especially. The S.C.S., in order to maintain its power structure, has had to turn to flood control. Planning has fallen into the hands of hydraulic engineers, leaving both ecologists and area planning commissions helpless and hopeless.

Channelization destroys the swamp if the owner does not side ditch it, Fig. 1. Most landowners won't spend $400/acre to get a little land into agriculture, still risky because flooding can never be entirely prevented. Very few owners would afford side ditches unless they were trying to reclaim land for agriculture. If they did cut side ditches to save their timber they would still lose substantial parts of the swamp—in any event they would probably interfere with the regular bank overflow and drain off. Swamp life is adapted to alternating periods of wet and dry. Tupelo, for example, can seed only when the swamp floor is dry, although the trees themselves require periodic inundation.

Federal and state Game and Fish agencies have few or no funds or personnel to adequately evaluate S.C.S. projects. The U.S. Fish and Wildlife Service has only two men for 14 southeastern states. They can only take

Footnotes at end of article.

a quick look at the general plans. since final plans and exact location of reservoirs and channels are not fixed when they are called in. The Georgia Game and Fish Commission has no money or personnel to assign to even inspect the many watershed proposals. Thus there is no factual evidence to support S.C.S. claims that they have "worked with" Federal and State agencies, and have their approval of a project. The only "approval" they have had is a token concurrence by these agencies because their protests have been repeatedly ignored.

No, not every small watershed project involves channelization, but for every stream where dredging proves impractical, it is likely that two new projects will take its place elsewhere, where dredging is practical. Every stream in Georgia possessing a flood plain or swamp is a potential candidate for the dragline and bulldozer. *In our coastal plain channelization is the major means of flood control*—few reservoirs are constructed in this area. Bill Baab of the *Augusta Chronicle* bitterly described to me a forthcoming project for the magnificent Brier Creek, a wildlife paradise.

Channelization increases silt downstream. Figures from an S.C.S. report[9] indicates that doubling the discharge rate of Barber Creek tripled the silt load which it carried. Bank slump and lack of natural root bind are two important sources of this silt from the channel itself.

Figure 1 is a profile of Barber's Creek, a tributary of the Oconee River, channeled in 1965. The owners did not wish to spend the $300–$400 per acre to try and reclaim the adjacent bottomland.[10] Yet landowners along the lower Alcovy are expected to spend this kind of money on 80% of the swamp. Let me quote Norman Berg's leter to Senator Russell dated May 26, 1969: "The main purpose of this project is to eliminate the frequent damage that occurs to agricultural lands." On the lower Alcovy, desired as a State Scenic River, there are no farming lands to be "protected," and few pastures. The high ground of the majority of the large landowners on the river will make them wealthy—most of them have no special desire to change the natural swamp.

Dr. Harvey Howell (pers. comm.) of Cartersville made a detailed investigation of S.C.S. plans for a project on Raccoon Creek in Paulding and Bartow Counties. He found that the S.C.S. had proposed the expenditure of nearly a half million dollars, including the ruination of some 300 acres of good land, to "protect" an agricultural valley three miles long averaging ¼ mile wide. This was in spite of the fact, documented by Howell, that there had never been a crop loss or any significant damage due to floods in this valley, according to the 10 landowners involved. Nor was there any interest among them in having this project. Howell's personal study of the valley revealed a few shallow washes here and there (which could have been stabilized with vegetation) which, lumped together, would total less than four acres.

Further, Dr. Howell talked with Farmers on the Coosawatee and Etowah Rivers. The outcome of these conversations was that Allatoona Dam has prevented annual winter inundations from depositing their silt increment, with the result that some farmers were forced to use three times the amount of fertilizer to grow the same crops as when inundation of crop fields occurred. Dr. Howell suggests not disbanding the S.C.S. but changing their name and redirecting their efforts.

There are no laws or regulations requiring channelization. These ugly ditches are at the discretion of the engineers who develop the work plans of each project. We are told that they cannot build reservoirs without "protecting" lands downstream. (It does not matter whether these downstream acres are or ever have been in cultivation.) Every acre "protected" is valued at enough to offset the cost of building the reservoirs. In other words, the benefit (protection) must offset the cost (reservoir and channel). Thus the derivation of the all-important "cost-benefit" ratio. With new industries and Covington itself withdrawing more and more of the Alcovy's water during the dry fall months, it would make far more sense to have these same reservoirs protecting the natural swamps and the river from running too dry—then you can add the wildlife, recreation, education, science and green belt values and arrive at a higher benefit than the present basis of value.

There may be several reasons why the S.C.S. will not discuss modifying the Alcovy project. They may feel that compromise or change will put questions in the public mind about many other projects. They perhaps suspect that their hydrological, ecological and economic evidence for the Alcovy River will not bear close examination by a group outside the Department of Agriculture. With their multi-million dollar budget and the political machinery of making local citizens "responsible" for plans their engineers devise, they apparently feel so secure that they can ignore the rest of the people. They very likely feel that they can concentrate on other watersheds until their opposition on the Alcovy gets tired or gets re-elected.

It seems assured that Federal and State agencies and the scientific community are going to conduct an intensive study of channelization. It may well be that the people of the United States may find it necessary to demand a congressional investigation of the entire structure of the Soil Conservation Service. I regret that the failure of the S.C.S. to co-operate over the Alcovy River may precipitate a nationwide re-evaluation of flood control on small watersheds. Inevitably, the American taxpayer is going to find out some rather unpleasant things. It does not seem just that our tax dollars go to (1) destroy an environment that is so useful for wildlife, recreation, education, and science, (2) put more land in agriculture when we are trying to hold down agriculture and subsidies, (3) increase land values for landowners whom we pay to keep some of the same land out of agriculture, (4) support landowners who both sponsor and vote approval on federal projects which will give them financial gains.

I was astounded the other day to hear from several citizens at Covington that only two miles of the Alcovy was going to be channeled. It leads me to believe that many other people are going to be deeply shocked at what is going to happen to their river, and that in the long run, they will lose a valuable and irreplaceable resource base for community prosperity and happiness.

I deeply regret that this issue has arisen over the Alcovy—involving not only a beloved river but beloved friends and acquaintances. Yet faced with the loss of this magnificent stream and its living swamps and with the knowledge that upon its fate may also hinge the fate of nearly every stream and swamp in the Southeast, there is no course but to present to you my professional viewpoint and trust that you will soon make a decision, and follow it with a course of action in keeping with your concern.

Figure 1—Diagrammatic profile of a Channeled Stream—Barber's Creek at Highway 78 Bridge

[Profile drawing not printed in RECORD]

This project was completed in 1965. The landowners on Barber's Creek did not wish to invest the $300–$400 per acre necessary to side drain and prepare this bottomland for possible agricultural use (it would be still subject to occasional flooding).

A—Stream has shallow, even depth with rolling sand bottom; absence of holes, debris or hiding places for aquatic life; no logs, limbs, roots as a substrate for bacteria, algae and fungi.

B—Steep, eroding banks no longer bound by tree roots; absence of still water pools where insect larvae and crustacea can exist.

C—Sandy deposits of dredging spoil—originally planted to grasses and legumes. Unless landowner mows and fertilizes them they quickly revert to an unproductive tangle of brier, honeysuckle, sycamore, etc.

D—River birch zone, an inferior timber tree which dominates disturbed habitat which is only lightly flooded.

E—Marsh where water ponded by the spoil bank has killed the original hardwood timber. Such a marsh may or may not produce muskrats or ducks. It is less desirable than the original swamp. The southeastern river swamps owe their high productivity to alternate wetting and drying. They must be properly drained as well as inundated to survive. Any alteration of this natural rise and fall of water damages this important ecosystem. Reducing the frequency of inundation by reservoir construction may damage production by this assemblage of plant and animal life but may not necessarily kill it.

Figure 2—Diagrammatic Profile of an Unchanneled Stream—Alcovy River at Highway 278 Bridge

[Profile drawing not printed in RECORD]

A—The side-cutting meanders of a normal flood-plain stream create diverse habitats; roots, however, bind the soil. Roots and undercut banks, logs, pools and shallows provide varied habitats for aquatic life.

B—The forest canopy often shades and cools much of the water (this is more readily seen upstream from the second bridge). Tracing swamp streams on aerial photos is often difficult.

C—Sand and silt deposit in a bar (deposits of lateral accretion) on the inside of each meander. Profile below crosses such a curve.

D—Pothole or depression pool in the swamp floor; even in mid-winter these pools teem with life.

E—Normal forest floor; leaves and logs provide food and cover for invertebrates, amphibians and reptiles.

F—An old river channel, often cut off into an "ox-bow lake". Some of the most productive fishing in the south is provided by such "lakes". Both D and F often support stands of tupelo gum (*Nyssa aquatica*) which bear a large purple berry; the flower is the source of tupelo honey.

D–E–F—Silt deposits in these places at high water (overbank deposits).

[Figure 3 not printed in RECORD]

FOOTNOTES

[1] Based on a report delivered to the Georgia Conservancy at Winder, Georgia, on June 28, 1968.

[2] *Playboy Magazine*, July, 1969.

[3] Leopold, Luna and Thomas Maddock, Jr., 1954. *The Flood Control Controversy.* The Ronald Press, N.Y. 278 pp.

[4] Wolman, M. Gordon and Luna B. Leopold. 1957. "River Flood Plains: Some Observations on Their Formation." U.S. Geological Survey Professional Paper 282–C, Washington, D.C.

[5] Leopold, Luna B. and Gordon Wolman. 1957. "River Channel Patterns: Braided, Meandering and Straight." U.S. Geological Survey Professional Paper 282–B, U.S. Government Printing Office, Washington, D.C.

[6] Odum, Eugene. 1963. Fundamentals of Ecology. W. B. Saunders Co., Philadelphia.

[7] Scott, Donald. Report on the Satilla River *IN* Report of the Satilla River Expedition, May 22–24, 1969.

[8] *Life*, July 4, 1969, p. 61.

[9] Siltation in Lake Jackson and Alcovy River by James R. Huff, Soil Conservation Service, Athens, Ga. March 10, 1969.

[10] Ref. Dan Searcy, Soil Conservation Service, Athens, Ga.

Second, the Georgia Fish and Game Commission has been leading the fight to preserve this valuable wildlife habitat. Leading this fight is its distinguished

director, Mr. George Bagby. In the Fish and Game Department's monthly publication, Georgia Game and Fish, Mr. Bagby presents a very concise explanation of the harm perpetrated by channelization of our natural and wildlife resources. Furthermore, the fish and game commission in their magazine has carried an article concerning my activities in trying to protect the Alcovy River. For the information of my colleagues, I am hereby inserting these two articles into the RECORD:

OUR RUINED RIVERS

(By George Bagby)

Once, it was a pretty little stream.

Clear, green water flowed between its even greener tree-lined banks, here and there dashing under the limbs of an overhanging tree, over a fallen log, around a few rock ledges.

In one of those darker green pools below an old log, a big catfish fanned her eggs in the nest like a quart of pearls. Nearby, a flaming orange redbreast bream in male spawning colors plucked a small aquatic worm from the gravel of the stream bottom. Further downstream below the rock shoals, a hungry largemouth bass woofed down a crawfish for lunch, while a crappie snapped up a small minnow, oblivious of a small boy quietly drowning worms near the bank.

Occasionally, a small boat would drift down the stream, its occupants charmed in the magic spell of ever changing green water and trees under white clouds and a blue sky. Sometimes, a young couple came to picnic on its banks and to laugh at the handprints of a raccoon on the mud of the bank, or to spy on a mother wood duck and her tiny brood swimming downstream. High overhead in a big old oak, a family of grey squirrels chattered from the entrance to their tree hollow den, finishing up last year's stored acorns.

But that was a long time ago . . . "the good old days."

Now, the young man who drowned worms in the spring, and hunted the squirrels in the winter, was a father himself. Like him, his children would be able to drink in the wonder of the woods, and of the small, beautiful stream.

But instead of green water, a dingy, muddy stain met their dismayed eyes. The den tree where the squirrels played was gone, even the log in the water where the catfish built its nest. There were no wood ducks swimming the shallow, swift water, and no raccoon prints where a crawfish or a salamander had met its fate. There were no little boys with cane poles in their hands, or lovers playing on the banks, now stripped bare of their once beautiful foliage.

Sickened by what they had seen, the family turned bitterly away from the once beautiful stream, never to return again.

This is channelization.

The President's Council on Recreation and Natural Beauty made up of the Vice President, Secretary of Interior, Secretary of Commerce, T.V.A., and the Secretary of Agriculture (whose Department includes the Soil Conservation Service), and other department heads had this to say about federal water resources projects in their book *From Sea to Shining Sea:*

"The Council proposes that Federal flood control and other water resource development programs and projects seek to retain or restore natural channels, vegetation, and fish and wildlife habitats on rivers, streams, and creeks and apply the same policy to federally assisted public and private projects affecting rivers, streams, and creeks."

Under the provisions of Public Law 566, the U.S. Soil Conservation Service is authorized to plan and construct with federal money projects to prevent flood damage and erosion, and to store flood water for municipal and industrial water supplies, irrigation, and recreation.

Public Law 566 does not give veto power over these projects to state game and fish commissions. It does require the U.S. Soil Conservation Service to submit copies of plans to the state game and fish commissions and the U.S. Fish and Wildlife Service.

These two agencies are required by the law to make comments to the Soil Conservation Service on what effects the proposed project plans would have on fish and wildlife. This advice is not binding on the SCS in any way, and that agency can completely disregard the comments of wildlife agencies if they choose.

This has frequently been the case in the last decade since the 566 law was passed. Today, the game and fish agencies of most of our sister states are embroiled in constant conflict with the SCS because of the extensive and widespread damage these projects do to fish and wildlife habitat, primarily from dredging of stream beds and draining of wildlife wetlands, especially riverbottom hardwoods.

Such destructive projects are a national conservation issue. Only last October, the Southern Division of the American Fisheries Society adopted a resolution calling on the SCS, TVA, and the Corps of Engineers to halt any further watershed projects until an economic evaluation can be made of the value of fishing, hunting, boating, and other recreational values of the small streams affected.

Our sister wildlife agencies in the states of North Carolina, Tennessee, Alabama, and Louisiana, to name only a few, have strenuously protested this destruction. Their position has been supported fully by the Southeastern Association of Game and Fish Commissioners, and by many state and national conservation organizations. In this connection, I would like to quote a statement by Mr. Charles Kelley, Director of the State of Alabama's wildlife agency, made in his report as president of the Southeastern Association of Game and Fish Commissioners at their 1967 conference in New Orleans:

"A major problem existing in my state at this time concerns watershed projects. The original concept was to design, through federal assistance, watershed projects in such a manner as to improve the renewable natural resources within the watersheds. From the very beginning, public monies have often been used to develop agricultural resources which directly benefit the individual landowner at the sacrifice of such public resources as fish and wildlife: the loss of which is felt by many people. From the trout streams in North Carolina to the shores of the Gulf Coast, channelization has played havoc with our valuable fish and wildlife habitat.

"Fish and wildlife losses, as a result of channelization of one watershed stream when examined alone, may appear to be insignificant. Not only will stream channelization destroy the fishery resource of the watershed stream itself, but channelization destroys the spawning habitat for such species as walleye, sauger, and white bass. Without adequate stream spawning habitat, these species will ultimately disappear or be greatly reduced.

"Not only is channelization detrimental to the fishery resources, but it destroys feeding and occupational habitat for a number of game and furbearing animals and the wood duck.

". . . If fish and wildlife losses were given proper consideration as a factor in arriving at the cost benefit ratio of the watershed, I am sure that in many cases impoundments would replace channelization in order to arrive at a cost benefit ratio figure which would assure federal funds for the project.

"Fish and wildlife organizations can no longer stand still and watch our natural stream areas turned into manmade ditches devoid of fish and wildlife. We must continue our efforts to gain greater appreciation of our fish and wildlife resources, or most surely we will suffer to an even greater extent in the future."

The destructive effect of channelization and drainage on fish and wildlife is well documented. A study by the North Carolina Wildlife Resources Commission of 23 streams that have been channeled shows that 90 per cent of the game fish were lost, both by weight and number. It is important to note that 40 years after channelization there was no significant improvement in the fish population.

A recent report of the State of North Carolina on SCS channelization projects contained the following section:

"Of three completed projects in eastern North Carolina, we can point to none which has not been highly destructive to wetland wildlife. Of several projects currently in the planning or active state, we can point to none for which the final approved plans include adequate provisions for the protection of wetland wildlife resources."

A study of a stream before and after channelization was made by the Mississippi Game and Fish Commission. Before channelization, the Tippah River had a good population of large size game fish, averaging 240 pounds per acre. After channelization, that poundage dropped to only five pounds. Where the stream originally contained five bass averaging about two pounds each in size, the same area after channelization contained four bass with a total combined weight of two-tenths of a pound all together. Where fishing was once good for crappie, bluegill, and flathead catfish, none were found afterwards. Instead, the study area contained 1,480 minnows and 18 game fish weighing five pounds, compared to the previous 887 game fish and minnows weighing 240 pounds.

In the event that any interested person would like to have a copy of these scientific studies, we will be happy to send them a copy.

We all know that drainage of wetlands means the annihilation of ducks and other waterfowl. Such areas serve as refuges for deer, rabbits, squirrel, raccoon, and many species of furbearing animals.

There are 166 of these watershed projects already planned on every major fishing stream or lake in Georgia or just upstream from it, out of a potential total of over 300. Each one of them includes plans for dredging streams and draining wetlands that are essential for wildlife. Forty-one of these projects have already been approved for construction, and 22 have been completed. 103 applications are pending. A list of these projects is printed with this article.

We have seen these projects and the destruction that they have already caused to wildlife and fishing in Georgia. You can see it for yourself at the locations shown on the map of completed projects. You can see the pictures of some of these projects here: judge for yourself the destruction that they have done.

But first, I want to clarify the position which our department has taken on the watershed projects proposed on the Alcovy River and two of its major tributaries above Lake Jackson in Gwinett, Walton, and Newton counties, Flat Creek and Cornish Creek.

The channelization and drainage of the Alcovy River and its swamps above Lake Jackson as presently planned by the Soil Conservation Service will do irreparable harm to the wildlife and scenic values of this unique wild area on the edge of the greatest metropolitan area in the Southeast. Increased sedimentation caused by the construction of the channels will threaten the last remaining source of pure water in Lake Jackson, the favorite fishing spot of middle Georgia.

The false statement has been deliberately and maliciously made that the State Game and Fish Commission and its director have opposed the approval of the Alcovy River and the Flat Creek-Cornish Creek Watershed

Projects. This is a barefaced lie. We are not trying to kill these two projects. We don't have that authority. We are not trying to keep these three counties from having four large lakes for recreation and municipal and industrial water supplies. We are in favor of them, and have publicly stated that we would stock these lakes and 11 smaller reservoirs and several hundred smaller farm ponds free of charge and that our fish biologists would help to manage them to produce the best possible fishing for an impoundment of this type. We have not opposed planting cover crops and wildlife food patches. We would favor opening up boat passageways through the Alcovy for fishermen, hunters, and boaters.

We have objected to one portion and one portion only of the proposed watershed plans, and that is the channelization and drainage of the Alcovy River above Lake Jackson.

Our Department has asked the Soil Conservation Service to revise their watershed construction plans to eliminate objectional channelization. They have refused to even consider our protests. For this reason, we are asking Congress and the President to delay approval of funds for the two projects until such time as the Soil Conservation Service will agree to include in their construction plans adequate protection for the Alcovy River and Lake Jackson, including the elimination of all channelization between the upstream dams and Lake Jackson.

Under the provisions of Public Law 566, we are required to make comments on the effects of the Alcovy Watershed Project on fish and wildlife habitat. We did not ask to make these comments. We were invited to make them at a meeting in Monroe by a letter on February 7, 1969 from Mr. Cecil Chapman, State Conservationist of the U.S. Soil Conservation Service. Previously, in our letter of August 23, 1968, we concurred with a report by the U.S. Fish and Wildlife Service that the Alcovy Project as presently designed by the U.S. Soil Conservation Service would adversely affect fish and wildlife habitat.

We have never approved the Alcovy Project from the day when we were first officially notified of it, years after it had been sold to the local landowners by the Soil Conservation Service. We have never changed our position on the Alcovy Project or any other destructive dredging or draining proposals. Our files are filled with letters this department has written the SCS for years and years objecting to such practices. We have held many meetings with the SCS to register our complaints, but they have gone virtually unheeded.

We were asked to comment on the Alcovy Project, as well as required to by public law. We have made public our biological comments on the adverse effects that the channelling and draining portions of the project plan will have as it is now drawn. We have no other step to take. Our department cannot veto the project. It is the responsibility of the Soil Conservation Service and the watershed group to weigh the testimony that we have given them to the best of their ability, and then take whatever action in regard to the project that they wish, subject to the approval of congress. The matter is out of our hands.

While we do approve of the 15 small reservoirs on warm water streams in this project, we don't believe that it is necessary to destroy the streams and swamps below them in order to build the lakes. There is no doubt that draining the 4,000 acres of swamps will destroy the wildlife that depends on them for their existence. Channelization of miles of stream on the Alcovy and its tributaries will destroy the fishing in them. Even the biologists of the SCS admit this. We believe that this destruction will also adversely affect fishing in Lake Jackson as well. The watershed plans could be changed to prevent this damage. Engineering the reservoirs instead of channeling the water is the obvious answer.

The engineers of the SCS tell us that the channel they will dredge in the Alcovy won't fill up with silt, because of the swift, shallow water flow that will be created. If the silt from this seven-year construction project won't fill up the Alcovy River channel above Lake Jackson, then where will it go, except straight Lake Jackson?

What will happen when the swamps are drained where the silt from flood waters once settled out, before it reached Lake Jackson?

The Alcovy River section of Lake Jackson is seldom the red mud color of the Yellow River and South River sections, even in the winter. In the early summer it is the first section of the Lake to clear, producing good largemouth bass and crappie fishing for 80,000 Georgians and more than 100 lake cabin owners and their families. Fishermen spend well over half a million dollars in a year as a result of fishing trips there. In three months in 1966 alone, more than 300,000 crappie were caught in Jackson. With its clear water in the Alcovy arm, Lake Jackson is more fertile than any reservoir in Georgia, with a rich green plankton bloom just like a well-fertilized farm pond. But with muddy water, it would be more productive than any muddy pothole spurned by fisherman. Muddy water prevents plankton bloom in the water that is so important in feeding fish. It interferes with their reproduction and it makes them harder to catch.

This is especially disturbing at a time when the State Game and Fish Commission is spending thousands of dollars on research and management programs on Lake Jackson designed to improve fishing there which are dependent on a high water quality in the Alcovy River. This spring the Commission stocked 150 adult white bass into Lake Jackson in an effort to establish this popular game fish there. At the same time, we have outlawed commercial fishing with nets in the Alcovy and in the lake to help these fish to enter the river on their annual spring spawning run, to populate the lake naturally. Wildlife rangers of the Commission are spending a great deal of time patrolling the river mouth to prevent illegal poaching there.

Since the Alcovy is the most unpolluted stream flowing into Jackson, it is essential if white bass are to succeed there, since the Yellow River is heavily silted and the South River receives a large portion of the City of Atlanta's untreated raw sewage. For this reason, only the Alcovy is suitable for white bass spawning, and that could be ruined by channelization produced siltation, high temperatures, shallow water, and swifter, fluctuating current.

In addition, the U.S. Fish and Wildlife Service only recently approved our request for 23,000 striped bass to stock in Lake Jackson this fall. These fish will congregate in the Alcovy in the spring attempting to spawn, producing good fishing. This fishery may be wasted if the Alcovy is made into a shallow, but swift, muddy water ditch.

The Soil Conservation Service would have us believe that there will be no additional silt in the Alcovy as a result of this project. We aren't so sure. They don't mention the silt that will be flushed downstream while the bulldozers, the draglines, and the dynamiters are working, let alone the erosion ditches and gullies that will form at every rain.

It should be clearly understood that the State Game and Fish Commission is in full agreement with the principles of watershed management and flood control. However, in the case of the two watersheds in question, we are not satisfied with provisions of the plans for alteration of the flood plain lands for agricultural production. It is our understanding of Public Law 566 and regulations established for its administration that drainage ditches and channelization will not be carried out for the purpose of creating additional farmland.

However, figures in the two work plans indicate that 4,327 acres of swamp land areas will be drained, apparently for this purpose. In addition, the reports indicate that 8,652 acres of forest land will be cleared, primarily to create pastureland, which could easily be converted to crop land. These plans say the annual benefits of this will be worth $105,000 a year. Channelization costs listed in the reports to accomplish this would cost over three million dollars, which could mean that it would take almost 30 years for the benefits of drainage to match the cost. By that time, the future recreational or educational uses of the swamp lands might exceed their value to the public as drained land, either agricultural or as a subdivision.

Channeling 80.8 miles of these three streams to make possible the drainage of 4,327 acres of privately owned swamp land as proposed by the SCS will cost the U.S. taxpayer $3,494,432 for construction and engineering costs, or $807.77 an acre, which is almost three times the existing value of the land, based on the SCS estimate of $300 an acre.

The taxpayers of Georgia cannot understand why the federal government should take our tax money to create additional acres of croplands, while at the same time it uses our tax money to pay landowners to keep land out of production through programs like the soil bank, while placing acreage allotments on crops, purchasing and storing surplus crops, also with our tax money. It doesn't make sense to them, or to me.

We wish to make it clear that we are not opposing the philosophy of federal help to private landowners. We are not opposing the right of the landowner to manage his land as he sees fit, as long as he is spending his own money to do it. We are opposing the destruction of publicly-owned natural resources through the expenditure of public funds. Since the wildlife found on these lands is the property of the State of Georgia, we are very much concerned with any publicly-financed project which would be detrimental to fish and wildlife values. In our view, any such project would be similar to a situation in which the State Game and Fish Commission might use public funds to build a duck pond that might flood out part of Interstate 20, also built with public funds.

We are very much disturbed to see an agency of the U.S. Department of Agriculture proposing the drainage of a large acreage of wetlands, while at the same time another federal agency in the Interior Department is spending millions of dollars to preserve and develop wetlands for waterfowl.

It doesn't make sense for one federal agency to be destroying wildlife habitat as fast as it can, while another federal agency tries to preserve it. During the last 20 years, drainage projects like those of the U.S. Soil Conservation Service have destroyed three to four million acres of bottomland hardwoods in the Southeast of significance to waterfowl. At the same time, the U.S. Fish and Wildlife Service has only been able to purchase 158,751 acres of wintering ground habitat for waterfowl from 1948 to 1968 at a cost of $12,043,325 in duck stamp funds of sportsmen. It does not take a mathematician to realize that wildlife and the scenic beauty of our country are on the losing end, and that our money is being wasted.

At a time when the number of hunters and fishermen in our state and nation are rapidly increasing, we can scarcely afford to wantonly destroy the remaining vestiges of wildlife habitat that civilization has so far spared from the bulldozer and the dragline.

By the same token, the 4,327 acres of wetlands for wildlife that would be drained under this plan represents more acres of waterfowl habitat than is owned by the State of Georgia today.

The total loss of valuable wildlife habitat that would be unfavorably altered by this plan exceeds the total acreage of many game management areas of the State Game and Fish Commission. In addition to the 4,000 acres of swamplands that will be lost to waterfowl, the more than 8,000 acres of forested land to be cleared for pastures would be essentially lost for deer and squirrel, two of Georgia's three most hunted species of wildlife.

The hardwood wetlands in question serve as resting, roosting, and feeding places for mallard, black ducks, and wood duck, which also nest there. In fact, they are the only duck hunting areas in Newton County. As a result, deer have become numerous enough for the State Game and Fish Commission to authorize a one day doe hunting season in the county for the past two years. It is also interesting to note that the largest Boone and Crockett Club deer rack of the 1967 Georgia hunting season was bagged by a hunter in Newton County, in the Alcovy River Swamp. Being close to Atlanta, the area receives heavy hunting pressure.

In addition to the primary species of ducks, deer, and squirrels, the wetlands provide a home for cane-cutter rabbits, raccoons, and fur bearing species like mink, otter, muskrat, and beaver. They are potentially a refuge area for wild turkeys and bear. Dense stands of tupelo gum trees and their large annual crop of berries eaten by almost every wildlife species depend on the swamp conditions.

But if the 4,000 acres of wetlands are drained and 8,000 acres of forests are removed, all of these species will virtually disappear from the area permanently, if the planned modifications are maintained in future years, as the work plan calls for. At the same time, they will not be replaced by cropland game species like quail or doves of the primary land use is to be pasture lands, since grasslands produce little food for either species.

In addition to game animals, draining of the wetlands and channelization of 80 miles of stream beds in the project areas will have a serious effect on the fish population of the affected streams. The Alcovy River is a good fishing stream at certain times of the year, primarily for bream and catfish, although there is some bass fishing as well. Backwater sloughs and pool areas that would be eliminated by channelization are the best places to fish, as well as important to maintain cooler temperatures in the pools. Their removal in a channelization project would tend to increase water temperatures, making them less desirable for fish and the aquatic organisms they feed on. Removing the stabilizing influence of the tree root systems from the stream banks will result in greatly increased erosion of the stream bank that will not be adequately controlled by tall fescue and white clover. The movement of sand and sediment in the stream bottoms will be constantly accelerated, greatly reducing the amount of bottom organisms living there for fish to feed on.

The State Game and Fish Commission is seriously concerned about the siltation that inevitably will occur in the Alcovy during the project work, which will last over a period of at least seven years, if funds are provided on the planned schedule. This will be multiplied by what we believe to be unnecessary channelization which the stream will not recover from in the next half century.

Our Department is not opposed to the construction of small impoundments on warm water streams to provide for recreation, municipal and industrial water supplies, and flood control. However, we are unalterably opposed to destructive channelization features of projects such as the two on the Alcovy, and to dams on trout streams that make the downstream water too warm for trout.

The State Game and Fish Commission would not be opposed to making the Alcovy passable for small fishing boats or canoes by careful removal of trees blocking the main channel. This could be done without channelization or the use of heavy construction equipment. The State of North Carolina uses an amazingly effective winch utilizing a small portable chain saw motor to clear logs from fishing streams in eastern North Carolina, without disturbing the stream bottom or banks. Such a service by the watershed project in place of destructive channelization would be welcomed by the State Game and Fish Commission, sportsmen, and small pleasure boaters. With proper maintenance, the Alcovy would be one of Georgia's finest natural scenic areas so close to a major metropolitan area.

We feel that this aspect of the Alcovy as it is presently being used or as it could be used in the future for recreation has not received sufficient attention, in the two project work plans. In examining them, we are unable to find any economic figures for the loss hunting, fishing, boating, or outdoor recreation benefits, present or future. For this reason, we feel that more study should be given to the proposal before final plans are drawn, and for a concentrated effort made to establish the fish and wildlife recreational and economic value of the Alcovy Watershed should it be allowed to remain unchanneled and with its swamps undrained.

However, based on our careful review of the Alcovy project work plans and the objections to them, it is our position that we cannot approve the projects as they have been presented to us, without further study of wildlife losses and alterations to the watershed plans to eliminate our objections.

We therefore called on the State Conservationist of the Soil Conservation Service and the regional director of the U.S. Bureau of Sport Fisheries and Wildlife to meet with us in an effort to restore these differences to the mutual satisfaction of all interested parties, before final plans are drawn.

But the Alcovy project is not the most frightening aspect of the small watershed program of the SCS. What disturbs me even more is the list of fine little fishing streams marked for destruction, running into every major lake and river in Georgia. We know that these channeled streams, these drained swamps, and dammed trout streams are gone during our lifetime, if not forever. In many sections of Georgia, there are no other places for the public to fish, or hunt.

When projects like the Alcovy threaten our irreplaceable wildlife resources, it is the duty and the obligation of the State Game and Fish Commission to inform the people what the effects of these projects will be, without being accused of irresponsible criticism, without being called liars, without being threatened with political reprisals. When the people have been fully informed of all the facts, we believe they will make the right decision, and that is the only right that we ask from the public.

In one of Robert Frost's poems he poses a question which is basic to the future of man on earth. He says,

"Nature within her inmost self divides
To trouble men with having to take sides."

I do not think he means that man must decide to be for nature and against development; but nature itself compels man to decide whether other life is to be allowed to survive along with man, or if all is to be subordinated to the human species. I believe that the Georgia Game and Fish Commission has a vital role in Georgia in taking the side of nature's creatures, in ensuring that we share our world with other species and in this sharing, I am convinced man becomes a better being.

Once man has laid his hand upon a natural environment, change begins to take place.

Unless he considers other species, this change will continue to destroy the conditions necessary for other forms of life until, eventually, man finds himself alone on his landscape. He cannot live for himself alone.

The Georgia Game and Fish Commission and the Soil Conservation Service both have responsibilities in preservation and conservation of the environment required by wildlife. Together we can provide a measure of balance, a balance which we must have if we are to avoid being swallowed up by a complex, technological age in which man can too easily forget that he is but one part of a system of nature, the temporary custodian of a life that has been lived for centuries before and which must go on for centuries to come.

A hundred years ago there was room on earth for all the creatures of field and forest and enough left for man to reap his required harvest. Today man's needs have multiplied. His numbers have increased beyond the wildest dreams of earlier days. We must face the fact that this increase in numbers, this increase in needs for the resources will grow in geometrical measure.

We have little time left and we have much to do, yet we *are* considerably better placed now than once we were. Many Georgians *now* recognize that steps must be taken and taken soon and fortunately there are things happening. It has been said that the best time to plant a tree was thirty years ago, the second best time is today. The same is true for conservation. The best time to conserve the habitat necessary for our wildlife would have been fifty or a hundred years ago. The second best time is now. We can still save many of our wonderful streams without trying to restore them years from now at even greater cost than their destruction.

As Director of the Game and Fish Commission, I am committed to pursuing the ideal of conservation, of creating a balanced environment. I am convinced that our legal mechanisms for conserving the quality of our natural environment in Georgia and this country are incomplete and inadequate. Unless we direct ourselves *now* to improving these mechanisms and coping with this question, we will have to pay the price tomorrow, and we might not be able to meet the bill.

Man must learn to control his appetite for immediate benefits if his long term needs are to be met, before it is too late.

Now is the time we must decide if that little boy will be able to sit on the bank of a beautiful stream with his cane pole, or whether that stream will be in a ditch or behind a dam. The decision is yours.

(NOTE.—Letters of protest to the Alcovy-Cornish Creek-Flat Creek and other channelization projects should be sent to Georgia's two U.S. senators and the congressman from your district, care of either the Senate or the House Office Building, Washington, D.C.)

BLACKBURN HITS ALCOVY CHANNEL

Georgia's Fourth District U.S. Congressman, Ben Blackburn, has raised serious questions on the feasibility of the proposed Alcovy River and Flat Creek-Cornish Creek Watershed Projects because of what he terms the "tragic aftermath" of "channelization," which has seen the destruction of countless irreplaceable streams in Georgia and throughout the Nation in the past decade.

Channelization programs, designed for flood control and land reclamation, are carried out under Public Law 566, the "Watershed Protection and Flood Prevention Act," administered by the Soil Conservation Service of the U.S. Department of Agriculture.

In expressing his deep concern, the Congressman said that channelization—the deepening, clearing and straightening of stream beds by bulldozers and draglines—hangs as a heavy threat over every stream in north and central Georgia. Channelization projects are now believed to be causing

irrevocable basic changes in the entire areas involved, and are resulting in the loss of thousands of acres of scenic beauty.

Blackburn suggests that on the basis of what has happened in Georgia and in fact across the Nation, the benefits which have come because of channelization are far outweighed by the loss of untold acres of hardwood, the almost complete destruction of natural recreation areas, game, fish and wildlife, and the subsequent lowering of the surrounding water table.

"It is ironic that while a number of Federal agencies, including even the U.S. Department of Agriculture, are spending large sums on water and wildlife reclamation, seeding forests, and attempting to rebuild the natural ecology, another agency in effect is spending millions to destroy vast water areas, the habitats of fish and wildlife, and natural beauty spots," he said.

"Studies of the effects of channelization in other areas of our Nation indicate a drastic reduction of game fish. One study, from North Carolina, compared the fish population of 23 channeled, and 36 unchanneled streams, and found a 90% reduction in the weight and number of game fish per acre in streams channeled. This experience indicates that in a 40-year period after channelization fish and wildlife would not recover," Blackburn said.

The Soil Conservation Service contends that channelization, which includes the draining of swamps, provides the subsequent return to "use" of literally millions of acres of land, and claims the elimination of flood possibilities in the streams which have been channelized.

As hundreds of thousands of acres are placed in Federal soil banks, the Soil Conservation Service is spending more millions to "reclaim land" for farmers. Blackburn asks the question, "Why is it necessary to 'reclaim land' at the same time the Federal Government is spending millions in Georgia to keep out of production land which is presently available?"

The Alcovy Rivershed Project calls for the channelization of more than 80 miles of the Alcovy River, known for its fish and wildlife and for its surrounding thousands of acres of beautiful natural forest and river swamp. Lake Jackson, into which the Alcovy flows, has become a major recreation area and source of game fish. Under the careful management of the Georgia State Game and Fish Commission, the fish population is increasing. Blackburn said that he shares the concern of the Game and Fish Commission, residents, and conservation leader that under channelization, the clear waters of the Lake will be drastically muddied by the torrent pouring in from the river, with the resulting destruction of Lake Jackson as a recreation and fishing area.

The expenditure for the Alcovy Project for up to 80.8 miles of channeling is estimated at $3,494,432.00, to benefit 4,326 acres of swampland. The cost of channelization comes to $807.77 an acre. Oddly enough, Blackburn stated, "estimated land value of the improved swampland is presently $300.00 an acre! If equal funds were placed in an interest-bearing bank or securities accounts, landowners could more than be repaid for possible flood damage or for not planting crops. The taxpayers could save more than $500 an acre if the land were purchased and the swamp declared a wildlife preserve!"

Water management officials claim that far from an effective method of flood control, a channeled stream acts as a chute through which valuable water rushes to major tributaries toward the seas, lost before it can be of benefit to the land. While channelization projects in the past have served to reduce the incidences of flooding to once every three years, when flood waters pour down channelized streams, the devastation can be far more widespread, and more often than admitted, these streams are known to cause a worse flooding problem than ever before at different times and in different places further downstream.

"The after-effects of channelization are seen in Georgia's Little River, channeled years ago, which has felt the additional effect of 'slumping,' the process where rushing water cuts into the steep banks, caves them, and causes a serious erosion and land loss problem. Along the ditch which was Little River, the bank collapse has already resulted in serious damage to many portions of the 'reclaimed land.' Little River's muddy waters rush to Lake Allatoona, and where they enter the lake is much of what is left of the old river."

"Too, one of the often unnoticed but very real dangers of channelization is swamp drainage. Swamps are among the world's finest reservoirs and purification areas, acting as water filters and natural oxidation basins, depositing the silt loads of the river over large areas, cleaning the river as its flows through the countryside. Water emerging from a river swamp is purer than water from the best modern treatment plants," Blackburn said.

"Water management officials are concerned that swamp drainage through channelization will result in ever-increasing flood conditions since swamps are retention areas which serve the dual purpose of absorbing water during wet seasons, and feeding the rivers during the dry summer months," he said.

Blackburn added that "the continuation of channelization projects, which tear away what it has taken nature centuries to build, will see the loss of a great part of the beauty and bounty of Georgia and the Nation, the streams and rivers existing today."

Mr. Speaker, Outdoor Life, one of the Nation's foremost magazines on fishing and other outdoor recreation, carried an article concerning Mr. Bagby's action and outlined the effects channelization has had on different streams in North Carolina. For the information of my colleagues, this article is also inserted in the RECORD:

PROTEST SOIL CONSERVATION PRACTICES

A formal protest by the Georgia Game and Fish Commission as brought out into the open the depredations against wildlife and its habitat being attributed to the U.S. Soil Conservation Service, which operates under terms of the Watershed Protection and Flood Prevention Act.

Known as Public Law 566, the act provides for flood-control measures in the form of dams; municipal, agricultural, and recreational water supplies in the form of lakes; and land reclamation through drainage of swamps.

The original concept of the legislation was to design watershed projects in a way that would improve renewable natural resources within the watersheds.

The Georgia commission's protest concerns the S.C.S.'s plan for the Alcovy River watershed in Gwinnett, Newton, and Walton counties.

The service calls for a seven-year operation during which time several large lakes would be constructed, cover crops and food patches planted for wildlife, and the river channel cleared of debris. The cost of the project has been set at about $9-million, the federal government providing some $7-million and nonfederal funds providing about $2-million.

Some outcry arose from landowners along the river and others connected with the project when it was thought that the Game and Fish Commission sought to block the entire program. But George T. Bagby, the department's director, soon set matters straight.

"We have objected to only one portion of the proposed watershed plans, and that is the channelization and drainage of the Alcovy River above Lake Jackson," Bagby stated.

Channelization is the fly in the S.C.S.'s ointment, and it is by no means limited to statewide projects. It should be of concern to conservation agencies and organizations throughout the country.

Channelization ruins rivers and destroys trout streams and whatever fish and wildlife happen to be there. Channelization creates barren ditches, and the S.C.S.'s plans for the Alcovy would destroy through drainage some 4,000 acres of swamp.

In past S.C.S. channelization projects, such as at Barber Creek near Winder, Georgia, trees and brush bordering the stream were bulldozed away, thus destroying whatever cover had been there for years and used by wildlife.

The S.C.S. plan is to plant grasses and legumes "to hold back the soil" along the stream banks, but, as has happened on some completed projects, this growth can be washed out by heavy rains; the soil, once held in place by roots of trees and shrubs, is soon carried off in downpours.

"We don't believe it is necessary for the S.C.S. to destroy the streams and swamps below in order to build the dams above," says Bagby. "There is no doubt that draining the 4,000 acres of swamps (as outlined in the Alcovy plan) will destroy the wildlife that depends on them for existence. Channelization of miles of stream on the Alcovy and its tributaries will destroy the fishing in them. Even the S.C.S. biologists admit this.

"We believe that this destruction also will adversely affect fishing in Lake Jackson. The watershed plans could be changed to prevent this damage. Enlarging the reservoirs instead of channeling the river is the obvious answer." Lake Jackson is a 4,500-acre reservoir into which the Alcovy flows.

"Engineers of the S.C.S. tell us that the channel they will dredge in the Alcovy won't fill up with silt, because of the swift, shallow water flow that will be created." Bagby continues. "If the silt from this seven-year construction project won't fill up the Alcovy channel above Lake Jackson, then where will it go? What will happen when the swamps, now the settling place for silt from natural runoff, are drained?"

The S.C.S. has yet to provide satisfactory answers to those questions.

Georgia isn't the only state concerned about S.C.S. watershed plans. South Carolina, North Carolina, Tennessee, Mississippi, and Alabama have been waging war with the S.C.S. for years, and to no avail.

Why? States have no veto powers, and any recommendations they make or advice they give is not binding on the S.C.S., according to Bagby.

"The U.S. Fish and Wildlife Service also has objected to the channelization plans in these projects," he comments, "but like the states, even this federal agency has no veto."

A study made by North Carolina's Wildlife Resources Commission of 23 streams that have been channeled shows that 90 percent of the gamefish (by both weight and number) were lost. A Mississippi study made before and after a stream was channeled shows drastic reductions in gamefish populations. A stream that once had an average of 240 pounds of gamefish an acre before channelization had only five pounds of tiny gamefish afterward.

Bagby says the Alcovy project is not the most frightening aspect of the S.C.S.'s small-watershed program: "What disturbs me even more is the list of fine little fishing streams marked for destruction," he declares.

The Georgia director also points out that the President's Council on Recreation and Natural Beauty noted that flood control and other water-resources development programs seek to retain or restore natural channels, vegetation, and fish and wildlife on rivers, streams, and creeks. The council also said this policy should be applied to federally

assisted public and private projects affecting the same area, Bagby notes. The Secretary of Agriculture, the S.C.S.'s boss, serves on the council.

It is ironic that most of the hullabaloo surrounding the Georgia projects was brought up during National Wildlife Week, which this year emphasized the importance of conserving wildlife habitat.

"Such destructive projects are a national conservation issue," Bagby emphasized. "Only last October, the Southern Division of the American Fisheries Society adopted a resolution calling on the S.C.S., the TVA, and the U.S. Army Corps of Engineers to halt any further watershed projects until an economic evaluation can be made of the values of fishing, hunting, boating, and other recreation in the areas affected."

Two years ago, Charles D. Kelley, chief of the Division of Game and Fish of the Alabama Department of Conservation, backed up what Bagby says is his (Kelley's) report as president of the Southern Association of Game and Fish Commissioners.

"From the very beginning [of the project]," his report states, "public monies have often been used to develop agricultural resources which directly benefit the individual landowner at the sacrifice of such public resources as fish and wildlife, the loss of which is felt by many people.

"From the trout streams in North Carolina to the shores of the Gulf Coast, channelization has played havoc with our valuable fish and wildlife habitat.

"Fish and wildlife losses, as a result of channelization of one watershed stream, when examined alone," Kelley continued, "may appear to be insignificant. Not only will stream channelization destroy the spawning habitat for such species as walleyed pike, sauger, and white bass, but it also destroys the fishery resource on the watershed stream itself. Without adequate stream spawning habitat, these species will ultimately disappear or be greatly reduced.

Channelization also destroys feeding and occupational habitat for a number of game and fur-bearing animals and the wood duck."

Kelley offered one solution: "If fish and wildlife losses were given proper consideration as a factor in arriving at the cost-benefit ratio of the watershed, I am sure that in many cases impoundments would replace channelization in order to arrive at a figure which would assure federal funds for the project.

"Fish and wildlife organizations can no longer stand still and watch our natural stream areas turned into man-made ditches devoid of fish and wildlife. We must continue our efforts to gain greater appreciation of our fish and wildlife resources, or most surely we will suffer to an even greater extent in the future."

Back in Georgia, meanwhile, the S.C.S. probably will go on with its plans for the Alcovy River even though the Game and Fish Commission has spent thousands of the taxpayers' dollars on Lake Jackson.

With its clear water in the Alcovy arm, Lake Jackson is more fertile than any other reservoir in Georgia. It has a rich green plankton bloom just like that of a well-fertilized farm pond. But should its waters become muddied, it would be no more productive than any muddy pothole. Biologists point out that muddy water prevents plankton bloom in the water, interferes with fish reproduction, and makes the fish harder to catch.

"Our department is spending thousands of dollars attempting to stock white bass in Jackson," Bagby stated. "These fish will spawn in the Alcovy, unless it is channeled. Their success would give thousands of fishermen a new species to fish for.

"In addition, the U.S. Fish and Wildlife Service only recently approved our request for 23,000 striped bass to stock in Lake Jackson this fall. These fish will congregate in the Alcovy in the spring and attempt to spawn, but this fishery could be wasted if the Alcovy is made into a muddy, shallow-water ditch."

Bagby points out that the S.C.S. has led everyone to believe that there will be no additional silt in the Alcovy as a result of its project.

"We aren't so sure," he declares. "They don't mention the silt that will be flushed downstream while the bulldozers, the draglines, and the dynamiters are working, let alone the ditches and gullies that will form at every rain.

"When projects like the Alcovy threaten our irreplaceable wildlife resources, it is the duty and the obligation of the State Game and Fish Commission to inform the people on what the effects of these projects will be, without being accused of irresponsible criticism, without being called liars, without being threatened with political reprisals. When the people have been fully informed of all the facts, we believe they will make the right decision, and that is the only right we ask from the public." (*Bill Baab, Augusta Chronicle.*)

Mr. Speaker, I believe that after reviewing these articles all Members of this House will readily agree that remedial action is needed very quickly. I urge the Members of this body to encourage the chairman of the House Agriculture Committee to hold immediate hearings on my bill.

LIFE IN A VIETCONG PRISON CAMP

(Mr. BERRY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BERRY. Mr. Speaker, last week our colleague, MARK ANDREWS of North Dakota, had an interesting radio and television interview with Maj. Nick Rowe of McAllen, Tex., who had been held prisoner by the Vietcong for 5½ years prior to his escape.

In view of the fact that there are so many experts in this country on how best to get out of the war, and how much good these marches and protests and moratoriums are doing, it seems to me it would be good to find out what a man who has seen the war and been in it and been in a prison camp longer than any other American in history has to say about it.

Under unanimous consent, I insert excerpts from that interview in the RECORD in hopes that a real "expert" may have an opportunity to present the position of those less fortunate than the "long hairs" who are marching and carrying Vietcong flags at these moratoriums and demonstrations.

Excerpts from the interview are as follows:

ANDREWS. While you were over there, what was your biggest problem in the 5½ years that you were in prison?

ROWE. Well sir, I think there were two of them that actually came up. The first as far as survival, as far as maintaining my own stability while I was a POW, from the period of 1963, this is October of 1963, until the latter part of 1967—when they tried to influence us—they drew from propaganda sources that came either from Hanoi, COSVN in the south, this is the Liberation National Front, or their own propaganda sources, and this was to destroy a POW's faith in his country, to make him feel that the very structure of our government and our society was crumbling. And, for the most part this is ineffective because it was a Vietnamese writing for an American, and their standards are different, their ideas are different, syntax, everything was such that it was really ineffective.

But, in the latter part of 1967 they ceased drawing from their own sources. They dropped all communist propaganda sources and *began to quote from the American news media or magazines or wire sources, UPI and AP. I think the most devastating was when they began to quote from prominent men within our own government condemning our efforts in Vietnam and calling for withdrawal. This to me was the most devastating blow to my morale and the only time that I really questioned whether or not I was right during the entire period of time I was in.* This was a low point for me, a time when a POW cannot question himself. A POW must believe that he's right—that his country's right, *and this is the only time during the entire period of time that I did wonder whether or not I was right, and I resolved it.* I finally resolved it in my own mind that *the country was much bigger than these men* and that I was right in supporting my country and they were wrong. In that manner I readjusted my own thinking to the point that I once again believed in my country—in my country's efforts and its cause. And this is the one thing that separates a POW as far as whether or not he can be influenced or cannot be influenced. *But, that did have a devastating effect on my morale.*

The second thing that came up was in the middle part of 1968. I had developed a cover story when I was captured. This is a story which I devised to mislead the Viet Cong in their interrogations so that I was able to say "I don't know" when they asked me sensitive questions or questions about areas that I didn't want to discuss—I'd say "I don't know" rather than "I won't tell you" or "I can't tell you." I felt that I could go a lot longer saying, "I don't know'" And, I maintained this story for over four years and this one particular day they called me into a meeting in the big cadre hooch and they had a gentleman who was supposed to have been from provincial central committee. This was a high ranging political official within the Liberation National Front. And he told me that peace and justice loving friends of the Liberation National Front in America had provided them with a biographical sketch.

ANDREWS. That's a big help.

ROWE. Yes sir—what it did in effect is completely compromised my cover story—it blew my cover story wide open. And, at that point, he said that the Front had determined that I was not sincere vis-a-vis the Liberation National Front. I went on an execution list for January. I think primarily because of this. In other words, they realized that I had lied to them for that long a period of time. *And, it's difficult enough as a POW anyway without having somebody in the United States do something like this.*

ANDREWS. In other words their efforts really put you on an execution list and you escaped a month before you were due to be executed.

ROWE. About three weeks before sir.

ANDREWS. Well that certainly is fortunate. Now, Nick, I know you were down at the Washington Monument last Saturday and you walked among these people demonstrating for peace. As one of those who probably was more deeply affected by this war than any other American, what was your reaction?

ROWE. First of all sir, I saw a large number of people there who had not been to Vietnam and who probably would never go to Vietnam and coming from a relatively sterile environment, protesting about something that they really didn't understand.

The second thing that got me was that when we walked up, I heard somebody up there yelling, "down with imperialism, down with capitalism, down with the oppressive leadership in the White House." I heard the same things from the Viet Cong, sir, except there they said it in Vietnamese and here they were yelling it in English. *To look around the crowd and to see Viet Cong flags*

flying around the Washington Monument, to see American flags that had the stars removed and the peace symbol superimposed on them, to see an American flag with a Viet Cong flag flying above it—to me to see this in the United States, sir—*I have had friends of mine that died in Vietnam opposing that flag* and then to see it here in the United States and hear people calling for peace.

ANDREWS. Well now what effect does this type of march have on the Viet Cong's willingness to settle this conflict?

ROWE. Sir, they told me—this is a direct quote from Major Bies, Major Nuyen G. Kong, one of the political cadre from the Liberation National Front. He told me in a discussion one day—he said, "we do not expect a military victory nor do we expect an immediate political victory, *but through the dissension and disorder in the United States the government,* this is the American government, *will be deprived of the support of the people and forced to withdraw from Vietnam,* and at that time, *we*—speaking of the Liberation National Front *will have total and final victory. And they feel that the support that they receive from the United States—people within the United States—is their key to success. And they tell their people, they use this all the way across from American POW's to the peasants, to their soldiers, and they say that they must support their friends in the United States just as their friends in the United States are supporting them. All contributing to the cause which is the overthrow of the U.S. effort in the world today. They label it imperialism.*

ANDREWS. In other words even though they've been, to all effects, militarily defeated, they continue to hang on, continuing to wage war because of this encouragement.

ROWE. Right sir—*they feel that the revolutionary base is formed in the United States* and the *revolutionary base here* is contributing to their efforts there *so they must continue to fight—that victory is within their grasp.* They see the movement growing, just like the crowd out there Saturday. You can show them pictures, and I know that they'll see pictures of that crowd—you can show them pictures of a crowd anywhere marching past the White House or the Justice Department or anything like that and it could be any crowd—*but if you show them pictures of a crowd with a VC flag lying in the midst of it then those people in Vietnam*—the Viet Cong—*know they have the support of the American people, and it's blown up and distorted so this is the mass of the American people.* And again it's relayed to the POW's—to everybody over there.

PRESIDENT NIXON'S MESSAGE TO THE CONGRESS ON TRADE

(Mr. MIZE asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MIZE. Mr. Speaker, President Nixon has transmitted a message on trade to the Congress that is both forward looking and prudent in approach. The President demonstrated that his administration has a keen appreciation of the complexity of the issue, for he advanced timely and appropriate suggestions for promoting trade between the United States and other members of the world community. I take this opportunity to underscore some observations made by the President and to make some observations of my own on the U.S. role in world trade development.

COMPETITION IS INTENSE

America can no longer enjoy the luxury of ignoring foreign markets. Our balance of trade has diminished from a healthy $6 billion surplus at the beginning of this decade to practically zero today. Inflation, the war, and a host of other accumulative ills have seriously undermined our balance of payments as well.

Most respected authorities suggest we must achieve an export level of $50 billion per year by the mid-1970's or see our financial position wholly discredited. That goal is ambitious and urgent. When the President speaks of the need to reduce tariffs and nontariff barriers to the extent possible, he speaks of a goal of the highest national priority.

A favorable trade position will not come easily. Some U.S. manufacturing plants are antiquated and creaky by Japanese standards; most European nations have followed the Japanese example by making substantial capital investments in export-oriented industries. Just as U.S. inflation has made the American market attractive to foreign sellers, and American goods unattractive to foreign buyers, so also has inflation frustrated efforts by businessmen and industrialists to modernize. The credit crunch also has limited foreign capacity to purchase American goods. The President of the Export-Import Bank of the United States recently found it necessary to travel to Europe's money markets in search of financing for U.S. exports. American credit sources have been depleted, yet the need for export credit grows dramatically each year.

Most industrialized nations have traditionally depended more heavily upon exports than has the United States. America has traditionally exported less of her GNP than any other advanced economy. Now that we, too, must export to survive, we find ourselves with a paucity of established customers and outlets.

CHANGING TIMES CALL FOR NEW POLICIES

It might seem otherwise, but there has been no conscious conspiracy to frustrate U.S. exports. Rather, the practices of yesterday have proved wholly inadequate to meet today's rapidly shifting national priorities.

With the balance of trade gone, with the balance of payments in alarming deficit, with inflation and a surge of protectionism at home, with increased world responsibility and dwindling resources to invest abroad, with inadequate credit for American sales that might be made, the Nixon administration now announces a trade policy that must overcome these difficulties and establish a firm foundation for future patterns of trade. Future practices, of necessity, will be different from anything American business has experienced.

I think the President has suggested appropriate action. He has urged the Congress to support him by passing legislation that he will recommend at the proper time.

The Congress should support the President in this common effort, for without legislative authority he certainly will be unable to reverse the trends I have outlined. President Nixon has set America on the proper path. It is up to the Congress to insure the Nation has a profitable and safe journey.

F. SCHWENGEL, LEADER AGAINST "BIG TRUCK" BILL, WINS DESERVED PRAISE IN IOWA PAPERS

(Mr. CLEVELAND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, our colleague from Iowa, FRED SCHWENGEL, has been leading the fight against the "big truck" bill.

As a member of the Roads Subcommittee, I have been more aware than most of the well-documented case FRED SCHWENGEL built against the "big truck" bill. He brought to the fight a dedication and sincere concern for highway safety that would not be denied.

Mr. Speaker, it now appears the battle against the big truck bill may be won again this year. It is appropriate to recognize FRED SCHWENGEL and the others who have fought against this unwarranted legislation. Last year when the Public Works Committee reported a big truck bill, there was a group of us who signed the minority and supplemental views opposed to the bill. In addition to FRED SCHWENGEL and myself, Congressmen RICHARD MCCARTHY, ROBERT MCEWEN, JAMES KEE, and the late Congressman Robert Everett indicated our opposition to the legislation.

Recently, Mr. Speaker, two Iowa newspapers justly paid tribute to the work of FRED SCHWENGEL in stopping the big truck bill. I insert them in the RECORD at this point:

[From the Cedar Rapid (Iowa) Gazette, Nov. 20, 1969]

TRUCK BILL DEAD

Thanks to the continuing effort of Congressman Fred Schwengel of Iowa's First district, and a few others, the highly controversial long-truck bill that is pending in congress probably is dead for this session.

In a news report from Washington this week Rep. Schwengel was reported as saying the White House wants no truck bill at all and he doesn't look for the bill to make it out of the public works committee, of which he is a member. The bill would have allowed longer and heavier trucks to ply interstate highways and, undoubtedly, would have been the opening wedge in efforts to relax state laws to permit these trucks to use other highways—many not built to accommodate them.

Anti-big truck congressmen took the position that the whole question of legalizing bigger trucks deserves a greater in-depth study than has been presented yet, with emphasis on safety factors and on how much their added weight would increase highway deterioration.

Moreover, little study has been done to show effects of wind currents and suction action stirred up by bigger trucks in passing lighter vehicles on the highways. This would be a good time, then, to authorize a study that, hopefully, would develop answers that would be helpful in any future discussions in congress on legalizing larger trucks.

[From the Davenport-Bettendorf (Iowa) Times-Democrat, Nov. 19, 1969]

A JOB WELL DONE

The controversial long-truck bill reportedly is dead for this session of Congress, and a lion's share of credit for that must go to Rep. Fred Schwengel of this First District.

The measure to permit longer and heavier trucks on the interstates has had substantial Republican support in Congress but the

Davenport Republican reports now that the "White House said they want no truck bill at all, which means Republicans are not going to give it any help."

Schwengel adds that he has enough Democrats on his side so that no bill will be coming out of the Public Works committee this session.

Concerned with what he is convinced would pose a menace to safety on the nation's highways, Schwengel has fought a continuing, courageous battle against the truck proposal in the face of formidable pressures. Most recently his campaign has taken the form of insistence upon an exhaustive study before any legislation might be advanced. For his efforts, he merits the applause of the people.

CONNECTICUT-NEW YORK RAILROAD PASSENGER TRANSPORTATION COMPACT

(Mr. MESKILL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MESKILL. Mr. Speaker, Monday, December 1, will be the second time that H.R. 14646 will come before the House of Representatives on the Consent Calendar. The first time the bill, known as the Connecticut-New York Railroad passenger transportation compact, came before the House on the Consent Calendar on November 17, it was objected to by the distinguished gentleman from Pennsylvania because of his concern about the potential Federal cost of the program. The gentleman from Pennsylvania asked for information on the manner in which the railroad modernization program is to be financed.

Today, I wish to provide that information for my distinguished colleague and hope that it will satisfy any doubts he, or anyone else, may have had about giving congressional assent to this interstate compact.

Unfortunately, Mr. Speaker, I will be out of Washington on December 1 to attend the Intergovernmental Committee for European Migration being held in Geneva. My distinguished colleague, HENRY SMITH, a member of Judiciary will be here, however, on December 1 to answer any questions that may be raised on the bill. And I will be available until Wednesday.

First, I wish to reiterate the purpose of this legislation. The sole purpose of H.R. 14646 is to meet a constitutional requirement that all interstate compacts be approved by the Congress of the United States. If I may, I would like to read from the U.S. Constitution. Article I, section 10 states:

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in Time of Peace, *enter into any Agreement or Compact with another State,* or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

Compliance with the Constitution, then, is the single reason for this body to take action on this legislaion. By acting favorably on H.R. 14646, we are merely giving authority to two legal entities, the Connecticut Transportation Authority—CTA—and the Metropolitan Transportation Authority of the State of New York—MTA—to enter into an agreement to act jointly to improve and modernize railroad passenger transportation services between the two States.

Mr. Speaker, unless we give congressional consent to this interstate compact, the States of Connecticut and New York will not be able to act in concert to improve railroad service between their two borders.

I cannot reiterate strongly enough that favorable action on this bill on December 1 will only confirm an agreement which has been entered into between the respective transportation authorities of the two States.

Enactment of this legislation in no way commits the Federal Government to the expenditure of any funds.

If we pass this bill, all we are doing is granting legal authority to two legal entities to act together for a specified purpose.

The funding aspect of improving and modernizing the New York, New Haven & Hartford Railroad is an entirely separate issue. Funding is a part of the appropriations process. The time for Congress to question the advisability of spending Federal money for improving transportation is when it is considering the appropriation bill for the Department of Transportation.

Let me emphasize again, Mr. Speaker, that this legislation does not authorize or appropriate any Federal money for any purpose. I hope that this clears up any confusion or misunderstanding there may have been on this issue.

Now, Mr. Speaker, I hope that what I am about to say will not confuse the issue that we have before us. The gentleman from Pennsylvania has asked me to explain the modernization program that is contemplated and planned by the States of Connecticut and New York.

I shall briefly outline the modernization program and how it is to be financed. The States of New York and Connecticut have taken concurrent legislative action to cooperate in a joint venture to provide for the continuation and improvement of essential railroad passenger service, subject to congressional approval of the interstate compact. The compact, authorizing this agreement, was approved by the State Legislature of New York last year and by the Connecticut General Assembly this year. Under the agreement, the MTA and the CTA are authorized to "first, acquire assets of the New York, New Haven & Hartford Railroad—and its successors—where needed; second, repair and rehabilitate such assets; third, dispose of such assets where not needed; and fourth, operate the service or contract for its operation. The two agencies are also authorized to apply for aid, Federal, State, or local."

The main feature of the two-State program to improve commuter service between New York and Connecticut is a proposed $80 million full capital improvement program. In 1966, the States of New York and Connecticut submitted an application to the Department of Transportation for funds to assist in the implementation of the full capital improvement program—New York State law requires that for any bond issue for capital improvements, the State must have submitted an application for Federal aid. The Department of Transportation indicated that they would be unable to fund this application and asked the two States to resubmit an application for funds for a priority program. New York and Connecticut complied with this request and submitted an application for a $56.8 million priority capital improvement program. It is this priority capital improvement program which the two States are anxious to implement.

In December of 1967, President Johnson approved a grant of $28.4 million—the priority program request—to go to the States of New York and Connecticut to assist the States in carrying out the proposed bistate modernization of the bankrupt New York, New Haven & Hartford Railroad. The grant is a 50 percent matching grant. The remainder of the funds for the program is to be made up by the two States.

New York is committed to providing $12,425,500 for the modernization effort. Connecticut will provide $15,974,500 to aid the ailing commuter service. This brings the total package for modernization to $56.8 million, the priority capital improvement program.

Let me summarize this. The States of New York and Connecticut have been awarded a Federal grant of $28.4 million for a priority capital improvement program, contingent upon approval of the interstate compact we have before us today. New York has made available $12.4 million of its share. New York's share is to be financed by funds from a State bond issue and from MTA funds—75 percent from State bonds; 25 percent from MTA funds. Connecticut has put up its share of $16 million which is to come from the public service tax fund—$6 million—and from the sale of public bonds. The bonding authority for the sale of these bonds has already been approved.

In both States, financing of the program to upgrade passenger railroad service is assured—provided for under existing legislation.

In addition, the State of New York intends to spend $7 million in additional funds over and above its $12.4 million share to buy the 14 miles of New Haven right-of-way in New York State from Woodlawn to Port Chester, along with stations, shops, and power installations. New York does not intend to apply for Federal funds for this acquisition.

Desiring to proceed with the full modernization program for the commuter railroad, both New York and Connecticut have applied for a Federal grant to complete the full $80 million capital improvement program. This application is pending, but no action has been taken on it by DOT. At this time, the transportation authorities of both States have no intention to apply for any funds over and above those necessary to finance the $80 million program.

Since Federal funds may only be used for capital improvements, there will be no applications from the States for Federal moneys for operating costs. Money necessary for the operation of the railroad by the two States will have to come from CTA and MTA sources.

In answer to the question of the distinguished gentleman from Pennsylvania about the total Federal cost of the mod-

ernization program, I can state unequivocally that the top figure might be $40 million. That is the highest it could go under present plans. The figure that we are talking about for the present, however, is $28.4 million. This amount is for half of the priority capital improvement program. A grant for this amount has already been approved by the DOT. Its acceptance is contingent on the action we take on Monday.

The Senate has already approved the interstate compact. House action and the President's signature are all that stand between a bankrupt dilapidated railroad and a modern, pleasant, dependable railroad line capable of serving the thousands of commuters who would rather ride the rails than sit in lines of jammed automobile traffic for hours on their way to and from work.

Not only will a modern commuter service between New York and Connecticut be a convenience to residents of Westchester County and Connecticut; it will also assist the city of New York in controlling and regulating its enormous traffic problem.

If we do not want to choke the major arteries of our cities with cars until movement becomes impossible, then we will have to develop balanced systems of transportation that make use of a variety of resources.

The modernization and improvement program planned and developed jointly by New York and Connecticut is a landmark venture in bistate cooperation to meet the needs of a metropolitan area whose growth knows no boundaries.

The program will contribute to the orderly growth and progress of both States. I urge my colleagues to act favorably on this interstate compact bill. Encourage initiative between States to meet their problems cooperatively. Do not frustrate such efforts. Permit these two States to act in concert to meet their major transportation needs. That is all I ask. Mr. Speaker, I urge the House to approve this interstate compact by enacting H.R. 14646.

PRESIDENT NIXON TAKES MEANINGFUL STEP IN LIMITING CBW

(Mr. LLOYD asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. LLOYD. Mr. Speaker, President Nixon today has taken a significant step toward worldwide control of chemical and biological warfare by condemning use of such weapons and ordering U.S. stockpiles of biological weapons destroyed. The President further stated that the United States will never employ germ warfare even if an enemy were to do so, and said future U.S. research in this area will be limited to defensive measures. The President also asked the Senate to ratify the 1925 Geneva protocol prohibiting first use of chemical and biological weapons, and for the first time, denounced use of chemicals which incapacitate without killing.

I applaud this announcement. I have long felt that a distinction should be made between chemical and biological warfare, and that there is little justification for actively pursuing research and development in the biological field. Biological weapons, unlike chemical weapons, have never been used in modern warfare. Estimates of their possible effectiveness are based upon naturally occurring epidemic and laboratory experiments.

There is no reason why the United States should not take active leadership in securing bans on production and stockpiling of biological weapons, and I view the President's announcement as a logical first step in meaningful controls of these weapons.

As a cosponsor of a House resolution urging the President to resubmit the Geneva Protocol, I believe that the United States has always been committed to a "no first use" policy on CBW. Yet while we are committed to this principle and have voted for a United Nations resolution inviting all nations to ratify the protocol, the United States has not done so. Ratification would remove any possible ambiguity regarding U.S. policy on this issue.

Mr. Speaker, there has been a great deal of emotionalism and misrepresentation of facts surrounding the chemical and biological program in recent months. Nevertheless, there is a great need as well as a public demand for clarification of policy on CBW, greater safety in research and testing programs, and meaningful controls over the use of these weapons. The President's announcement today and the action already taken by this Congress with respect to the CBW program are in response to this demand, and have my full support.

I include a statement given by Dr. Ivan L. Bennett, Jr., director of the New York University Medical Center, before the Subcommittee on National Security Policy and Scientific Developments of the House Foreign Affairs Committee during recent hearings on the Geneva Protocol resolution in the RECORD at this point:

STATEMENT OF DR. IVAN L. BENNETT, JR., DIRECTOR OF THE NEW YORK UNIVERSITY MEDICAL CENTER, BEFORE THE HOUSE FOREIGN RELATIONS SUBCOMMITTEE ON NATIONAL SECURITY POLICY AND SCIENTIFIC DEVELOPMENTS, NOVEMBER 20, 1969

Mr. Chairman and members of the Subcommittee, it is a privilege to have this opportunity to appear before you to discuss chemical and biological warfare.

As I understand it, the immediate stimulus for your inquiry is a series of resolutions introduced into the House of Representatives calling on the President to resubmit the Geneva Protocol of 1925 to the Senate for ratification. The Resolutions then go on to point out that resubmission of the Protocol would provide an opportunity for a comprehensive review of this country's policies in the fields of chemical and biological warfare (CBW) and that ratification would constitute a clear and unequivocal reaffirmation of our traditional policy of no first use of CBW.

I will use this occasion to enumerate some characteristics of CBW that, in my opinion, should be clearly understood by all who are interested in international control of these weapons, whether by agreement to ban their use, as does the Geneva Protocol, or going even further and banning their very existence. I will try to explain why I believe that the aspects of CBW that I have singled out are of key importance in deciding on what the next steps should be and I will comment specifically upon resubmission of the Geneva Protocol to the Senate at this time.

The subcommittee's interest is particularly appropriate because of the possibility that the review of the U.S. stance on CBW, now underway in the Executive Branch under the National Security Council, may soon lead to the formulation and announcement of a clear and coherent national policy in this area.

The fact that we have had no agreed-on policy, the almost incredible failure of the Senate to ratify the Geneva Protocol when it was first submitted, and our use of tear gas and chemical herbicides in Vietnam have combined, in my opinion, to place this country in an international position which might be described, charitably, as "ambiguous." During the first six months of this year, along with consultants from 13 other nations, I helped to draft a report on CBW for the Secretary-General of the United Nations. I can state at first hand that American credibility in discussions of the control of CBW has been compromised and we are being subjected to increasingly vigorous and bitter criticism by the representatives of many nations, by no means only those of the Eastern bloc.

The lack of a coherent policy, the strong repugnance felt by most people for the concept of using poisons or diseases in warfare, and the dismal series of recent episodes such as the killing of hundreds of sheep with nerve gas at Dugway Proving Ground in Utah, the controversy over the Army's plans to ship obsolete chemical munitions to the east coast and to dump them into the ocean in Operation Chase, the accident with nerve gas on Okinawa, the subsequent revelation that the U.S. also maintains stocks of lethal chemical munitions in West Germany, and the carrying out of open air field tests of lethal chemicals in Hawaii without the knowledge of state officials, have all converged to mobilize public and Congressional demands for reform. I believe that our domestic political climate is more conducive to a revision of our policies on CBW than it has ever been before.

For the purposes of this discussion, I will abide by the definition contained in the U.N. report on CBW issued in July, 1969:

"Chemical agents of warfare are taken to be chemical substances, whether gaseous, liquid, or solid, which might be employed because of their direct toxic effects on man, animals, and plants. Bacteriological (biological) agents of warfare are living organisms, whatever their nature, or infective material derived from them which are intended to cause disease or death in man, animals, or plants, and which depend for their effects on their ability to multiply in the person, animal or plant attacked." (*Chemical and Bacteriological (Biological) Weapons and the Effects of Their Possible Use*, Report of the Secretary-General, United Nations' Publication E–69–I–24, New York, 1969, p. 5.)

Although the possibility of using agents such as mosquitoes, potato beetles, or other insect pests has been suggested, the only living organisms that can presently be used in the warheads of biological weapons are *microorganisms* which means *germs* or *microbes*. These include bacteria, viruses, a few disease-producing *fungi*, and a group of organisms called *rickettsiae*, which are intermediate between the viruses and the bacteria. Diseases produced by rickettsiae include Rocky Mountain Spotted Fever, typhus, and so-called Q-fever. The afflictions that might be caused by these agents range from such deadly epidemic infections as plague, which carries a high mortality and is very contagious to exotic viral diseases, such as Venezuelan Equine Encephalitis, a prostrating, influenza-like illness which lasts only a few days, is not transmitted directly from man to man, and from which complete recovery is almost certain. The knowledge of microbial genetics which has been acquired in recent years makes it possible to select particularly virulent strains of these micro-

organisms for use in warfare and to assure that they will be resistant to antibiotic drugs or extremely difficult to identify by the usual laboratory techniques employed for diagnosis.

The chemical agents available to the armed forces in this country include the organophosphorus G-type and V-type nerve agents which are closely related to some of the more potent insecticides, and which are far more lethal for man than the traditional chlorine and phosgene which were used in World War I. *GB (Sarin)* is quite volatile and kills within minutes after inhalation. *VX* is less volatile, ordinarily would be disseminated as a liquid, can contaminate a target area for several days, is lethal when inhaled as a vapor, and also can kill when absorbed through the eyes or the intact skin.

Mustard gas is actually a highly irritating liquid known technically as a *vesicant* or *blister-agent*. It produces painful burns of the eyes and skin within hours after contact. If mustard is inhaled in sizable quantities, it can cause a fatal outpouring of fluid into the lungs, so-called pulmonary edema.

Another class of chemical agents is the "incapacitating" chemicals or "harassing" agents. These include *Adamsite (DM)* and *BZ* which cause burning of the eyes, irritation of the throat and lungs, incoordination, headache, nausea and vomiting, and general debility lasting for many hours or days after contact.

The last category of chemical agents is the *tear gases* or *lachrymators, CN* (chloraceptophenone) and *CS* (orthochlorbenzilidene malononitrile). These have such transient effects that as "riot control agents (RCI)," they are employed by police in many countries for the control of civil disorders. The effects of other incapacitating agents such as DM and BZ are too severe and prolonged for use against civilians for this purpose. *CS* is the agent which our troops are using in Vietnam.

Chemical and biological weapons have specific properties which set them apart from conventional high explosive and flame munitions and nuclear weapons in that they exert their injurious effects only on *living* matter. An attack with these weapons would not damage or destroy buildings and other physical structures (excepting the possibility of residual contamination by the agents).

Present concepts of the use of these weapons in military engagements call for their delivery and dissemination by munitions which release the agent into the atmosphere as a vapor, aerosol, or spray so as to expose enemy personnel either by inhalation or skin contact. They are looked upon as "area" weapons that can inflict casualties in a given region without the intelligence requirement for precise targeting that constrains the most effective employment of conventional weapons. An attack with a biological agent could be expected to blanket a larger geographic area than could an attack using a comparable weight of a chemical agent. The release of a chemical or biological agent into the open air as a toxic or infectious "cloud," subject to the vagaries of wind and weather is often cited by opponents of chemical and biological warfare as a moral argument against the use of these weapons because of the danger to civilian non-combatants if the cloud should veer away from the battlefield. This objection, based upon *uncontrollability*, has been quite persuasive, of late, in forcing limitations upon the peace-time testing of these weapon systems by the U.S. armed forces where the civilians at risk may be our own citizens. Reliability of performance is highly desirable, from a military viewpoint, for any weapon system, and this moral objection can be used analytically to argue that at least portions of the "chemical-biological option" which most defense establishments, including our own, desire to retain are unsound on technical grounds.

I do not put it in these terms merely to sound gratuitous about current expressions of moral indignation over CBW. Personally, however, I reject the implication that the only "moral" way to kill an enemy on the battlefield is with iron. *All war is immoral*, whether waged with cold steel, iron bombs, poison gas, virulent microbes, or nuclear weapons. Arguments based upon morality alone, until now, have had very little impact upon the Pentagon or ministries of defense anywhere. To a large extent, the political decisions here and elsewhere, that will be required to further restrict or to abolish these or other forms of weaponry will be dependent upon convincing military establishments that they can relinquish an "option" by arguing within the framework of their responsibilities and missions *as they view them*. The task of translating convincingly the moral argument of the threat to civilians implied by non-controllability into a military argument of technical unreliability of a weapon system is an example (and a very simple one at that) of an analytic approach to problems of disarmament.

There now exist both chemical and biological agents and the systems to deliver them that can produce casualties in man ranging from transient disability with complete recovery to rapid death. It has been stated emphatically by well-intentioned individuals that variations in resistance and susceptibility of populations (especially civilian populations) and of age-groups within populations along with the uncontrollables of distribution and dosage entailed by atmospheric release of agents, make it impossible to draw a dividing line between a category of *non-lethal* agents, intended to incapacitate, and a category of *lethal* agents, intended to kill.

Unfortunately, this is nothing more than a form of begging the real question. It is undeniable that there might be survivors after an attack with a lethal agent or that an attack with a non-lethal agent might result in a few fatalities. There is not the slightest doubt, however, that these agents can be categorized accurately on the basis of the statistical probability of their effects if disseminated in a specific amount among a given target population. Furthermore, and most importantly, the various *military* options for the use of chemical and biological weapons are crucially rooted in this distinction.

Both chemical and biological agents lend themselves to covert use in sabotage against which it is exceedingly difficult to visualize any really effective defense. For example, a relatively small quantity of a culture of virulent bacteria introduced into the ventilation system of the New York subway or sprayed upon unsuspecting passengers at an airport could certainly play havoc with our public health system. It has been calculated that the placing of only 5.0 kilograms of botulinum toxin, a poisonous material produced by a bacterium, (which, though biologically produced would be used as a chemical weapon) into a reservoir would result in the same degree of poisoning that would be achieved by dumping 10 tons of potassium cyanide into the water supply. I will not dwell upon this use of CBW further because as one pursues the possibilities of such covert uses, one discovers that the scenarios resemble that in which the components of a nuclear weapon are smuggled into New York City and assembled in the basement of the Empire State Building. In other words, once the possibility is recognized to exist, about all that one can do is worry about it.

Leaving aside, for the moment, antiplant or anticrop agents or an attack directed against domestic animals, it can be assumed that *the primary purpose of an attack with chemical or biological weapons would be the incapacitation or killing of human beings*. A frequently mentioned scenario in discussions of these "horror" weapons is that of a surprise attack on a large city using a lethal chemical such as VX or GB or a lethal biological agent such as the microbe which causes plague. Such an attack could be expected to produce massive casualties among an unsuspecting civilian population. It is in envisioning the human toll of an attack of this sort that many have referred to chemical and biological agents as "weapons of mass destruction" or the "poor man's nuclear bomb." It should be realized, however, that the major monetary cost to an aggressor nation carrying out an attack on a city would not be for the high-explosive, the incendiary mixture, the gas, the bacteria, or the viruses used to fill the bombs, projectiles, or missiles which might be employed for attack. Rather it is for the procurement and maintenance of the delivery systems (bombers, cannons, missiles), the logistical back-up for these systems (fueling, radar) and their platforms (airbases, carriers, submarines, etc.), and the investment in highly trained personnel that the major expenditures would be made.

Furthermore, a decision to attack a major city for strategic purposes as part of a campaign to erode the enemy's industrial or economic base would, in most instances, be better implemented by using munitions that would destroy factories, storage facilities, railways, highways, bridges, docks, and shipping as well as human lives. What I am suggesting, rather bluntly, is that if it is decided to eliminate a city, it may be more cost-effective, from a military viewpoint, to blow it up or burn it down rather than merely to poison the residents or infect them with a disease.

It is not my purpose to deprecate the dangers of CBW, to allay fears about the consequences of the use of these weapons, or to lessen opposition to CBW on moral or other grounds. It is to demonstrate the possibility of questioning the technical base for the general military philosophy which says that our national security demands that we "keep all options open" no matter how limited the need for or the utility of a given option may be. Similarly, arguments of cost-effectiveness or maintaining an option because it is "cheap" should be countered by asking, "Relative to what?"

The plain fact is that the acquisition and maintenance of an offensive chemical or biological capability by the military forces of any country is not a substitute for maintaining a conventional arsenal. CBW is invariably a military "add-on" involving increased expenditures that cannot be offset by foregoing some other form of armament.

Although, by custom, chemical and biological weapons have been lumped as "CBW," especially in political discussions, there are major technical differences between these two categories of weapons. One of the most significant of these is *the difference in the time required for the weapons to produce their effects*. A chemical attack results in casualties within minutes or hours. Biological agents would require days or weeks to have an effect because the microbes must multiply before symptoms of disease occur. This is the so-called incubation period that elapses between exposure to infection and the first appearance of symptoms of illness. The situations in which it might be militarily preferable to carry out an attack and then to wait for a period of days for its effect to become evident are limited, to say the least.

Indeed, insofar as *lethal* chemical and biological weapons are concerned, all arguments for possessing them finally come down to the basic assertion that if the Soviets or some other potential aggressor possesses them, then we must have them too. The crux of this thesis is that if we have them, it will *deter* an enemy from using them against us because we will be able to *retaliate* in kind. This argument deserves careful examination. If there is any single concept concerning CBW upon which there is universal military agreement, it is that the *first use* of lethal chemicals or lethal biologicals in battle will

result in a large number of casualties if the side that is attacked has not been forewarned. There exist effective defensive measures against CBW in the form of masks and protective clothing and after the introduction of CBW into a conflict, both sides could employ these measures to protect their troops and casualty rates in subsequent chemical or biological attacks could be expected to be strikingly reduced.

In essence, then, the real military effectiveness of lethal CBW, in terms of inflicting casualties, will accrue to the force that *initiates* use against an unwarned enemy; thereafter, the use of defensive measures could largely blunt the effectiveness of this form of armament. The foregoing statements concerning the effectiveness of *defensive* measures refer exclusively to military personnel. *The vulnerability of civilians, as opposed to troops, is not specific for CBW.* Preparations to protect the civilian population against conventional CBW, or nuclear attack in most countries, including the U.S. are wholly inadequate (there are a few notable exceptions such as Sweden and Switzerland).

The Geneva Protocol which the United States signed but which our Senate failed to ratify, bans first use of lethal CBW and this country is on record in the U.N. as having agreed to follow the principles of the Protocol. Unless we abandon this stance and modify our policy so as to allow our forces to *initiate* use of CBW, a change which, in my opinion, would be politically unthinkable for the United States, we have already relinquished the option to employ lethal CW or BW in the most militarily effective fashion. What then, are the advantages of retaining an option to retaliate in kind?

For biological weapons, it does *not* necessarily follow that the best military or political response to an attack would be retaliation in *kind*. The attacker, being forewarned that biologicals might be used in return, could defend his troops by masking and largely reduce the effectiveness of second use of these weapons. If the attack had imperiled our own military situation, it is questionable whether a counterattack against a forewarned enemy with a biological agent and the attendant delay during the incubation period would meet the needs of our forces. Furthermore, national leaders who are not deterred by our nuclear capability from using BW against us are hardly likely to be deterred by our possession of a BW capability. Indeed, if it were known that we possessed no offensive BW capability, an aggressor might be *more* deterred from initiating BW against us by the realization that our response might be escalation to nuclear weapons.

The situation with lethal chemicals is somewhat different from that with lethal biologicals. A military force attacked with lethal chemicals would suffer casualties but, as mentioned, by masking and donning protective clothing could protect itself against further attacks. Gas masks and protective clothing, however, greatly impede normal physical activity of troops and would restrict the mobility of forces in the field. Unless the opponent can be forced to suffer the same penalties of restricted activity, he is at great advantage and the advantage might be enough to turn the tide of battle.

Therefore, retaliation in *kind*, with lethal chemicals, could very well be the best *military* response, not in the hope of inflicting heavy casualties upon the forewarned enemy, but to impose upon him the handicap of operating in a toxic environment. Here again, however, barring *first use*, the only reason for possessing a lethal chemical capability is because the other side might have it. Another possible response to a lethal chemical attack which imposed the handicaps of masking and other defensive measures upon United States troops might be escalation to tactical nuclear weapons to regain advantage over the enemy. I will not attempt to portray what the consequences of such a response might be against an enemy with similar nuclear capability or what world opinion might be if the United States initiated the use of tactical nuclear weapons against an enemy which lacked a nuclear capability. In terms of the effects upon *civilian populations* about whom so many opponents of CBW have expressed concern, however, the questions raised by a choice between retaliation to lethal chemical attack in kind or by escalation to tactical nuclear weapons offer small comfort.

Many scenarios could be conjured up to emphasize the two conclusions that I wish to suggest: first, the "option" of lethal CBW would be unnecessary if one's enemy lacked a similar option; and second, while it is extremely doubtful that the best military response to biological attack would be retaliation in kind, the arguments for retaliation in kind in case of lethal chemical attack are somewhat more convincing from a military viewpoint.

One last difference, which is only partly technical, between chemical and biological weapons deserves emphasis. Chemical warfare was used on a large scale in World War I and, under battlefield conditions, proved to be capable of inflicting numerous casualties. Its occasional use since then (in Ethiopia, China, and Yemen) has borne out its effectiveness as a weapon. Chemical warfare, then, is a proved and established concept. Biological weapons, in contrast, have never been used in modern warfare and judgments of their possible effectiveness are based upon naturally occurring epidemics, laboratory accidents with infectious microbes, and extrapolations from laboratory experiments and field-trials. The emotional and military commitment to biological warfare is nothing like as deep-seated and fully developed as is that to chemical warfare.

The language of the Geneva Protocol is equivocal, unfortunately, and it is not absolutely clear that it prohibits the use of incapacitating chemical agents such as tear gas. This is a matter of opinion and, although many nations, including our allies as well as members of the Soviet bloc, have claimed that tear-gas falls under the ban in the Protocol, the United States has *always* held that the use of tear-gas is not excluded by the Protocol. In July of this year, Secretary-General U Thant, at the time he issued his report on Chemical and Biological Weapons, called on all nations to affirm that "the prohibition contained in the Geneva Protocol applies to the use of all chemical, bacteriological and biological agents (including tear gas and other harassing 'agents')."

Laudable as the Secretary-General's motives may have been, I regard this recommendation as unfortunate, in a U.S. domestic political sense, at this time. This country is using the tear gas, CS, in Vietnam. To be sure, it was originally introduced with assurances (which I believe were genuine) that it would be used for humane purposes, to avoid civilian casualties, etc. It is now used in huge quantities and is believed by our field commanders in Vietnam to be an important addition to their weaponry.

It must be admitted that *objective* evidence of the effectiveness of CS has not been given by any operational analytic study but this lack does not change the way that our Army and Marine forces *feel* about CS. At a time when the Administration is trying to find a way out of Vietnam and trying, among other things, to hold American casualties to an absolute minimum, any move that might be interpreted as taking an effective weapon away from our forces in Vietnam would surely carry domestic political risks. If our casualties should rise, for whatever reason, the withdrawal of permission to use CS would surely be blamed by someone. There is no longer any pretext, incidentally, that CS is used primarily for "humane" purposes. *It is an adjunct to conventional weapons and makes it possible to inflict more casualties on the enemy while holding down our own losses.*

If the Geneva Protocol is resubmitted to the Senate without any reservation, I am fearful that the recent recommendation by the Secretary-General will result in argument and debate over whether the Protocol precludes the use of tear gas. If it were ratified without reservation, the United States automatically would be guilty of violating it because we are using CS in Vietnam. If it were ratified with the same reservation that we alone have always expressed about tear gas, this would fly in the face of other nations and the U.N. I believe that if the result of resubmission of the protocol to the Senate were to shelve it again or actually to turn it down, this would be disastrous for our international stance. I do not know the way out of this political dilemma unless the war in Vietnam can be brought to an end. I believe strongly that the "option" to use tear gas or other incapacitating chemicals is one that we should eventually be willing to relinquish in return for an effective international agreement banning not only the use but the possession of chemical weapons.

I have not discussed herbicides and their use for defoliation and crop destruction in Vietnam because this is another subject. It is worth pointing out, however, that if the next step beyond the Geneva Protocol is to be an agreement banning the development, production, and stockpiling of chemical weapons, both tear-gas and herbicides will pose special problems. The manufacture and use of tear-gas for non-military purposes will surely continue. Similarly, the manufacture and use of herbicides for non-military purposes will surely continue. To devise controls upon their development or stockpiling for military use will require considerable political ingenuity.

In contrast, there is no reason other than military use that could serve as an excuse for developing or producing any biological weapon. They have no place in quelling civil disturbances and they have no commercial use in agriculture or elsewhere.

Because chemical weapons are an established part of the arsenal of many nations and because of the complex situation surrounding tear gases and herbicides, I believe that it will require prolonged discussions to arrive at an international agreement banning production and stockpiling of chemical weapons.

None of these difficulties need apply to biological weapons.

It is my personal belief that our strategy should be to take advantage of the present climate of public opinion and agree to abolish biological weapons and to pursue vigorously the possibility of eventual abolition of chemical weapons.

If we separate the B from the C in CBW, we have an opportunity to ban, for the first time, the very existence of a weapon. This could be done without waiting to complete wrangling over retaliation in kind with lethal chemicals, the status of tear gas and of herbicides, both domestic and international, and the exact meaning of the mysterious phraseology of the Geneva Protocol. Such a move would not arouse the same vigorous objections from most military establishments that come forth when their chemical "option" is threatened.

The journey toward the goal of general and complete disarmament will be long and hard. It is high time that we took this first step, no matter how small it might seem.

This completes my statement, Mr. Chairman. I will be glad to answer any questions that you or other members of the Subcommittee might care to ask.

OUT OF THE STREETS?

(Mr. GERALD R. FORD asked and was given permission to extend his remarks

at this point in the RECORD and include extraneous matter.)

Mr. GERALD R. FORD. Mr. Speaker, there doubtless have been many interpretations of the meaning of the November 13–15 moratorium and the impact of it. The best I have seen appeared editorially in the November 18 edition of the Wall Street Journal.

The Journal's analysis was most perceptive. It made a number of excellent points with regard to what the moratorium revealed and what the dangers are in such demonstrations.

I agree with the Journal that the demonstrators are simply "a faction of the people" who have alined themselves against other factions of the people and against a large majority of the Nation's elected representatives.

The Journal also makes the point that mob action of this kind is "an attack on democracy itself" because "the success of democracy depends on keeping arguments in the political process and out of the streets."

I commend the Journal editorial to my colleagues. The editorial follows:

OUT OF THE STREETS?

The Vietnam moratorium demonstrators have made the point that there's a lot of deeply felt opposition to the war. The question arises whether there's anything further to be proved by continuing to take to the streets.

If, indeed, there was anything to be proved in the first place. Opposition to the war comes as no surprise to anyone, least of all the Administration. The demonstrations have been notably empty on the level of specific policy—do the demonstrators want immediate withdrawal or don't they?

It is by now pretty evident, also, that the demonstrations are not going to topple the Nixon Administration. In fact, it seems to us their upshot has been to leave President Nixon in firmer command than ever before. The Administration was forced to get a grip on its self-assurance, and its mobilization of support has been impressive.

Not even the anti-war movement leaders are any longer talking about the quarrel in terms of The American People versus a recalcitrant President. Quite clearly, the disputants are a faction of the people versus opposing factions and their elected representatives. Now that this is clear, we doubt that the peace crusade will ever be quite the same.

That the anti-war people are merely a faction sharply reflects on the morality of their appeal from the electoral process to the streets. Yes, we fully understand about the necessity of structuring legal rights to protect free speech and dissent. That does not mean there is a moral right to sanction every form of dissent, and throughout history the appeal to the streets has been an attack on democracy itself.

The latest moratorium, after all, resulted in two nights of rioting in the streets of the capital. The fashionable circles have decided more or less to ignore this inconvenient fact. We have not asked the FCC to collect us any transcripts, but we would swear we heard Chet Huntley say the other night that while troops were on standby, "There was no violence to suppress." Perhaps he had not watched the filmclips he showed a little later in his program.

The violence as wrought by only a few thousand of the demonstrators, of course, and was not the dominant mood of the event. The demonstration leaders deserve a measure of praise for their successful efforts to prevent violence during the Saturday march itself. But they are trying to tell the nation: We collected 300,000 people and kept them peaceful for a few hours Saturday afternoon and the violence the night before and the night after is none of our responsibility. Imagine the reaction of the fashionable circles if the Administration offered such an infantilism.

The danger of the appeal to the streets is precisely that you cannot control the chain of events you start. The mob you assemble will always have its uncontrollable elements, and that they did not dominate the event one time is no guarantee they will not the next time. The inherent danger is compounded by the anti-war organizers' refusal to cleanse their ranks, where columnists Evans and Novak report pro-violence elements, pro-Hanoi elements, functionaries from the various Communist parties and the like.

Pro-Administration groups are also starting to appear, and as they gain organizational and logistical experience a clash in the streets will become more likely. We hope the Administration will lay a restraining hand on street action by its supporters, and that anti-war Senators will do the same on their side of the debate. We are encouraged that some who sympathize with protest are suggesting that political action in next year's elections is more appropriate than continued demonstrations. It is in electoral battles, not in the streets, that real policy alternatives can be articulated and real national sentiment measured.

Street demonstrations are a heady sport; their chief success seems to be intoxicating the participants with their own virtue. We only hope they sober up enough to realize they are toying with fire, that the success of democracy depends on keeping arguments in the political process and out of the streets.

BANNING FIRST USE OF GASES AND BACTERIOLOGICAL METHODS OF WARFARE IS INITIATIVE TOWARD PEACE

(Mr. GERALD R. FORD asked and was given permission to extend his remarks at this point in the RECORD and include extraneous matter.)

Mr. GERALD R. FORD. Mr. Speaker, President Nixon's decision to seek Senate approval of U.S. participation in the Geneva protocol banning first use of gases and bacteriological methods of warfare is an initiative toward peace that may have far-reaching effects.

This affirmative action by the White House could have a highly salutary impact on the strategic arms limitation talks now in progress in their preliminary phase.

In taking the United States out of the field of germ warfare, the President has made abundantly clear to the American people and to peoples throughout the world the great devotion that this Nation has to the objective of universal peace.

Not only is this action reassuring to our own people but it is also fresh proof to the people of other nations that the United States wants nothing so much as peace for itself and for all countries in the world commonwealth.

I believe this move by President Nixon will greatly enhance the standing of the United States in the eyes of the world. I would go further and say that seldom has the prestige of the United States been greater than at this moment in our glorious history.

IN SUPPORT OF REPEALING SOCIAL SECURITY LOOPHOLE FOR THE WEALTHY

(Mrs. MINK asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. MINK. Mr. Speaker, the House Committee on Ways and Means, which has already compiled a remarkable legislative record this year including the tax reform bill and improvement in the unemployment compensation system, is well on the way toward drafting significant changes in our social security law.

I hope that the committee will recommend benefit increases of 50 percent, half of which will start next year and the rest by 1972. Such increases will require changes in the financing, and I have recommended that this be accomplished by expanding the income base that is subject to social security taxes.

The existing tax base is $400 billion a year because only the first $7,800 of wage income is subject to taxes. By removing this limitation the base would rise by $100 billion, or 25 percent.

Additionally, the system presently exempts capital gain income, dividends, corporate income, and other privileged income. Total personal income under the national income account is running at about $747.5 billion, or $247.5 billion above the potential present base. By taxing just $100 billion of this the total base expansion would be 50 percent.

In testimony before the Ways and Means Committee, I pointed out that the $7,800 limit on income and the exemption of privileged income is a loophole for the wealthy that allows them to escape paying their fair share of the cost of social security. The average worker pays social security taxes on all of his income, but the wealthy evade payments on most of their income while drawing equal benefits.

By removing this inequity, we could increase social security benefits by 50 percent without the need for general revenue funding, lower the tax rate so that the great majority of workers would pay lower social security taxes, and at the same time increase employment.

My testimony goes into greater detail on this proposal, and I include it at this point in the RECORD:

INCREASES IN SOCIAL SECURITY BENEFITS

(By Representative PATSY T. MINK)

Mr. Chairman and distinguished members of the Committee, I appreciate this opportunity to present my views on the need for an immediate increase in Social Security benefits.

In summary I propose the following: (1) an increase in Social Security benefits in the range of 50 percent; (2) an immediate increase in the minimum primary benefit to $100 with subsequent increases to $120 a month by January 1, 1972; (3) removal of discrimination against women in the Social Security program; (4) extension of the tax base to all taxable income; (5) provision of disability insurance benefits for the blind as sought by my bill, H.R. 12273; other changes along the lines of H.R. 14430, sponsored by Congressman Gilbert.

Our elderly and retired citizens have been severely hit by the inflation of recent months

and thousands can no longer afford adequate food, clothing, and shelter, much less the comforts the rest of us take for granted. Workers who counted on Social Security to provide for them during retirement are living in poverty by the government's own criteria.

We must act now to remove the specter of malnutrition, disease, and misery facing our older citizens by enacting a Social Security bill that will complement the monumental tax reform bill, Unemployment Compensation bill, and other landmark legislation initiated by this Committee this year.

Our goal should be maximum benefits with least taxation, or equitable treatment of contributors and beneficiaries. Currently there is an imbalance against those benefitting from Social Security. Due largely to increases in worker income, we could increase OASDI benefits by 17½ percent right now with no increase in Social Security payments. There is, however, a 50 percent inadequacy in medical insurance fund income which should be reduced by removing abuses of the Medicare and Medicaid programs which have increased medical costs enormously.

Put differently, OASDI needs only $27.2 billion to maintain existing benefits this year rather than the actual $32 billion income. Medical insurance plan income of $6.9 billion is needed rather than the actual $4.6 billion. In total the Social Security System needs only $34.1 billion this year instead of $36.6 billion being collected, to maintain long-range actuarial integrity. The difference, $2.5 billion, is the amount by which benefits could be increased immediately with no change in financing.

The Administration has recommended increasing the taxable wage base to $9,000 from the existing $7,800. Either figure would continue the regressive nature of Social Security financing. Under this arrangement the average worker pays Social Security taxes on all or nearly all of his income, while wealthy individuals escape taxation altogether on all income above $7,800. Moreover, upper income brackets take advantage of other loopholes through capital gains, dividends, corporate income, and other privileged income.

Thus, if we enact the Administration proposal the wealthy will continue to escape paying their fair share of the cost of the Social Security System while still enjoying benefits equal to those paid for by the working man. This is an enormous tax loophole such as those we have tried to correct by adoption of tax reform. We should remove this inequity by expanding the tax base to include at least all income subject to Social Security taxes.

According to the Social Security Administration, some $372.3 billion in wages and $27.4 billion in self employment net earnings is being taxed for Social Security purposes during the present tax year, 1969. The total is about $400 billion subject to tax within the current limit of $7,800. Simply by expanding the base we could tax $451.8 billion in wages and $47.5 billion in self employment net earnings for a total of about $500 billion. We could thereby add $100 billion to the taxable base immediately by removing this loophole for the wealthy.

The combined employer-employee contribution rate for next year is scheduled to be 9.6 percent. By expanding the wage base we could have an additional sum of about $9.6 billion in increased income which could be used either for a large increase in benefits, or a large decrease in payments or a combination of both.

Since total personal income in the national income account is expected to be about $747.5 billion this year, there are prospects for inclusion of other income in the base subject to Social Security taxes. Overall, reform of the financing system to eliminate its regressive features should allow meaningful increases in benefits, without the need for general revenue funds.

I firmly believe this change would result in a reduction in taxes on the great majority of working people. It would also expand employment. Because of the current limitation of the tax to the first $7,800 of earned income, employers have a strong incentive not to hire new workers. Instead, they attempt to get more work out of those employees they already have.

Employers would prefer to pay one person $15,600 in income and pay their share of Social Security taxes on only $7,800, than to hire two workers at $7,800 each and pay taxes on $15,600. The general result is resistance to the employment of new workers. We find increased overtime and more stringent workload demands on existing employees instead. Removal of the wage base limitation would remove this incentive to unemployment and at the same time continue to allow workers to have overtime in cases where they and the employers desire it.

In addition, the higher benefits made possible by this change would remove the necessity for many Social Security beneficiaries to supplement their income. You have before you many proposals to increase the amount of income an ostensibly retired person could earn and still receive Social Security benefits. I approve of a retired person being able to supplement his income if he chooses, but we should remove the economic necessity of this. Social Security should provide adequate benefits so that a working person could truly retire and enjoy his senior years without the penalty of poverty or the need to continue working full or part time. This would also tend to make more jobs available to younger workers now unemployed or underemployed.

Since the Committee has received extensive testimony on most of the other subjects I mentioned at the opening of my remarks, I would like to limit my remaining comments to benefits for the blind and providing equal Social Security benefits for women.

Under my bill, H.R. 12273, persons who meet the definition of "industrial" blindness would be considered disabled regardless of their capacity to work, and could receive Social Security disability insurance benefits for any month in which they do not engage in substantial gainful activity. The bill would eliminate the alternative definition of disability that now applies to blind workers aged 55 and over, requiring inability to do previous work or any similar work. Disability benefits would be payable after age 65 to blind workers who have six quarters of coverage even though they are not insured for retirement benefit purposes. I strongly commend the purposes of this legislation to the Committee in the hope that the forthcoming legislation in this field will incorporate such a provision for the blind.

The existing Social Security System renders a great inequity to women. They work and contribute on an equal basis with men, but because they may be wives, women do not receive equal benefits. It is mandatory that we amend the law to provide equity for working men and women by recognizing the working wife's contribution. The law is based on the rigid premise that a woman's place is in the home, yet increasing numbers of women are working and therefore suffering from this inequity.

Specifically, there must be benefits for the married, working woman based on her contribution; and married couples must be allowed to pool their income for the purpose of computing Social Security benefits. This is the purpose of legislation which I first sponsored in 1966. Husbands, widowers, and children of working women are also entitled to the same benefits which wives, widows, and children of men workers can now receive. Another inequity is the fact that if a husband becomes mentally ill and is committed, he must prove dependency on his wife, in order for benefits to be paid in cases where the wife works. If the wife does not work, she can receive benefits.

I fail to see the logic of these laws which penalize working women merely on the basis of sex. This form of discrimination should have been abolished long ago, yet it continues to linger on the statute books as an archaic remnant from the time when women did not have equal rights before the law.

The Social Security System pattern of discrimination against working women should be eliminated, but not at the expense of the non-working wife. Why should a retired couple get less in total monthly benefits if both worked, than a couple receiving benefits based on the same total earnings where only the husband works? This is not only discriminatory but illogical, arbitrary, unfair and contrary to national policy.

If only the husband has worked and had average earnings of $650 a month—$7,800 a year—the benefits paid to the couple at age 65 would be $323 ($218 to the husband and $105 to the wife).

On the other hand, if the husband and wife each had average earnings of $325 a month, or $3,900 each a year—for combined annual earnings of $7,800—their benefits will be *lower*, $134.30 each or a total of only $268.60. This penalty of $54.40 a month or $652.80 a year is grossly unjust at a time when women comprise 37 percent of our nation's work force, more than half of whom are married!

Under the present system a wife who has *never* worked under Social Security may receive as much under her wife's benefits as another woman who had worked and paid contributions. This is another disincentive to employment built into the system. For example, such a non-working wife would receive $105 as a wife's benefit if her husband received the maximum of $650 monthly; on the other hand, if the same wife worked and paid contributions on average monthly earnings of $120, she would be entitled at age 65 to a benefit of $81.10, plus an additional wife's benefit of $23.90, for a total of $105—the same as if she had never worked at all. This is an incredible way to manage what is primarily a work-related insurance system.

On a dollar-for-dollar comparison, the working wife is receiving a poor return for her contribution. This is true at a time when married women outnumber single women in the work force by two to one. The solution is to provide a working woman's benefit on top of, instead of in lieu of, a wife's benefit. This would recognize her financial contribution to the system and at the same time be consistent with the principle of equity between men and women.

As I have said, current policy discriminates between treatment of husbands and widowers. At present husbands and widowers only receive benefits from their working wives if dependent, yet a wife receives spouse's benefits whether dependent or not. This dependency requirement for entitlement to husbands or widower's benefits should be eliminated in accordance with the general equity which we should strive to achieve.

In light of this, I should mention also that no provision is made for payments to male widowers with surviving children, despite the fact that the considerations which require payment in the case of widows seem to apply also to men. This should also be remedied by authorization of father's as well as mother's insurance benefits.

I have touched only some of the matters which the Committee must consider in seeking new amendments to the Social Security law. In brief, I feel that significant increases for all Social Security recipients are necessary immediately including benefits paid under our Aid to Dependent Children program. The system's inequities with regard to dif-

ferent benefits for men and women should also be removed, and more benefits should be paid to the blind.

The increased benefits, which would remove thousands of our elderly citizens from poverty and help reduce unemployment, should be financed through expansion of the Social Security tax base to all income with a concomitant reduction in the tax rate.

I am confident that the Committee will approve significant legislation in this field, just as it has acted so beneficially on other matters in the current session.

NEW HAMPSHIRE SOLDIER IN VIETNAM EXEMPLIFIES STATE'S MOTTO: "LIVE FREE OR DIE"

(Mr. CLEVELAND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, the son of some friends of mine in my hometown of New London, N.H., wrote his family a very moving, thought-provoking letter from Vietnam. It was published, along with an introductory letter from his mother, now Mrs. Richard Chatellier, in the Manchester Union-Leader.

I offer the two letters for the RECORD in the hope that my colleagues and other readers will find time to read the words of a brave and patriotic New Hampshireman written from the field of battle where he is daily giving new life to the motto of our State: "Live Free or Die."

The letter follows:

DON'T FALTER

NEW LONDON, N.H.

To the EDITOR:

A letter came to us today from our son, Sp4 Kirk Ramsey, who has been with the 25th Infantry Division in Vietnam for the past six months. So many people have so much to say about what should be done about Vietnam. I feel that an opinion from a man who is there is worth reading, and I pass on a portion of Kirks letter to you with pride.

Kirk had just completed his first year of law school when he was drafted, and he plans to finish his education upon his return.

Sincerely,

Mrs. RICHARD CHATELLIER.

DEAR FOLKS: I have been lucky . . . there have been dozens of times when I could have shared the fate of some of my friends . . . only circumstances and luck put me in another place, or made the booby trap that exploded miss me . . . and once when I stepped on a dud. It is strange to me.

It seems we have at last won . . . the enemy is defecting in incredible numbers. We find more and more of his supplies, and the influx of arms into Vietnam has nearly been cut off. Casualties are very high for the enemy. Where we once had reason to dread the night, it has become our most useful resource. The enemy comes out at night and we have the means to spot him; radar listening devices to detect sounds; and people walking; sniffing devices to smell the enemy and starlight scopes to see him in the dark. Every night the enemy is hit by gunships and artillery, completely taken by surprise. Frequently one will give up and tell us friends he was with were all killed by a sudden artillery barrage in the middle of the night. It seems as if one big push would really bring victory.

How different to be here, and listen to those in the "World" back home who give the answers.

I suspect that the Moratorium will force Nixon to cease fire. Why do we make it so hard on ourselves? We continue to be our own worse enemy, to defeat ourselves. If we had closed the Ho Chi Ming Trail; if we had closed the source of supply, if we had once used our full might to threaten the North we could not be paying this price.

Let this question be asked? Do we quit like cowards? America must stand up and stop hesitating and equivocating. Don't falter when our very lives are at stake. Will we wish-wash right down the drain? Will we back out of Vietnam? Have the Reds really won by outwaiting us?

I only hope and pray that if America falls from the constellations she will do so in a manner befitting a nation of once free men. I pray we don't slide under but stand tall. Let the citizens shake off their lethargy. Vietnam is growing to her needed strength, why fail her now?

Please don't falter when our very lives are at stake.

Sp4c. KIRK RAMSEY.

FASCELL CALLS FOR NEW THRUST IN BATTLE AGAINST ORGANIZED CRIME

(Mr. WRIGHT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WRIGHT. Mr. Speaker, over the past few years one of the more articulate and forceful proponents of a better-coordinated effort against organized crime has been the Legal and Monetary Affairs Subcommittee of the House Government Operations Committee, of which I am a member. In a recent address at the second organized crime training conference of the Justice Department's Law Enforcement Assistance Administration, Subcommittee Chairman DANTE B. FASCELL, of Florida, broke ground on two new proposals which, if implemented, can take us a long way toward the goal of minimizing the impact of organized crime in America.

Because it represents an incisive analysis of some of the obstacles we face in that battle, I insert the text of Chairman FASCELL'S address:

ADDRESS BY HON. DANTE B. FASCELL

Mr. Velde, Mr. Coster and distinguished guests. I appreciate the kind invitation of the Law Enforcement Assistance Administration to address this impressive gathering of top law enforcement personnel from an 18 state region.

A few months ago at a forum on organized crime sponsored by the U.S. Chamber of Commerce, a high Justice Department official, upon seeing three hundred businessmen gathered to discuss organized crime, remarked that an equal number of *law enforcement* personnel could not have been gathered 8 years ago to discuss the same topic. For that reason and many others, this Regional Training Conference on Organized Crime is very significant.

Shortly before boarding the plane which brought me here I was asked what the new Administration has meant to Washington. I said that I thought the change has been nothing short of amazing. There has been a marked improvement in performance, an unbroken series of quality personnel appointments, a rededication to high goals, and a convincing record of achievement. I'm sure that most of you agree and are pleased that Vince Lombardi has also meant these things to Washington.

This term in Congress for me has been especially challenging and my constituent mail has been heavier than normal. A certain Key Biscayne constituent has been flooding my office with mail demanding to know why the Democratic-controlled Congress has not solved these things like inflation, Viet Nam, crime, Spiro Agnew and all the rest.

But the topic of discussion for you at this conference and for me tonight is something which is beyond partisanship, beyond the tuggings of politics. It is something which should unite all branches and levels of Government in a unified force, as normally occurs in a declared war against an external enemy.

As we meet here tonight our Nation is in the throes of much difficulty at home and abroad. The tax dollar and its source are strained from high commitments, the incidence of crime continues to rise, public faith in our institutions is at a low mark.

Suggested solutions to these problems are plentiful. What is scarce, however, is articulation of the manner by which organized crime exacerbates these national ills and many others.

Almost forty years ago the Wickersham Commission reported the threat that syndicated crime posed to our Nation. Eighteen years ago Senator Kefauver established what we suspected—that organized crime uses any means available to defeat any attempt to interfere with its operations. Twelve years ago we were shocked to discover that 75 of the top executives of the crime confederation could methodically and efficiently parcel out the country for the purpose of plundering by an anointed few.

Six years ago shock revisited us in the form of the Valachi testimony which revealed the gory inner-workings of the mob. Two years ago the Presidential Crime Commission's Organized Crime Task Force, which was so ably guided by LEAA's Administrator, Mr. Charles Rogovin, revealed that the biggest change which had occurred since the early '30's was that organized crime had grown more powerful. And last year the House Subcommittee on Legal and Monetary Affairs, which I chair, revealed a sporadic and at times ineffective Federal effort against organized crime.

Tonight I want to discuss two critical needs which are evident from this steady flow of Government reports. The first is the need to elicit public indignation about this cancer in our national body. The second, intimately related to the first, is the need for law enforcement agencies, at all levels of Government, to better coordinate their efforts and thereby eliminate the fragmented approach. In other words, not only to start speaking with each other but to get completely married.

While those of us who have been close to the fight against organized crime have become more aware of the nature of the threat we face, increased awareness cannot be said to exist among all key segments of the public as a result of the outpouring of information I have recited.

Technically, there is no public apathy about organized crime. Apathy cannot exist as to something about which one is unaware. The public has not been made to understand the true magnitude and nature of the organized crime problem, and consequently, has not been in a position to demand action.

We must realize that, in the final analysis, it is the public which must approve greater outlays for the organized crime fight and select the public officials who are charged with leading that fight. It is the public which must be aroused to stimulate vigorous action by law enforcement agencies. It is the public which must be the backbone to this offensive.

I propose that the manner to stimulate the public indignation which is vital to the overall battle is through a new approach to the handling and dissemination of information and intelligence about organized crime.

This new approach has two basic ingredients which, if implemented, can generate the public support which is needed for a vigorous anti-organized crime program.

First, we must make greater use of our communications capabilities. The United

States is blessed with the most proficient and pervasive communications structure in the world. The power of mass media and the press to inform and persuade is beyond question. So is the power of advertising. In the past, television, radio and the press have valuably assisted Government in the conduct of many worthwhile projects. All of us have seen the fruits of this cooperation—from prevention of car thefts to enlistment in the Peace Corps. The Advertising Council attests to the effective results of these campaigns.

I can speak from experience. Several years ago when the Nation was suffering a severe coin shortage and the Legal and Monetary Affairs Subcommittee was doing what it could to ease that situation, the banking industry, the Treasury Department and the news media collaborated in asking people to take their coins out of dresser drawers and piggy banks and put them into circulation. The results were phenomenally good.

This type of cooperation between Government and the private sector underscores the great potential that exists for illuminating the threat posed to the American people by organized crime. More than 90% of all homes in the United States have television sets and radios. An equally high number have access to the commercially printed word. With more than 600 television stations, 4000 AM radio stations and more than 10,000 daily and weekly newspapers in this country, can there be any doubt about the role that our communications machinery can play in increasing public awareness about organized crime?

Arrangements can be made for the voluntary contribution of artwork, production and airtime for such campaigns, subject only to a nominal payment for costs.

Therefore, I propose that the Department of Justice initiate a campaign with the appropriate industry representatives to dramatize and disclose to the American people the true meaning, impact and effects of organized crime in America. This campaign should utilize all available advertising tools which have proved so effective through the years, certainly including the press.

Second, we must loosen the restrictions which now exist on information collected about organized crime. One of the reasons for the scarcity of public information about the crime confederation is that law enforcement units, Federal, State and local, have bound themselves to a policy which severely restricts dissemination of intelligence—even to other law enforcement units. I agree that we must maintain safeguards to assure that sensitive intelligence does not flow into the hands of the mob.

However, the attitude today seems to be that all intelligence about organized crime is strictly confidential to the agency which collects it. I propose that we classify organized crime information and intelligence under a structure of diminishing levels of confidentiality. A loosening of existing restrictions will be achieved only when trust is established among the cognizant law enforcement agencies and when we give credit to organized crime for knowing that most of their overt moves are under constant scrutiny by law enforcement agencies.

Intelligence which is essential to a tactical goal or to a particular case or group of cases currently in the stage of development should, of course, be bound by a stringent proscription against dissemination except possibly to the most trusted law enforcement agencies which can make shortrun productive use of it. This type of intelligence may be labeled "secret."

A second type of intelligence which may be classified "confidential" may have no immediate bearing on a pending case, but may have a long-range strategic value. As to this type, the agency holding it should relax the strictures against dissemination and make it available to appropriate and trusted law enforcement agencies in other jurisdictions and at other levels of Government. One of the long-standing reasons for reluctance to disseminate organized crime intelligence has been the absence of trust. For that reason, the work that LEAA is doing in bringing together Federal, State and local officials is a great step toward establishing rapport and thereby creating trust among these officials. I hope the result will be a greater exchange of information among these agencies once proper security safeguards have been instituted.

A third and less sensitive category of intelligence pertains generally to the manner by which organized crime groups and members operate and detrimentally affect specific segments of society. This type should not be publicly disseminated if it has investigative or prosecutive value, but should be available to scholars and research institutions once they have complied with reasonable security safeguards.

In recent years members of the academic community have provided valuable analyses and conclusions, and it behooves us to continue this interdisciplinary attack on the mob. There must be closer cooperation between theoreticians and practitioners so that a cross-fertilization of general and specific information on organized crime may be attained.

Finally, a greater amount of non-sensitive information about organized crime should be open and widely disseminated to the public and the press. I am convinced that once the American people are fully aware of the pernicious works of organized crime they will demand and get effective action. Our speeches are not enough. They must be shown the nuts and bolts of this nationwide conspiracy. We must develop bibliographies, indexes and information systems which will be generally and continually available to the public.

There is a wealth of knowledge contained in daily newspapers, television documentaries and university research papers, all of which should be brought together and disseminated widely. This in turn should stimulate more research and development work pertaining to organized crime. We know very little about the characteristics of the consensual victims of organized crime—the loan shark victim, the narcotics addict and the gambling loser. It is this type of knowledge we need in order to re-tool the machinery of Government for a successful offensive against organized crime.

Some say it is solely the Government's responsibility to make the public aware of this menace. I say that the private sector, including those industries that I have mentioned, have an equal responsibility to project this danger to the public.

The second critical need that I see is the necessity to eliminate the uncoordinated and fragmented approach to organized crime. There should be no mistaking the fact that organized crime presents the leading contemporary challenge to Federal, State and local law enforcement units.

It is estimated that organized crime in the United States has an annual gross revenue of at least $60 billion. When we realize that the Gross National Product of Canada in 1968 was $59 billion and that the 1968 GNP for all of Central America and Mexico was only $31 billion, there is no need to belabor the point of the power and influence of organized crime. What must be emphasized is that unless Federal, State and local governments improve coordination of their activities and cooperation with each other, we face a continuation of the losing battle against syndicated crime.

One of the most disturbing revelations during my Subcommittee's hearing on the Federal effort against organized crime was that some of the Federal departments and agencies, which have significant responsibilities in protecting the American marketplace, had little awareness of the fact that organized crime was making inroads into their areas of jurisdiction.

In July of this year, as part of my Subcommittee's continuing study of the Federal Government's capabilities against organized crime, as Chairman I sent a comprehensive set of questions to more than thirty-five Federal departments and agencies. The purpose was to determine the precise nature and extent of training and instruction given to Federal personnel in the area of organized crime and also to find out what such benefits flowed to State and local personnel. With few exceptions, the responses that I have received show a woeful lack of programs aimed at improving the organized crime fighting capabilities of not only Federal personnel but also State and local agents.

Although the responses have not yet been made public, I think it is important that I give you an example of one of the most glaringly deficient programs which exists at the Federal level.

Let me quote to you the response I received from the Federal Trade Commission in a letter dated August 6, 1969. I quote,

"DEAR MR. CHAIRMAN: This is to inform you that the Federal Trade Commission has no training programs which have been designed to equip its personnel and others to combat organized crime.

"The Federal Trade Commission is charged with keeping competition in trade both free and fair. We therefore, have no training programs designed for the above-mentioned purpose."

The FTC has awesome responsibilities under the Federal Trade Commission Act and the Clayton Act for keeping the marketplace free of corrupt practices. That it could respond in such a fashion is beyond my comprehension. If there is one force in this country which is keeping the marketplace unfree and unfair it is organized crime. Tonight I call upon the recently appointed new Chairman of the FTC to reevaluate the course that agency has taken in this critical area and to commence a vigorous campaign against organized crime, armed with the weapons that we in Congress have given that Agency.

In fairness it should be said that a few other Federal agencies are only slightly less deficient in their recognition of the dangers posed by organized crime.

Therefore, before effective coordination among all levels of Government is achieved, it is necessary that each level and branch put its house in order before embarking on a course that will merely compound existing deficiencies.

I am very pleased by the progress being made by the Law Enforcement Assistance Administration toward greater inter-Governmental cooperation in the fight against organized crime. This Regional Training Conference is testimony to the sort of thinking that must prevail if Government is to make progress in this battle.

Apart from the training activities being conducted by LEAA, another significant development is occurring, which if properly conducted, can do much to better equip law enforcement agents in this fight. I refer to the proposed Federal Consolidated Law Enforcement Training Center in Beltsville, Maryland. Conceived as a bold departure in the training of law enforcement agents, this school would provide education and training for more than 20 Federal agencies.

This new school was proposed because of the "need for Federal agents to have thorough knowledge and skills in modern law enforcement techniques." It will not be open to State and local agencies because of the already existing FBI Academy.

My investigation has shown that the proposed curriculum for the Beltsville School is sorely deficient in courses dealing with organized crime. For example, of the 510 classroom hours which will be devoted to basic training of all investigators, not one hour is set aside specifically for organized

crime subjects. Of the additional 198 hours which the Customs Bureau will devote to special training of its agents, not one hour is specifically set aside for organized crime. Apart from that, the proposed curriculum of the Beltsville School is deficient in subjects such as surveillance, undercover techniques, criminal investigations in metropolitan areas, criminal conspiracy, and use of informants.

I submit to you that a barber in the State of Florida is given more training in preparation for his vocation than the average student at the Beltsville School will receive in organized crime. In the course of an agent's career, he comes in contact with the activities of organized crime far more frequently than he does with overt acts of violence. I strongly suggest that law enforcement training programs at all levels of Government be structured so that they coincide with this fact of life.

In his April 23rd Message on Organized Crime, President Nixon announced that he was directing the newly appointed Advisory Council on Executive Organization to examine the effectiveness of the Executive Branch in combating organized crime. Since the President has said that the Council will consider the organizational relationship of the Federal Government to States and cities in carrying out domestic Federal programs, I propose that a significant portion of the Council's work be devoted to an examination of the sufficiency of law enforcement training programs, including those which are conducted for the benefit of State and local law enforcement agents.

The Council should have and maintain a continuing dialogue with persons and groups around the country who have the credentials and expertise to offer meaningful recommendations. Among others, I refer specifically to LEAA's National Organized Crime Advisory Committee.

As we approach the end of this decade, both time and developments emphasize the need for a new thrust in this war that we fight within our shores.

Winston Churchill once said that the maxim of the British people is "Business as usual." I say that this maxim has all too often applied in our country in dealing with the problem of organized crime. The 1970's will bring no change if we do not stop treating this deep-seated cancerous condition with only the skills of dermatology.

PERSONAL ANNOUNCEMENT

(Mr. MURPHY of New York asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MURPHY of New York. Mr. Speaker, last Thursday, the House passed H.R. 14580 to promote the foreign policy, security, and general welfare of the United States by assisting peoples of the world to achieve economic development within a framework of democratic, economic, social and political institutions.

I have always been a stanch supporter of the overall foreign aid concept, as the record will show. However, I was unable to be present on the floor for this particular Thursday night vote. St. John's University of Brooklyn, N.Y., is one of this great Nation's truly outstanding institutions of higher education. Putting first things first, there are some accolades a man simply cannot turn his back on. This was one of those occasions. St. John's University, on the evening of the foreign aid vote, named me their "Man of the Year" at a testimonial dinner. In order to be present for this singularly, great honor, I was unable to take part in the vote which was delayed by a series of time-consuming amendments.

Among these amendments were the ones providing an additional $54.5 million for military assistance for the Republic of China and another try at an across-the-board slash in the foreign aid appropriation. I would have voted against both measures. The funds for the Republic of China were already adequate and, as I stated before, I am opposed to cuts in a program so vital to the security of the United States.

I regret not having been recorded on the final vote. But I would not have been present for the high honor accorded me by St. John's University had I not been sure that this important legislation was assured of passage.

UNITED NATIONS SECRETARY GENERAL U THANT'S PROPOSAL TO NEUTRALIZE SOUTH VIETNAM

(Mr. ECKHARDT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous material.)

Mr. ECKHARDT. Mr. Speaker, Mr. Rolland Bradley of Houston, Tex., has proposed that consideration be given to accepting Secretary General U Thant's proposal to neutralize South Vietnam. Since I feel that it is most important that all possibilities for settlement of the war in Vietnam be explored, I would like to include in the RECORD Mr. Bradley's proposal:

WHY ALL THIS SILENCE?

(By Rolland Bradley)

When the titular leader of the Democratic Party in his campaign last year, held his principal public meeting in Houston, Texas, after his address he invited questions. One of the most significant inquiries was substantially as follows: Do you approve Secretary-General U Thant's proposal that the fighting in South Vietnam be ended by neutralizing the area as was done in Austria? The candidate for President of the United States answered in the affirmative. Yet little or no serious consideration seems to have been given to the proposal. The fact that it came from a high official in the United Nations did not give the suggestion much weight. This illustrates how little power is possessed by our only agency for international peace. However, our experience with Austria, where Russia finally agreed to its neutralization, seems to indicate that U Thant's proposal should be considered seriously at this time. Furthermore, U Thant's Southeast Asian background should strengthen our hope that the parties most concerned would accept his plan. This makes one wonder why Clark Clifford, our recent Secretary of Defense, did not mention the proposal in his recent article. Although Arthur Goldberg had been our Ambassador to the United Nations, he did not even mention U Thant's suggestion when the various means of settling the conflict over South Vietnam were listed by Goldberg.

Why do we have all of this silence?

If a neutralized South Vietnam were established by action similar to Austria's neutralization, this could be a vital step toward a concert of Great Powers. With their respective satellites we could secure a settlement such as Winston Churchill urged several years after he fathered the idea of the Iron Curtain. The present era requires something much more constructive than the Cold War. Nationalism must make room for something more inclusive than the alliance system if a Third World War is to be prevented. Settlement in South Vietnam by the method mentioned above would give neither Communism nor its opponents a victory. A neutralized South Vietnam would be the price that unhappy land would pay in order to prevent the danger of the present conflict's spreading into an atomic war between the large nations.

A second step toward the concert of Powers must be found in the present effort by the United States and Russia to effect meaningful treaties that should end the arms race. Both of these Powers need their economic resources to serve the interests of their respective peoples. The best security that both systems have for survival is the success they have in this service, for the people are sovereign ultimately. Communism or any other system can succeed only so long as it is accepted by the people who live under it. Both America and Russia would do well to remember this fact.

A third step that Russia and America should take together is that of getting China to join in an arms settlement that will limit armaments and mean the end of atomic weapons, as well as germ and gas warfare. As fast as nationalism will permit, there must be such limitation on armaments that no nation will be able to defy humanity. To prevent international war we must have an agency, possibly the United Nations, more responsibly organized and with limited power adequate to put a trouble shooter into the field when necessary to prevent war between nations.

In ending the Cold War we must provide means so that another general war will be impossible. The nations must cooperate to this end for the sake of humanity. Otherwise we shall have a holocaust with hydrogen bombs. The military on both sides will know that nothing can prevent this extreme method of seeking victory. They know that the side that loses will be subject to 'war-crimes' trials and execution of its leaders. This example was set in Germany and Japan after the Second World War.

Why not follow the advice of the Secretary-General of the United Nations and neutralize South Vietnam? This should become the beginning of the end of the threat to humanity by the contest between Communism and its enemies in South Vietnam. It should become an example of the Great Powers working together for the welfare of their respective peoples.

CORRESPONDENCE BETWEEN PRESIDENT ROOSEVELT AND AMBASSADOR BULLITT

(Mr. ECKHARDT asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous material.)

Mr. ECKHARDT. Mr. Speaker, for several months I have been assisting my constituent, Prof. Francis Loewenheim of Rice University, in his attempts to have his charges against employees of the National Archives aired. Professor Loewenheim has charged that correspondence between President Roosevelt and Ambassador Bullitt at the Franklin D. Roosevelt Library in Hyde Park, N.Y., was withheld from him during the course of his research at the library.

A voluminous record of correspondence, clippings, and documents has developed in this matter. Rather than burden the RECORD with this wealth of material, I will submit two samples of the evidence in the case to explain my concern. The first sample consists of a letter to the editor of the New York Times Book Review, published in September, from 20 distinguished scholars sharing Professor Loewenheim's condemnation of the actions of some National Archives employ-

ees, and a responding letter from Archivist James B. Rhoads:

PRESIDENTIAL PAPERS

To the EDITOR:

The recent publication of "Franklin D. Roosevelt and Foreign Affairs, 1933–1937" by the Harvard University Press (reviewed by you on July 6) raises certain important issues which we believe deserve the serious consideration of interested scholars, general readers, and public officials.

First of all, it has been known for some time that these three volumes had been substantially completed in the early 1960's, but that their existence had been systematically and without any justification concealed from several scholars who have worked at Hyde Park over many years, and would have had occasion to consult and to use them. We deplore this as a serious abuse of archival power.

Secondly, although the three volumes consist almost entirely of official United States Government documents, or documents willed to the American people by President Roosevelt (and should therefore have been published by the Government Printing Office), they were instead offered to three private university presses—Harvard, Yale, and Princeton, the last of which declined to bid on them. Since these volumes are in fact official publications of the United States Government, we believe that their publication—whether by a university press or a commercial publisher—raises serious questions of legality and propriety.

Thirdly, though Section 8 of the U.S. Copyright Law makes it clear that such volumes or documents may not be copyrighted, the Harvard University Press was permitted by the General Services Administration (which controls the Roosevelt Library) to publish these volumes with a Harvard University copyright, which has twice now, however been refused registration (that is, rejected) by the Copyright Division of the Library of Congress.

Finally, several scholars have, over the past 10 years, had various documents at Hyde Park denied or withheld from them, seriously affecting their work and, in at least one instance, preventing its completion and publication altogether.

For these reasons, we believe that a complete investigation of the history of these three volumes, as well as the operations of the Presidential libraries, is urgently called for. The material preserved in the Presidential libraries is among our most precious national assets. Their operations and publications must be completely above suspicion—which in the case of the Roosevelt Library, is unfortunately not true at the moment.

Leonard Bates, University of Illinois; Barton J. Bernstein, Stanford University; Ray Allen Billington, Huntington Library; Robert E. Burke, University of Washington; Norman F. Cantor, Brandeis University; Gordon A. Craig, Stanford University; E. David Cronon, University of Wisconsin; Carl N. Degler, Stanford University; Manfred Jones, Union College.

Lawrence S. Kaplan, Kent State University; Harold D. Langley, Catholic University; Francis L. Loewenheim, Rice University; Arno J. Mayer, Princeton University; William H. Nelson, University of Toronto; Jacob M. Price, University of Michigan; Armin Rappaport, University of California, La Jolla; Richard P. Traina, Wabash College; Gerhard L. Weinberg, University of Michigan; Bernard A. Weisberger, New York University; Henry R. Winkler, Rutgers University.

A REPLY

On behalf of the National Archives and Records Service of the General Services Administration, and its Franklin D. Roosevelt Library, I should like to express our appreciation to the Book Review for its courtesy in permitting us to present the following comments on the above letter.

1. The volumes, compiled between 1957 and 1961, were set aside until 1967, when a change in State Department restrictions permitted their completion and publication. At no time was their existence concealed, as stated in the letter. On the contrary, the volumes were mentioned to many searchers at the Library, and the Library Director also mentioned them in a paper read before the April 1965 meeting of the Mississippi Valley Historical Association, published in the Midwest Quarterly VII (Autumn 1965), 53–65.

2. The volumes were published without cost to the Federal Government, which makes their private publication both legal and proper. The method followed not only saved money but is also achieving wide dissemination of the volumes through the publisher's distribution machinery.

3. At the time the contract for publication was made, it was not known what copyrightable elements might be contributed to the volumes by the publisher to supplement Government-furnished documents and materials, which are in the public domain. The contract for publication provided therefore that a copyright may be procured except as to such materials as are in the public domain. As required by the contract, the copyright notice in the volumes states that "the copyright does not cover any documents that are in the public domain."

4. Documents open for research—and this is the vast bulk of the documents in the Roosevelt Library—have been and are made available impartially to all searchers. The contention that any of these documents have been denied or withheld has no basis in fact. Access to documents bearing a national security classification (or on which restrictions have been imposed by the donors) is, of course, restricted.

With one exception, none of the signers of the letter has ever asked the Library for the facts in the case. Full details will be supplied to them, and to others interested, on request to the Library or the National Archives and Records Service.

JAMES B. RHOADS,
Archivist of the United States.
WASHINGTON.

The second sample of evidence in this matter is two paragraphs taken from the contract between the National Archives and Harvard College for publication of the work, "Franklin D. Roosevelt and Foreign Affairs, 1933–1937." This three-volume work contains material allegedly withheld from historians. It was denied a copyright by the Copyright Office on the ground that all the material contained in it is in the public domain.

1. The Government grants and assigns to the Publishers the sole and exclusive right to print, reprint, or cause to be published in any and all forms, including serial, digest, translation, anthology, recorded, motion picture, radio, and television, as well as book form, throughout the world, a typescript work entitled, "Franklin D. Roosevelt and Foreign Affairs, 1933–1937," during the full term of any copyright thereof and all renewals of any such copyright.

7. The Government will refrain from publishing, without the consent of the Publishers, during the continuance of this contract, any abridged or other edition of the said work, or any similar work which tends to interfere with the sale of the said work.

I appreciate the interest of my distinguished colleague from Houston (Mr. BUSH) who is also submitting a statement on this matter.

COMMISSION ON POT

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MONAGAN. Mr. Speaker, I am today introducing legislation to establish a Commission on Marihuana. The expanding U.S. marihuana phenomenon calls for a corresponding increase in scientific research into all facets of the situation. Only from a foundation of hard facts can we proceed to reevaluate existing marihuana laws to bring them in line with the realities of marihuana use.

The first task of the Commission, as proposed in my bill, will be to separate fact from fiction. It must be determined whether the use of marihuana is dangerous or harmless. If it is found that marihuana use does not warrant the harsh penalties provided for in existing law, then the law should be changed. However, if it is found that marihuana use does cause physical or psychological damage to individuals, or has a cumulative detrimental effect upon society as a whole, the law should be adjusted to reflect those findings. The result in either case must be laws which are both acceptable and effective.

Another area of concentration and one which will constitute the major objective of the study is the relationship between marihuana and the use of hard drugs. I can think of no area which is more crucial to any endeavors to change the marihuana laws than the marihuana hard drug relationship.

To date the connection has been neither proved nor disproved, and disparities exist between separate scientific findings on the relationship. The present state of affairs is graphically illustrated by the following two reports. On October 15, Dr. Stanley F. Yolles, Director of the National Institutes of Health, testified before the House Select Committee on Crime that the scientific community knows nothing in the nature of marihuana that predisposes to heroin use, and that less than 5 percent of chronic users of marihuana go on to heroin use. Three days later, the Washington Post reported the findings of three studies at the District of Columbia Department of Corrections linking drug use to crime. Dr. Robert DuPont, the corrections community service official, stated that while the percentage of persons using only marihuana coming to the Department of Corrections was very small, the percentage who use only marihuana and not heroin was about 2 percent. Thus, 98 percent of persons coming to the Department of Corrections who use heroin also use marihuana. These facts, while not contradicting Dr. Yolles testimony, certainly raise the question of the connection between marihuana and hard drugs, and at the very least, demand that extensive research be done in this area. My proposed Commission is the proper vehicle to initiate and coordinate research on this very critical relationship.

The proposed Commission will be composed of nine members appointed by the President, and will concentrate their research on the following areas:

First, the extent of use of marihuana

in the United States to include the number of users, number of arrests, number of convictions, amount of marihuana seized, type of user, nature of use;

Second, an evaluation of the efficacy of existing marihuana laws;

Third, a study of the pharmacology of marihuana and its immediate physiological and psychological long-term effects;

Fourth, the relationship of marihuana use to aggressive behavior and crime; and

Fifth, the relationship betwen marihuana and the use of other drugs.

The Commission will submit its report within 1 year after its creation, and, in addition to providing an in depth analysis of the total marihuana situation, the report will contain recommendations for legislative and administrative action to carry out its proposals.

WORLD SUPPORT FOR PRESIDENT NIXON ON PEACE IN VIETNAM

(Mr. TAFT asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. TAFT. Mr. Speaker, President Nixon has not only succeeded in uniting most Americans behind his efforts to obtain a just peace in Vietnam, but he also has won support from some of the world's outstanding leaders.

Two of these are Mrs. Golda Meir, the Prime Minister of Israel and Pope Paul VI.

I recognize that most of my colleagues have read about their endorsement of President Nixon's pursuit of peace speech of November 3 but still, I call to their attention that it is unusual to find two such divergent leaders united behind the proposals of a third.

Mrs. Meir leads a beleaguered nation surrounded by hostile forces but determined not to surrender.

The Pope stands preeminently as a man of peace.

Yet, their words to the President are remarkably similar in impact.

Through our Ambassador to Israel came this message:

The Prime Minister wishes to congratulate the President on his meaningful speech and express her hope that he will speedily succeed in bringing about peace in Vietnam. The President's speech contains much that encourages and strengthens freedom loving small nations the world over which are striving to maintain their independence existence looking to the great democracy, the United States of America.

The Pope is quoted in part as saying,

We also understand that the right mode of ending the conflict demands in the present circumstances a well meditated and responsible procedure, not only to avoid neglecting international obligations which honor and the necessity of not betraying the confidence of one's allies require should be fulfilled, but also in order that the cause and the ideal proposed to your fellow citizens, for which so many have made the sacrifice of their very lives, that is: helping a people which is weak and deserving of assistance to defend its right to self determination and to the free promotion of its peaceful development—that this cause and this ideal should not be denied.

Mr. Speaker, it would be well if those who marched November 15th pondered a bit on the words of these two great leaders.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCCLURE) and to revise and extend their remarks and include extraneous matter:)

Mr. FINDLEY, for 60 minutes, on December 10.

Mr. BUSH, for 5 minutes, today.

(The following Members (at the request of Mr. DANIEL of Virginia) and to revise and extend their remarks and include extraneous matter:)

Mr. FARBSTEIN, for 30 minutes, today.

Mr. TUNNEY, for 10 minutes, today.

Mr. GONZALEZ, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. O'NEILL of Massachusetts in five instances and to include extraneous matter.

Mr. DON H. CLAUSEN during the debate on H.R. 14741.

(The following Members (at the request of Mr. MCCLURE) and to include extraneous matter:)

Mr. WHALEN.
Mr. PELLY in two instances.
Mr. AYRES in two instances.
Mr. DAVIS of Wisconsin.
Mr. ZWACH.
Mr. HALL.
Mr. ESHLEMAN.
Mr. FULTON of Pennsylvania in five instances.
Mr. FOREMAN in two instances.
Mr. HOSMER in two instances.
Mr. BOB WILSON.
Mr. HUNT.
Mr. GOODLING.
Mr. WYMAN in two instances.
Mr. STEIGER of Arizona.
Mr. MATHIAS.
Mr. SKUBITZ in five instances.
Mr. ASHBROOK in two instances.
Mr. MESKILL in two instances.
Mr. SCHWENGEL in three instances.
Mr. BROWN of Ohio.
Mr. BROCK.
Mr. CONTE in two instances.
Mr. DENNEY.
Mr. NELSEN.
Mr. ROTH.
Mr. ROUDEBUSH.
Mr. REID of New York.
Mr. PETTIS.

(The following Members (at the request of Mr. DANIEL of Virginia) and to include extraneous matter:)

Mr. PURCELL in two instances.
Mr. LONG of Maryland.
Mr. REES in two instances.
Mr. OTTINGER in five instances.
Mr. ST. ONGE.
Mr. HOWARD.
Mr. RYAN in five instances.
Mr. PREYER of North Carolina in two instances.
Mr. BINGHAM in three instances.
Mr. JOHNSON of California in two instances.
Mr. RARICK in three instances.
Mr. BIAGGI.
Mr. FLYNT.
Mr. EDWARDS of California in two instances.
Mr. HICKS in two instances.
Mr. HÉBERT.
Mr. BOLAND in two instances.
Mr. KLUCZYNSKI.
Mr. HAYS.
Mr. GONZALEZ in two instances.
Mr. O'NEILL of Massachusetts in two instances.
Mr. LOWENSTEIN in two instances.
Mr. DONOHUE in two instances.
Mr. MILLER of California in five instances.
Mr. MINISH.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2566. An act for the relief of Jimmie R. Pope; to the Committee on the Judiciary.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2056. An act to amend title 11 of the District of Columbia Code to permit unmarried judges of the courts of the District of Columbia who have no dependent children to terminate their payments for survivors annuity and to receive a refund of amounts paid for such annuity.

BILLS PRESENTED TO THE PRESIDENT

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee did on November 24, 1969 present to the President, for his approval, bills of the House of the following titles:

H.R. 3666. An act to amend section 336(c) of the Immigration and Nationality Act;

H.R. 4284. An act to authorize appropriations to carry out the Standard Reference Data Act;

H.R. 11363. An act to prevent the importation of endangered species of fish or wildlife into the United States; to prevent the interstate shipment of reptiles, amphibians, and other wildlife taken contrary to State law; and for other purposes;

H.R. 13018. An act to authorize certain construction at military installations, and for other purposes;

H.R. 13949. An act to provide certain equipment for use in the offices of Members, officers, and committees of the House of Representatives, and for other purposes; and

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

ADJOURNMENT

Mr. DANIEL of Virginia. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 19 minutes p.m.), the House adjourned until tomorrow, Wednesday, November 26, 1969, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

1362. Under clause 2 of rule XXIV, a letter from the Comptroller General of the United States transmitting a report of opportunities for improvement in management of military-owned household furnishings overseas, Department of Defense, was taken from the Speaker's table, and referred to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MATSUNAGA: Committee on Rules. H. Res. 726. Resolution for consideration of H.R. 14227, a bill to amend section 1401a(b) of title 10, United States Code, relating to adjustments of retired pay to reflect changes in Consumer Price Index. (Rept. No. 91–692). Ordered to be printed.

Mr. MATSUNAGA: Committee on Rules. H. Res. 727. Resolution for consideration of H.R. 944, a bill to amend section 404(d) of title 37, United States Code, by increasing the maximum rates of per diem allowance and reimbursement authorized, under certain circumstances, to meet the actual expenses of travel (Rept. No. 91–693). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CLARK:

H.R. 14964. A bill to amend the Railroad Retirement Act of 1937 to provide that an individual's entitlement to retirement benefits under that act or the Social Security Act while he or she is entitled to dependent's or survivor's benefits under the other such act shall not operate to prevent any increases in his or her benefits under the 1937 act which would otherwise result under the so-called social security minimum guarantee provision; to the Committee on Interstate and Foreign Commerce.

By Mr. COHELAN (for himself, Mr. CONTE, Mr. STEED, Mr. WEICKER, Mr. ADAMS, Mr. ADDABBO, Mr. ANDERSON of California, Mr. BOLAND, Mr. BROWN of California, Mr. BURTON of California, Mr. BUTTON, Mr. CAREY, Mr. CLAY, Mrs. CHISHOLM, Mr. CONYERS, Mr. DADDARIO, Mr. EDWARDS of California, Mr. WILLIAM D. FORD, Mr. FOREMAN, Mr. FLOOD, Mr. GAYDOS, Mr. GREEN of Pennsylvania, Mr. HASTINGS, and Mr. HATHAWAY):

H.R. 14965. A bill to provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs and to establish uniform and equitable land acquisition policies for Federal and federally assisted programs; to the Committee on Public Works.

By Mr. COHELAN (for himself, Mr. CORMAN, Mr. HAWKINS, Mr. HOLIFIELD, Mr. HORTON, Mr. LEGGETT, Mr. MIKVA, Mr. MILLER of California, Mr. MOORHEAD, Mr. MORSE, Mr. MOSS, Mr. PATTEN, Mr. PODELL, Mr. PRICE of Illinois, Mr. POWELL, Mr. REUSS, Mr. ROGERS of Colorado, Mr. ROSENTHAL, Mr. ROYBAL, Mr. STOKES, Mr. THOMPSON of Georgia, Mr. TUNNEY, and Mr. CHARLES H. WILSON):

H.R. 14966. A bill to provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs and to establish uniform and equitable land acquisition policies for Federal and federally assisted programs; to the Committee on Public Works.

By Mr. COUGHLIN (for himself, Mr. MCCLORY, and Mr. MACGREGOR):

H.R. 14967. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for certain expenses incurred in providing higher education; to the Committee on Ways and Means.

By Mr. DEVINE:

H.R. 14968. A bill to require an applicant for a permit to hold a demonstration, parade, march, or vigil on Federal property or in the District of Columbia to post a bond to cover certain costs of such demonstration, parade, march, or vigil; to the Committee on Public Works.

By Mr. DONOHUE:

H.R. 14969. A bill to amend title XVIII of the Social Security Act to provide payment for chiropractors' services under the program of supplementary medical insurance benefits for the aged; to the Committee on Ways and Means.

By Mr. GAYDOS:

H.R. 14970. A bill to amend title XVIII of the Social Security Act to provide payment for chiropractors' services under the program of supplementary medical insurance benefits for the aged; to the Committee on Ways and Means.

By Mr. GILBERT:

H.R. 14971. A bill to amend title XVIII of the Social Security Act to provide payment for chiropractors' services under the program of supplementary medical insurance for the aged; to the Committee on Ways and Means.

By MR. HANLEY:

H.R. 14972. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. KOCH (for himself, Mr. BIAGGI, Mr. BINGHAM, Mr. BOLAND, Mr. BRADEMAS, Mr. BRASCO, Mr. BROWN of Michigan, Mr. BROOMFIELD, Mr. CAHILL, Mr. DULSKI, Mr. FRASER, Mrs. HANSEN of Washington, Mr. HOWARD, Mr. MANN, Mr. MESKILL, Mr. O'NEILL of Massachusetts, Mr. PETTIS, Mr. STANTON, and Mr. LUKENS):

H.R. 14973. A bill to provide for the establishment of a Commission on Marihuana; to the Committee on the Judiciary.

By Mr. McCLURE:

H.R. 14974. A bill to amend title I of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 14975. A bill to amend the Tariff Act of 1930 to provide for the refund of certain postal fees charged with respect to merchandise imported in the mails; to the Committee on Ways and Means.

By Mr. MESKILL:

H.R. 14976. A bill to provide that Federal assistance to a State or local government or agency for rehabilitation or renovation of housing and for enforcement of local or State housing codes under the urban renewal program, the public housing program, or the model cities program, or under any other program involving the provision by State or local governments of housing or related facilities, shall be made available only on condition that the recipient submit and carry out an effective plan for eliminating the causes of lead-based paint poisoning; to the Committee on Banking and Currency.

H.R. 14977. A bill to provide Federal financial assistance to help cities and communities of the United States develop and carry out intensive local programs to eliminate the causes of lead-based paint poisoning; to the Committee on Banking and Currency.

H.R. 14978. A bill to provide Federal financial assistance to help cities and communities of the United States develop and carry out intensive local programs to detect and treat incidents of lead-based paint poisoning; to the Committee on Interstate and Foreign Commerce.

By Mr. MILLER of California:

H.R. 14979. A bill to establish the Fort Point National Historic Site in San Francisco, Calif., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MIZE:

H.R. 14980. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MONAGAN:

H.R. 14981. A bill to provide for the establishment of a Commission on Marihuana; to the Committee on the Judiciary.

By Mr. NELSEN (for himself, Mr. THOMPSON of Wisconsin, Mr. FUQUA, and Mr. BROYHILL of Virginia):

H.R. 14982. A bill to provide for the immunity from taxation in the District of Columbia in the case of the International Telecommunications Satellite Consortium, and any successor organization thereto; to the Committee on the District of Columbia.

By Mr. PURCELL (for himself and Mrs. MAY):

H.R. 14983. A bill to enable wheat producers, processors, and end-product manufacturers of wheat foods to work together to establish, finance, and administer a coordinated program of research, education, and promotion to maintain and expand markets for wheat and wheat products for use as human foods within the United States; to the Committee on Agriculture.

By Mr. REIFEL (by request):

H.R. 14984. A bill to provide for the disposition of funds appropriated to pay judgments in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets numbered 142, 359–363, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ST. ONGE:

H.R. 14985. A bill to establish an Intergovernmental Commission on Long Island Sound; to the Committee on Interior and Insular Affairs.

By Mr. TAFT:

H.R. 14986. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for certain expenses incurred in providing higher education; to the Committee on Ways and Means.

By Mr. VANDER JAGT:

H.R. 14987. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for certain expenses incurred in providing higher education; to the Committee on Ways and Means.

H.R. 14988. A bill to amend the Internal Revenue Code of 1954 to allow a credit for amounts paid tuition or fees to educational institutions, and to allow a credit for taxes paid for public education; to the Committee on Ways and Means.

By Mr. WOLFF:

H.R. 14989. A bill to make the provisions of the Vocational Education Act of 1963 applicable to individuals preparing to be volunteer firemen; to the Committee on Education and Labor.

By Mr. WATSON:

H.R. 14990. A bill to amend title XVIII of the Social Security Act to provide payment for chiropractors' services under the program of supplementary medical insurance benefits for the aged; to the Committee on Ways and Means.

By Mrs. MINK:

H.J. Res. 1014. Joint resolution to give im-

mediate effect to the provisions of the Child Protection and Toy Safety Act of 1969; to the Committee on Interstate and Foreign Commerce.

By Mr. CAHILL:

H. Res. 728. Resolution toward peace with justice in Vietnam; to the Committee on Foreign Affairs.

By Mr. EVINS of Tennessee:

H. Res. 729. Resolution toward peace with justice in Vietnam; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DONOHUE:

H.R. 14991. A bill for the relief of Mrs. Athena Loukanari; to the Committee on the Judiciary.

By Mr. GUBSER:

H.R. 14992. A bill for the relief of Allen H. "Mal" Elward; to the Committee on Armed Services.

By Mr. RANDALL:

H.R. 14993. A bill for the relief of Hazel Alberta (Flanders) Kirkendoll, Sheila Darlene (Kirkendoll) McFarland, Lydia Ellen (Flanders) Smith, Wilma Elizabeth (Flanders) Bainter, Temple Lucile (Flanders) Schulz Wells, William Edward Schulz, Genevia Bell (Flanders) Iiams, John Calvin Iiams, David Eugene Iiams, Pamela Sue Iiams, Florence Garnell (Flanders) Bergerhofer, Richard Albert Bergerhofer, Debra Ann Bergerhofer, Finis Marion (Flanders) McFarland, Mari Kathleen (McFarland) Palmer, and Gary Lee McFarland; to the Committee on the Judiciary.

By Mr. ROGERS of Colorado:

H.R. 14994. A bill for the relief of Dave Mueller; to the Committee on the Judiciary.

By Mr. TEAGUE of California:

H.R. 14995. A bill to provide for the free entry of a carillon for the use of the University of California at Santa Barbara; to the Committee on Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXII,

341. The SPEAKER presented a petition of the Governor of the Farm Credit Administration, transmitting a resolution of the elected directors of the Nation's 37 farm credit banks, in appreciation of the support of Congress of farmer-owned credit systems which was referred to the Committee on Agriculture.

SENATE—*Tuesday, November 25, 1969*

The Senate met at 10 o'clock a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

The Reverend Dr. Thomas A. Stone, associate pastor, National Presbyterian Church, Washington, D.C., offered the following prayer:

Eternal Father, most high and mighty ruler of the universe, by whom our Nation was established: We rejoice in this week of National Thanksgiving, and especially in this place today we lift the prayers of gratitude of the people for another safe return of our explorers from the realms of space. The widening horizons of man's experience bring new wonder at Thy creative power and the sustenance which Thou dost give the people.

We thank Thee for Thy favor shown under our fathers and Thy faithfulness continued to their children; for the rich land given us for an inheritance, and the great power entrusted to the people; for the fidelity of men set in authority, and the peace maintained by righteous laws; for an honorable place among the nations, and the opportunity of increasing service to the world.

Within the hearts and minds of the men in this assembly, keep Thou the commonwealth beneath Thy care, and guide the state according to Thy will; and Thine shall be the glory and the praise and the thanksgiving from generation to generation.

We pray through Jesus Christ our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, November 24, 1969, be dispensed with.

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

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair recognizes the Senator from Wisconsin (Mr. PROXMIRE) for not to exceed 45 minutes.

Mr. PROXMIRE. Mr. President, I yield 10 minutes of my time to the distinguished majority leader.

Mr. MANSFIELD. I thank the Senator.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the conclusion of the remarks of the distinguished Senator from Wisconsin (Mr. PROXMIRE), 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.

EXECUTIVE SESSION

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

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

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

DEPARTMENT OF JUSTICE

The bill clerk proceeded to read sundry nominations in the Department of Justice.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. With objection, the nominations are considered and confirmed en bloc.

(The nominations are as follows:)

Calendar No. 680, Stanley B. Miller, of Indiana, to be U.S. attorney for the southern district of Indiana for the term of 4 years.

Calendar No. 681, Andrew J. F. Peeples, of Florida, to be U.S. marshal for the middle district of Florida for the term of 4 years.

Calendar No. 682, James W. Traeger, of Indiana, to be U.S. marshal for the northern district of Indiana for the term of 4 years.

Calendar No. 683, Anthony E. Rozman, of Michigan, to be U.S. marshal for the eastern district of Michigan for the term of 4 years.

Calendar No. 684, Lloyd H. Grimm, of Nebraska, to be U.S. marshal for the district of Nebraska for the term of 4 years.

Calendar No. 685, William C. Black, of Texas, to be U.S. marshal for the northern district of Texas for the term of 4 years.

Calendar No. 686, J. Keith Gary, of Texas, to be U.S. marshal for the eastern district of Texas for the term of 4 years.

Mr. BYRD of West Virginia subsequently said: Mr. President, I ask unanimous consent that the action of the Senate earlier today in confirming the nomination of William C. Black, of Texas, to be U.S. marshal for the northern district of Texas, be vacated, and that the nomination which is designated as Calendar No. 685 be returned to the calendar.

The PRESIDING OFFICER. Without objection, the confirmation of the nomination will be vacated, and the nomination will be returned to the calendar.

COMMISSION ON CIVIL RIGHTS

Mr. THURMOND subsequently said: Mr. President, although new members of the Commission on Civil Rights are expected to be approved this morning by a voice vote, I would like to go on record as being in opposition to these appointments. I opposed the establishment of this Commission in the beginning, I know of nothing it has accomplished, and I feel that it should be abolished.

For this reason, Mr. President, I will not support any nominations to the Commission on Civil Rights.